



Royal Commission
into Institutional Responses
to Child Sexual Abuse

Statement

Name Philip Charles Gerber
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Occupation Solicitor
Date 4 February 2016

Background

1. This is a supplementary statement made by me in response to a request of the Royal Commission into Institutional Responses to Child Sexual Abuse. It sets out evidence that I am prepared to give to the Royal Commission and is true and correct to the best of my knowledge and belief.
2. I have previously prepared a statement for the Royal Commission into Institutional Responses to Child Sexual Abuse in relation to Case Study 36, dated 15 January 2016 ('my previous statement'). I have prepared this supplementary statement in response to requests from the Royal Commission, by emails dated 3 February 2016, for a statement addressing seven questions.
3. My response to those questions are set out below. The information in this supplementary statement is drawn from my personal experience and from documents produced to the Royal Commission by the Diocese of Sydney.
4. I have set out my qualifications and experience in my previous statement at paragraphs 5 to 7.

Complaints received in the Diocese of Sydney in relation to CEBS leaders other than Simon Jacobs

5. Having been provided with information from Diocesan records, I can indicate the Diocese of Sydney received 24 separate complaints from 24 complainants regarding child sexual abuse against the following 14 CEBS leaders (other than Simon Jacobs) before or during my tenure as Director of Professional Standards (May 2002 – June 2009):

- a. BYZ
- b. REDACTED
- c. REDACTED
- d. REDACTED

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- e. REDACTED
- f. REDACTED
- g. BYP
- h. REDACTED
- i. Unknown respondent 1;
- j. Unknown respondent 2;
- k. REDACTED
- l. Unknown respondent 3;
- m. REDACTED and
- n. REDACTED

BYD's meeting with Archbishop Jensen on 1 October 2002

- 6. I am asked why there was a delay in BYD meeting with Archbishop Jensen on 1 October 2002 after requesting a meeting with him in July 2002.
- 7. BYD contacted Ruth Sefton, Archbishop Jensen's personal assistant on 17 July 2002 [ANG.0133.001.0198_R]. Ruth, the Diocesan Registrar and I then had discussions regarding the Archbishop's availability to meet with BYD. The Archbishop's practice was to set aside an entire afternoon to meet with survivors and their families. I believe that the first full afternoon when the Archbishop was available was 1 October 2002.
- 8. I regret that we did not meet with BYD sooner and that it may have been better to meet with her for a shorter period of time but sooner to the date of her initial contact.

My response to concerns raised by BYD in her statement

- 9. I have carefully read BYD's statement. I realise from reading her statement that BYD was distressed by some of my interactions with her. In paragraph 47 of my previous statement, I apologised to BYC that he suffered such terrible harm in the Church. I also apologised to BYC for anything that I have done or said, or failed to do or say, that has added to the burden on him or his family. I realise now that I should have extended my apology to BYD also. I do that now, unreservedly.
- 10. My response to some specific points that BYD makes, follows.
- 11. Firstly, BYC states that she felt I was assessing Archbishop Jensen's responses throughout our meeting with her on 1 October 2002. I had, and still have, a great deal of respect for Peter

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- Jensen. I have no doubt that I was concentrating and listening to him very carefully during the meeting. But I accepted that the meeting was pastoral, for the purposes of listening and apologising. I did not consider myself to be assessing the Archbishop's responses but am sorry if I gave that impression.
12. However, I do recall being a little taken aback that the Archbishop gave BYD a letter for BYC in the meeting because he would ordinarily ask my opinion on any correspondence with survivors. However, when I read the note I quickly realised that it was a pastoral letter and that it did not require my input at all. I accept that my appearing unsettled at this point distressed BYD.
 13. BYD further states that at a meeting with Archbishop Jensen and me I cut her off at one point. She says this upset her so much. I recall BYD indicating at some stage that BYC's medical and psychological appointments were being paid for by bulk billing. If I did cut her off, then it was not intentional.
 14. If BYC had counselling expenses that weren't being covered by bulk billing then the Diocese certainly would have reimbursed the costs of the appointments as was the Professional Standards Unit's practice at that stage. With the Diocese's approval, the policy was to pay for all reasonable counselling costs for survivors. BYC's counselling should have been paid for by the Diocese.
 15. BYD further states in November 2008 when she came to visit me in my office that I showed her a picture of myself when I was a boy in my CEBS uniform, which she felt was insensitive.
 16. I do not recall specifically showing BYD a photo but I don't deny that it could have happened. I do recall that we had quite a long conversation about CEBS and I revealed that I participated in a CEBS branch when I was a child. My intention by revealing this was to show my understanding and heightened concern but I appreciate now that my actions were insensitive and I apologise for distressing BYD.
 17. At the same meeting, BYD states that I informed her that if BYC pursued the Church for compensation through the courts that the Church's barristers would respond aggressively. I recall that we did talk about the re-traumatising effects of litigation and how that would not be helpful for BYC, although I do not remember commenting on the Church's barristers. If I did, I apologise to BYD for the distress this caused her. I remember BYD agreeing that litigation would be very bad for BYC.

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18. The intention of the Pastoral Care and Assistance Scheme was to give survivors an option for financial assistance that didn't require them to go to court and endure the re-traumatising effect of civil litigation.

Apology by BYD's rector at a mediation to negotiate BYC's civil claim

19. I understand that BYD, BYC and their lawyer attended a mediation with the Diocese's legal representative on 6 May 2015 in relation to negotiations for a civil settlement (although no proceedings have commenced). I resigned as the Director of Professional Standards at the end of June 2009 so I have no personal knowledge of this event.
20. However, I am informed by officers of the Diocese (and believe) that the Reverend Andrew Graham, the Rector of Christ Church St Ives where BYD is a parishioner, did attend the mediation and offer a pastoral apology. The practice of the Diocese is to offer a pastoral apology through a suitable member of clergy at all mediations with survivors. I understand that Mr Graham contacted BYD prior to the meeting to inform her that he would be attending so he did not surprise them by his presence. I also understand that Mr Graham was provided with a copy of BYC's police statement by the Diocesan lawyers as they thought it would enable Mr Graham to make an informed apology.

My presence at BYD's meeting with Archbishop Jensen on 1 October 2002

21. It was normal for someone with day to day knowledge of the matter to attend the Archbishop's meetings with survivors to advise and assist the Archbishop as required.
22. At the time of BYD's meeting with the Archbishop in October 2002, there were only two employees in the Professional Standards Unit, myself and my personal assistant. The Archbishop asked me to attend and he introduced me to BYD at the commencement of the meeting.
23. We soon realised that better communication and greater pastoral support was needed to assist survivors so the Professional Standards Unit employed a Chaplain on 3 February 2003. From that time forward, the Chaplain accompanied the Archbishop to his meetings with survivors and their families. I accept that this is more appropriate, in terms of providing pastoral support.

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Standing Committee's decision to decline BYD's application for a higher level of support in 2009

24. I attended a meeting of Standing Committee on 25 May 2009. I had previously provided the 50 members of Standing Committee with a de-identified report outlining BYC's circumstances and BYD's request for a financial payment above the \$75,000 limit of the Pastoral Care and Assistance Scheme.
25. Standing Committee carefully considered the application. Standing Committee resolved that BYC's claim, if he wished to pursue it, should be dealt with through the Pastoral Care and Assistance Scheme. This was because the Diocese wanted to be consistent in its approach to payments for survivors.
26. I have been informed by Lachlan Bryant, the current Director of Professional Standards, and believe, that the upper limit of the Scheme's financial assistance was increased to \$100,000 in 2014.

Disciplinary action against Simon Jacobs

27. My successor as Director of Professional Standards was Glenn Murray. I have seen a draft case brief which Mr Murray wrote dated 23 June 2011 [ANG.0133.001.0126_R] in which he concluded that Simon Jacobs had offended under certain provisions of the *Discipline Ordinance* 2006 and recommended that he should be banned from any further ministry with the Anglican Church.
28. I cannot discern from this document whether Mr Murray's recommendations were considered by the Professional Standards Committee but I have reviewed [ANG.0129.001.0267_R] and note that Simon Jacobs' details were entered on the National Register of the Anglican Church of Australia following his conviction for child sexual abuse in 2011. The Director of Professional Standards is responsible for updating the National Register.
29. I am informed by Mr Bryant and believe that as at the date of this statement Simon Jacobs has not been banned from further ministry. However, if Mr Jacobs sought to re-join a parish in the Diocese of Sydney upon his release from prison, he would be required to enter into a Safety Plan and obtain the parish leadership team's approval. The Safety Plan and Chapter 4 of the Safety Map [STAT.0819.001.0721] require that Simon Jacobs' risk of attending church would need to be assessed, and safeguards would be put in place to ensure there were no risks to children or vulnerable adults of him attending. If he was not prepared to agree to the

