

Royal Commission into Institutional Responses to Child Sexual Abuse

Case Study: Sexually harmful behaviours of children within schools

Statement by David Clifton Ford

1. This statement by me accurately sets out the evidence that I am prepared to give to the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission). The statement is true and correct to the best of my knowledge and belief.
2. I am a solicitor and was admitted in 1974. I have been a partner at Emil Ford Lawyers since 1975. The firm was then known as Emil E J Ford & Co.
3. It is my practice as a solicitor to make file notes of meetings, telephone conversations and other attendances. Usually, I make these notes by hand. Occasionally, I dictate a file note at the end of the attendance having made brief notes during it. I record what I have been told and any advice I have given together with other notes, often to myself to do something.
4. My normal practice when first receiving instructions in a new matter is to open a new file that day or soon thereafter. Once the file is open, I record the time I spend and details of relevant work on our firm's practice management and accounting software.
5. As I recall, I have acted for Trinity Grammar School (the School) since the late 1980s.
6. I can recall receiving instructions and acting for the School in relation to an incident that occurred in the School Boarding House. Having refreshed my memory from the file, I believe that I first received instructions in this matter and opened the file on 9 October 2000.
7. Upon inspecting my file, I also found the following documents all of which are annexed to this Statement:
 - (a) my file note of my telephone conversation with Peter Green on 9 October 2000 (Annexure A);
 - (b) my file notes of two telephone conversations with Peter Green on 10 October 2000 (Annexure B);
 - (c) my file notes made when I accompanied Kate Pearce (now Katherine Lumsdaine) to Ashfield Police Station on 11 October 2000 (five pages) (Annexure C);
 - (d) my file note of my telephone conversation with Peter Green on 12 October 2000 (two pages) (Annexure D). This note records in the first two paragraphs my

report to Peter Green on my attendance with Kate Pearce at Ashfield Police Station on 11 October 2000; and

(e) a copy of my tax invoice to the School dated 30 October 2000 (Annexure E).

Annexures A, B and C are all in my handwriting. I dictated the content of Annexure D which was typed for me by one of my staff. I subsequently checked it and the two handwritten notes are in my handwriting.

8. Having refreshed my memory by looking at Annexures A and E, I believe that the first time I became aware of the Boarding House incident was when I was telephoned by Peter Green on 9 October 2000.
9. Having refreshed my memory by looking at Annexures B and D, I believe Peter Green asked me to go with Kate Pearce to Ashfield Police Station at 9.00am on 11 October 2000 where she was to give a statement to the Police. I told Peter Green that I would meet Kate at the Police Station at 8.45am. I understood my role to be a support person to Kate and that I would not be providing legal advice to her unless the questions she received from the Police Officer were such that her interest might be affected adversely. If this happened, my advice was to terminate the interview.
10. Having refreshed my memory by looking at Annexure C, I believe that this file note made on 11 October 2000 consists of several parts:
 - (a) The first part appears on the first two thirds of the first page and records the fact that I attended the meeting with Kate Pearce and the Police Officer, Pauline O'Callaghan. It also records some of the initial things discussed between Kate, Pauline and me before the formal interview got underway.
 - (b) The second part appears on the last one third of the first page and records what Kate told me in relation to a student named REDACTED whom she had interviewed on 29 August 2000.
 - (c) The third part is on the second page and records some questions that I believe I had prepared in advance of seeing Kate on 11 October 2000. The questions are written in ink whereas her answers, which I added after questioning her at some stage during 11 October 2000, were written by me in pencil.
 - (d) The fourth part appears on the third page and records a note to myself in relation to matters I wished to raise with Cheryl McDuff who headed up the JIT.
 - (e) The fifth part which appears on the fourth page records the date of the last day of Term 3 in 2000.
 - (f) The final part on the fifth page is broken into three further sections. The first section is a note to myself which, I believe, arose out of me listening to the interview between Pauline O'Callaghan and Kate Pearce. The second section and the third section both record things told to me by Kate Pearce at some stage during 11 October 2000.

11. I have no independent recollection of the events of 11 October 2000 other than my clear memory that it took a very long time because Pauline O'Callaghan was a very slow typist. She was using a computer with Word software. However, it appeared to me that she was not very familiar with the software. Although I had assured Pauline at the outset that I would not interrupt her interview with Kate, after an hour of her typing about half a page, I do recall interrupting and asking her to save her document.
12. I have read the Statement of Katherine Lumsdaine (Kate Pearce) dated 19 October 2016 provided to the Royal Commission. I was also present on 20 October 2016 when Kate gave her oral evidence to the Royal Commission.
13. I refer to paragraph 8 of Katherine Lumsdaine's Statement. As noted above, I agree that I was present when she made her statement to the Police on 11 October 2000. However, I do not recall meeting her before 11 October 2000 in relation to the Boarding House incident either with Mr Cujes or without him.
14. Having read paragraph 33 of the Statement of Milton Cujes dated 27 September 2016 and having read the tax invoice which is Annexure D to this Statement, I do not believe that I met with Mr Cujes in relation to the Boarding House incident before 15 October 2000 when he returned from an overseas trip to China.
15. I refer to paragraph 9 of Katherine Lumsdaine's Statement and cannot recall her saying to me words to the effect of those recorded there. I believe that she made the statements at some time on 11 October 2000 while we were at Ashfield Police Station recorded in the second part of the fifth page of my file notes made on 11 October 2000, which are Annexure C. Having regard to this part of these file notes, I accept that Katherine Lumsdaine told me that Peter Green and Rob Scott had failed to investigate anything in the Boarding House incident.
16. I refer to paragraph 10 of Katherine Lumsdaine's Statement and do not recall her saying to me while we were at Ashfield Police Station on 11 October 2000 or at any time the matters referred to in the first two sentences of this paragraph.
17. I refer to the Transcript of the evidence given at the public hearing in this Case Study on 20 October 2016. In relation to the evidence of Katherine Lumsdaine as to the discussion she had with me in the foyer of the office recorded on page 21717 at lines 3 – 9 and 20 and 22 I have no recollection of her saying words to that effect to me or of what if anything I said in response.



David Clifton Ford

Date: 21 October 2016