ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES
TO CHILD SEXUAL ABUSE

AT NEWCASTLE AND SYDNEY

COMMONWEALTH OF AUSTRALIA

Royal Commissions Act 1902

NEW SOUTH WALES

Royal Commissions Act 1923

PUBLIC INQUIRY INTO

Anglican Diocese of Newcastle

CASE STUDY 42

SUBMISSIONS OF COUNSEL ASSISTING THE ROYAL COMMISSION
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Introduction

About this Case Study

1. The public hearing for the 42nd Case Study of the Royal Commission was held in Newcastle from 2 to 12 August 2016. The Case Study was allocated additional sitting days in Newcastle on 29 and 30 August 2016 and then in Sydney on 16 to 18 November 2016 and 23 to 24 November 2016.

2. The purpose of this Case Study is to examine the institutional response of the Anglican Diocese of Newcastle (Diocese) to allegations of child sexual abuse by Anglican clergy and lay people.

3. This was the third Case Study in relation to an Anglican Diocese. The first Case Study was Case Study 3: North Coast Children’s Home, which concerned the Anglican Diocese of Grafton. Evidence elicited during that hearing contributed to our investigation into the Diocese. The second Case Study was Case Study 36: Church of England Boys’ Home, which concerned the Anglican Dioceses of Tasmania, Adelaide, Brisbane and Sydney.

4. The Royal Commission has also held public hearings concerning independent schools in the Anglican tradition, with varying levels of involvement from the Anglican Church, including:
   a. Case Study 12: Perth School,
   b. Case Study 20: Hutchins School,
   c. Case Study 32: Geelong Grammar School, and
   d. Case Study 34: Brisbane Grammar and St Paul’s Schools.

What this Case Study considered

5. The scope and purpose of this Case Study was to inquire into:
   a. The past and present systems, policies and practices in place within the Anglican Diocese of Newcastle for responding to instances and allegations of child sexual abuse.
   b. The experiences of survivors of child sexual abuse perpetrated by clergy and lay people involved in or associated with the Anglican Diocese of Newcastle.
   c. The response of the Anglican Diocese of Newcastle and associated institutions to allegations of child sexual abuse made against clergy and lay people associated with the Anglican Diocese of Newcastle, including Graeme Lawrence, Gregory Goyette, Andrew Duncan, Bruce Hoare, Graeme Sturt, Peter Rushton, Ian Barrack, James Michael Brown and another Anglican priest.
   d. The links between any institutional culture at St John’s College, Morpeth and the perpetration of child sexual abuse.
   e. Any matters arising related to the above.

6. The other Anglican priest referred to in sub-paragraph (c) is CKC, who is currently under investigation by NSW police.
7. The Royal Commission chose to focus on the men identified in sub-paragraph (c) in order to investigate and illustrate particular systemic issues. However, there were a number of additional alleged perpetrators identified throughout the Royal Commission’s investigation into the Diocese who will be referred to in these submissions.

8. The scope of the study extended to knowledge and management of perpetrators who may have been involved in prior incidents of abuse outside the Diocese, although not the incidents themselves.

9. The Royal Commission received 94 witness statements from 72 institutional, survivor and other witnesses across the Diocese of Newcastle. Of these witnesses, 26 gave oral evidence.

References to individuals named in these submissions

10. When recounting past events, these submissions use the title of the individual at the relevant time, as opposed to their title today.

11. While it is usual to refer to Assistant Bishops as ‘Bishop’, for the sake of clarity, Bishop Richard Appleby is referred to as ‘Assistant Bishop Appleby’ during the time he was the Assistant Bishop of the Diocese. Likewise, for the period in which Bishop Peter Stuart has been the Assistant Bishop of the Diocese, he is referred to as ‘Assistant Bishop Stuart’.

12. Individuals who have been convicted of child sexual abuse offences have been referred to by their surname. Aside from the people specifically identified in the scope and purpose of this Case Study, where an individual is alleged to have perpetrated such an offence but has not been convicted, that person is identified by a pseudonym unless that person is deceased, or has otherwise been afforded an opportunity to respond to the evidence.

13. Survivors who have not expressly consented to their identities being made known have been allocated a pseudonym.
1 Background

1.1 The Anglican Church of Australia

14. The Anglican Church of Australia was called the Church of England until 1981. It is divided into five provinces, being each of the five mainland states. Within the five provinces there are 22 independent dioceses. The Diocese of Tasmania is an extra-provincial diocese, making a total of 23 dioceses nationally.

15. The diocese is the main unit of organisation in the Anglican Church. Each diocese has a number of parishes, and each parish has one or more churches.

16. The principle of diocesan autonomy is deeply entrenched in the Anglican Church. Each of the 23 dioceses in the Anglican Church is self-governing and has its own synod, which is divided into two houses, being the house of clergy and the house of laity.

17. The head of each diocese is the bishop. The bishop of each diocese in which there is a capital city (except Tasmania) is known as an archbishop.

18. The diocesan hierarchy usually includes assistant or auxiliary bishops, or regional bishops. Archdeacons generally supervise several parishes within a diocese and report directly to the relevant bishop. Each parish is headed by a rector or priest-in-charge, and they are assisted by other clergy including assistant priests, curates and deacons.

1.2 Governance

19. The Anglican Church of Australia is presently governed at a national level by a Constitution that entered into force in 1962 (1962 Constitution). It is given force in various State jurisdictions in Australia through enabling legislation.

20. Governance occurs at both a national and individual diocese level.

21. At a national level, there is a General Synod which comprises all diocesan bishops, and elected clergy and lay representatives from each diocese. The chair of meetings of the General Synod is known as the Primate and is the titular head of the Anglican Church of Australia. The Primate is usually one of the archbishops. The Primate has been described as a ‘first among equals’, and has no authority over the other diocesan bishops.

22. The General Synod meets every two or three years. Some ‘rules’, or canons, may be passed by General Synod with a very high level of agreement, and they apply to all dioceses.

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1 Exhibit 42-0001, ‘Outline of Structure of the Anglican Church of Australia’, Case Study 42, ANG.9310.01002.0003 at 0020 (Tab 365B of the Tender Bundle).


3 Exhibit 42-0001, ‘Outline of Structure of the Anglican Church of Australia’, Case Study 42, ANG.9310.01002.0003 at 0007, s 1.9 (Tab 365B of the Tender Bundle).

4 Exhibit 42-0131, ‘Statement of Archbishop Phillip Aspinall’, Case Study 42, STAT.1153.001.0001 at [4].
23. At a diocesan level, the bishop of the diocese is responsible for licensing clergy. In addition to licensed clergy, the diocese is assisted by laypeople who perform ministry functions such as youth ministry, scripture teaching and other forms of church work.

24. Each diocese also has a governing synod, comprising lay and clergy members. The specific governance structure of the Diocese is separately discussed below. Any rule passed by the General Synod that affects the ‘order and good government’ of a diocese must be expressly adopted by the synod of the particular diocese before it will take effect in that diocese. This includes most professional standards matters, such as clergy discipline and redress for child sexual abuse.6

1.3 The Diocese of Newcastle

25. The Diocese was established on 25 June 1847.7

26. Currently, the Diocese is home to 62 parishes in the Central Coast, Hunter, Newcastle, Lake Macquarie, Manning, Paterson and Port Stephens regions of New South Wales.8

27. As at 27 November 2015, the Diocese consisted of 5,300 members, ministered to by 215 licensed clergy.9

28. The Diocese is largely Anglo-Catholic in its theology. This means that the Eucharist (the Holy Communion) and liturgy prescribed in the Australian Prayer book are central to the ministry of the Diocese,10 and there remain similarities with the Roman Catholic Church from which the theology derived. This Anglo-Catholic element explains why many of the priests in the Diocese, at least historically, have referred to themselves as ‘Father’ rather than ‘Reverend’.

29. The Diocese also runs schools, retirement homes, and social welfare services through the Samaritans Foundation. From 1920 through until 1980, the Diocese operated a children’s home called St Alban’s Home for Boys (St Alban’s), which was located in Cessnock.11 St Alban’s was run by a committee of the Diocesan Synod, with appointments including members of clergy.12

30. Traditionally, though not exclusively, the Diocese trained its clergy at St John’s Theological College, Morpeth (Morpeth College). This college was closely affiliated with the Diocese. It closed in 2007.13

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5 Exhibit 36-0075, ‘Statement of Archbishop Jeffrey Driver’, Case Study 36, STAT.0840.001.0001_R at [73]; Exhibit 36-0077, ‘Statement of Archbishop Glenn Davies’, Case Study 36, STAT.0819.002.0001_R at [15].


7 Exhibit 42-0128, ‘Statement of Bishop Greg Thompson’, Case Study 42, STAT.1036.001.0001 at [8].

8 Exhibit 42-0128, ‘Statement of Bishop Greg Thompson’, Case Study 42, STAT.1036.001.0001 at [10].

9 Exhibit 42-0128, ‘Statement of Bishop Greg Thompson’, Case Study 42, STAT.1036.001.0001 at [11]-[12].

10 Exhibit 42-0137, ‘Statement of Bishop George Browning’, Case Study 42, STAT.1105.001.0001 at [3]-[4].

11 Exhibit 42-0128, ‘Statement of Bishop Greg Thompson’, Case Study 42, STAT.1036.001.0001 at [54].

12 Exhibit 42-0001, ‘Minutes of the Management Committee of St Alban’s’, Case Study 42, ANG.0053.001.0523 (Tab 3 of Tender Bundle); Exhibit 42-0001, ‘Trials, Tribulations and Triumphs - The Bishops of the Diocese of Newcastle 1847-2013’, Case Study 42, PUB.0019.001.0001 at 0041 (Tab 353A of Tender Bundle); Exhibit 42-0128, ‘Statement of Bishop Greg Thompson’, Case Study 42, STAT.1036.001.0001 at [54(i)].

13 Exhibit 42-0128, ‘Statement of Bishop Greg Thompson’, Case Study 42, STAT.1036.001.0001_R at [82].
1.4 Governance within the Diocese

31. The Diocesan structure of governance includes the Synod, the Diocesan Council, the Bishop and the Professional Standards Board.

Synod

32. The Synod of the Diocese is divided into two houses (clergy and laity), and functions like an annual general meeting of the Diocese.

33. Although the Synod may delegate the power to make ordinances to the Diocesan Council,\textsuperscript{14} the Synod considers canons and ordinances that:
   a. cannot be approved by the Diocesan Council,
   b. are referred by the Diocesan Council, or
   c. the Bishop and Diocesan Council believe are best considered by the Synod.

34. Bishop Thompson said that the Synod also passes resolutions that ‘express the mind of the Church’ to the Bishop, the Diocesan Council and others. For example, resolutions are passed on issues such as the Church’s position on sexuality or same-sex marriage. Resolutions of the Synod are not binding on church members.\textsuperscript{15}

Diocesan Council

35. The Diocesan Council is a council of advice to the Bishop on those matters on which the Bishop seeks advice.\textsuperscript{16} The advice may be in respect of the day-to-day management of the Diocese, and the Diocesan Council has the power to make certain ordinances as delegated by the Synod.\textsuperscript{17}

36. The Diocesan Council is also the body which must approve the Bishop’s temporal decisions of importance.\textsuperscript{18}

37. It may pass resolutions including resolutions which establish policy. However, only those policies backed by ordinance or employment contract are binding on church members or staff.\textsuperscript{19}

Bishop of Newcastle

38. The Bishop of Newcastle exercises the primary leadership role in the Diocese. The Bishop’s functions include licensing clergy and laity to minister in parishes, appointing persons to

\textsuperscript{14} Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.3].
\textsuperscript{15} Exhibit 42-0128, ‘Statement of Bishop Gregory Thompson’, Case Study 42, STAT.1036.001.0001_R at [25].
\textsuperscript{16} Exhibit 42-0113, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.3].
\textsuperscript{17} Exhibit 42-0001, ‘Synod Delegation of Powers Ordinance 2009’, Case Study 42, ANG.0206.001.0015 (Tab 455 of Tender Bundle).
\textsuperscript{18} Exhibit 42-0128, ‘Statement of Bishop Gregory Thompson’, Case Study 42, STAT.1036.001.0001_R at [24].
\textsuperscript{19} Exhibit 42-0128, ‘Statement of Bishop Gregory Thompson’, Case Study 42, STAT.1036.001.0001_R at [24].
membership of Diocesan bodies and implementing recommendations of disciplinary bodies.\footnote{Exhibit 42-0001, ‘Outline of Structure of the Anglican Church of Australia’, Case Study 42, ANG.9310.01002.0003 at 0021, s 4.1.3 (\textit{Tab 365B of the Tender Bundle}). Exhibit 42-0128, ‘Statement of Bishop Gregory Thompson’, Case Study 42, STAT.1036.001.0001_R at [22]-[24], [29].}
The Bishop may withhold assent to diocesan legislation.\footnote{Transcript of B Farran, Case Study 42, 17 November 2016, 23302:15-36; Exhibit 42-0001, ‘Outline of Structure of the Anglican Church of Australia’, Case Study 42, ANG.9310.01002.0003 at 0020 (\textit{Tab 365B of the Tender Bundle}).}

39. The Bishop of Newcastle is assisted by an Assistant Bishop, as well as Archdeacons, who may also be referred to as ‘Area Deans’. Archdeacons are given regional responsibilities and assist the Bishop in managing areas of the Diocese. They are rectors of parishes and also look after parishes within their archdeaconry area.\footnote{Transcript of R Appleby, 4 August 2016, Case Study 42, 16515:41-46; 16516:22-35.}

40. The other senior clerical position within the Diocese is the Dean of Christ Church Cathedral (\textit{Cathedral}), who has a public ceremonial role as Dean of the Cathedral parish. The role of Dean of the Cathedral parish is considered to be a position of leadership, following only the Bishop and Assistant Bishop in the hierarchy of the Diocese.\footnote{Transcript of A Holland, 3 August 2016, Case Study 42, 16306:39-43.}

41. The Bishop receives legal advice from the Chancellor. The Deputy Chancellor provides advice to the Bishop when the Chancellor is unable to do so.\footnote{Exhibit 42-0001, ‘Chancellors Canon 2001’, Case Study 42, ANG.0150.001.0170 at 0171 (\textit{Tab 440 of Tender Bundle}).}

42. The Chancellors Canon 2001 makes explicit that the Chancellor and the Deputy Chancellor act primarily as legal advisors to the Bishop, and secondarily to ‘the synod and other agencies of the diocese’.\footnote{Exhibit 42-0159, ‘Statement of Justice Peter Young’, Case Study 42, STAT.0985.001.0001 at 0002.} According to the current Chancellor, Justice Peter Young, Church law does not prescribe any legal or ethical duties for a chancellor.\footnote{Exhibit 42-0001, ‘Chancellors Canon 2001’, Case Study 42, ANG.0150.001.0170 at 0170 (\textit{Tab 440 of Tender Bundle}).}

\section*{Professional Standards Board and Committee}

43. A further component of the Diocesan structure is the Professional Standards Board, which was established when the Professional Standards Ordinance 2005 was adopted in the Diocese in October 2005.\footnote{Exhibit 42-0001, ‘Professional Standards Ordinance 2005’, Case Study 42, ANG.0050.001.4524 at 4527 (\textit{Tab 448A of Tender Bundle}).}

44. In some ways, the Board functions like the Diocesan Tribunal that historically was the forum for disciplinary proceedings (in Newcastle this was referred to as the ‘Panel of Triers’). The Board adjudicates certain disciplinary matters and makes recommendations to the Bishop.\footnote{Transcript of M Elliott, Case Study 42, 11 August 2016, 17036:16-42; 17038:8-19.}

45. Since 2005, there has also been a Professional Standards Committee, which among other things, investigates disciplinary matters. This Committee took over various functions in the Diocese relating to disciplinary matters from the Committee for Allegations of Sexual Misconduct.
1.5 Key persons in Case Study 42, and their roles within the Diocese

46. Below is an outline of a number of individuals who featured prominently in Case Study 42, either because they were within the focus of the Case Study or because the evidence revealed that there were significant in influencing the response of the Diocese to allegations of child sexual abuse.

1.6 Perpetrators of child sexual abuse in the Diocese

47. Proven sexual offending against children on the part of clergy and others associated with the Diocese since the mid-1960s is widespread. The following people associated with the Diocese have been convicted of child sex offending: Ian Barrack, Jim Brown, Robert Ellmore, Stephen Hatley Gray, Eric Griffith and Allan Kitchingman. Lindsay McLoughlin (allocated the pseudonym CKW during the public hearing, which was lifted on 21 December 2016) was sentenced for child sexual abuse offences on 7 December 2016.

48. While not convicted during his lifetime, the Diocese accepts that Peter Rushton, who rose to the rank of Archdeacon in the Diocese, was a prolific child sex offender.

49. Graeme Lawrence and fellow priests, Andrew Duncan, Graeme Sturt and Bruce Hoare, were disciplined following an alleged group sex incident in 1984 with a 19 year old man, CKH. It was alleged that CKH had been in a sexual relationship with Mr Lawrence since he was 16 years and also Mr Lawrence’s partner Gregory Goyette since CKH was 17 years old (when CKH was under the then age of consent). It was also alleged that Mr Duncan had sexually abused CKH since he was 14 years of age. These incidents occurred in the Diocese of the Riverina, but all

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29 Exhibit 42-0001, ‘Submission to the Director re R v Barrack’, Case Study 42, NSW.0040.001.0096_R (Tab 147A of Tender Bundle).
31 Exhibit 42-0001, ‘Yellow Envelope No. 6 relating to complaint by Lance Johnston about Robert Ellmore’, Case Study 42, ANG.0354.006.0001_R at 0006_R (Bundle of Yellow Envelopes).
33 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23513:38-40.
34 Exhibit 42-0001, ‘R v Allan Kitchingman- transcript of sentencing, Case Study 42, ANG.9320.01113.0047_R (Tab 112AA of Tender Bundle); Transcript of G Lawrence, Case Study 42, 23 November 2016, 23508:46-23509:5.
35 Exhibit 42-0001, ‘Media Statement about Father Peter Rushton’, Case Study 42, ANG.0048.001.4538_R (Tab 236 of Tender Bundle).
36 Between 1980 and 1984, the Crimes Act 1900 No 40 (NSW) prohibited indecent assault on males, sexual intercourse between males, or attempted sexual intercourse by males of any age, with or without consent (sections 79, 80 and 81). In 1984, sections 78K and 78L were inserted into the Crimes Act 1900 No 40 (NSW) that prohibited homosexual intercourse, or attempts to have homosexual intercourse, with any male between 10 and 18 years old.
37 Exhibit 42-0001, ‘Sturt & Anor v Bishop Brian Farran & Ors [2012] NSWSC 400’, Case Study 42, NSW.0030.005.0004 (Tab 293 of Tender Bundle); Exhibit 42-0112, ‘Determination of the Professional Standards Board in respect of Graeme Lawrence’, Case Study 42, INO.0577.001.0001_R; Exhibit 42-0001, ‘Statement of Bishop Brian Farran in relation to Graeme Lawrence et al’, Case Study 42, INO.0019.001.0012 (Tab 337 of Tender Bundle); Exhibit 42-0001, ‘Legal advice provided to Michael Elliott by Garth Blake SC’, Case Study 42, NSW.0030.005.0156_R (Tab 237 of Tender Bundle).
the men – save for Mr Duncan – later came to occupy positions within the Diocese. Mr Duncan also came to live in the Diocese.

50. The following deceased persons have also been accused of child abuse: Bishop Ian Shevill, Father Michael Cooper and Father James Brown. DBJ, who is still alive, has also been so accused of child sexual abuse. Further, CKC is a priest accused of child sexual abuse. The NSW Police Force is currently investigating these allegations.

Peter Rushton

51. Rushton attended Morpeth College from 1961 to 1963. From 1963 until his retirement in 2001 he served in various parishes in the Diocese.

52. Rushton was ordained in 1964. From 1963 to 1967, he served as an assistant priest in the parish of Cessnock. In 1967, he was an assistant priest in the parish of Wyong. From 1968 to 1973, he was the priest in charge at the parish of Mt Vincent and Weston. From 1973 to 1983, he was the rector of St Luke’s in the parish of Wallsend.

53. During 1963 to 1967 while Assistant Priest at Cessnock, Rushton was involved in St Alban’s as its chaplain.

54. From 1983 to 1998, Rushton was the Archdeacon of Maitland. This was one of the most senior positions in the Diocese. At the end of 1998, he moved to the Hamilton Parish as Team Rector.

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38 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23404:8-15.
39 Exhibit 42-0001, ‘Email from Rod McLary to Michael Elliott’, Case Study 42, ANG.0328.001.0018_R (Tab 183 of Tender Bundle).
40 Exhibit 42-0004, ‘Statement of Phillip D’Ammond’, Case Study 42, STAT.1080.001.0001 at [18].
41 Exhibit 42-0001, ‘Filenoit by Michael Elliott regarding meeting with Bishop Peter Stuart about Keith Allen’, Case Study 42, IND.0486.001.0340_R (Tab 354 of Tender Bundle).
42 Exhibit 42-0001, ‘Filenoit by John Cleary of meeting with Keith Allen on 11 February 2015’, Case Study 42, ANG.0132.001.0014_R (Tab 392 of Tender Bundle).
43 Exhibit 42-0001, ‘List of Students of St John’s College Resident at Morpeth’, Case Study 42, ANG.0048.002.7637_R (Tab 18A of Tender Bundle).
44 Exhibit 42-0001, ‘Extract of Anglican Directory 1997’, Case Study 42, ANG.0050.004.2894_R (Tab 30 of Tender Bundle).
45 Exhibit 42-0001, ‘Extract of Anglican Directory 1997’, Case Study 42, ANG.0050.004.2894_R (Tab 30 of Tender Bundle).
46 Exhibit 42-0001, ‘Extract of Anglican Directory 1997’, Case Study 42, ANG.0050.004.2894_R (Tab 30 of Tender Bundle).
49 Exhibit 42-0001, ‘Year Book 1968 Report of the Diocesan Homes for Children’, Case Study 42, ANG.0050.003.5849 (Tab 1AA of Tender Bundle); Exhibit 42-0004, ‘Statement of Phillip D’Ammond’, Case Study 42, STAT.1080.001.0001_R at [10].
50 Exhibit 42-0001, ‘Extract from Anglican Directory 1997’, Case Study 42, ANG.0050.004.2894_R (Tab 30 of Tender Bundle); Exhibit 42-0075, ‘Supplementary Statement of Archbishop Roger Herft’, Case Study 42, STAT.1094.001.0001_R at [205].
51 Transcript of A Holland, Case Study 42, 3 August 2016, 16306:20-33.
52 Exhibit 42-0001, ‘Year Book of the Diocese of Newcastle the Bishop’s Charge to Synod 13 August 1999’, Case Study 42, ANG.0049.001.0087 (Tab 41A of Tender Bundle); Exhibit 42-0074, ‘Statement of Archbishop Roger Herft’, Case Study 42, STAT.1094.001.0001_R; Exhibit 42-0075, ‘Supplementary Statement of Archbishop Roger Herft’, Case Study 42, STAT.1094.001.0001_R at [205].
55. Rushton retired in 2001 but remained licensed as a priest until his death in 2007 at age 67. Various witnesses have described Rushton as a dynamic preacher who was popular among his parishioners. At times Rushton fostered boys from St Alban’s, and was often surrounded by boys and young men.

56. It was well-known in the Diocese that Rushton was homosexual. He had sexual relationships with various male members of the clergy including McLoughlin. For a time, he had a sexual relationship with Jim Brown (referred to below), with whom he worked at St Albans.

57. Data retrieved from the Anglican Dioceses of Newcastle and Brisbane, and direct contacts made by individuals to the Royal Commission, indicates at least 12 alleged victims of Rushton. Three of the alleged victims were residents at St Alban’s. Other than the allegations relating to Mr Paul Gray, COE and CKG, the allegations of the other alleged victims have not been explored by the Royal Commission. However, the likely indication is that Rushton offended against numerous children between at least 1961 and 1984.

James ‘Jim’ Michael Brown

58. James Michael Brown (aka ‘Jim Brown’ and referred to below as ‘Brown’) was born in 1950 and grew up in Kurri Kurri in the Diocese. Brown was a lay reader and youth group leader at the Kurri Kurri Anglican Church in the 1970s. Brown was also a youth worker for St Alban’s and in around 1977 he was appointed to St Alban’s committee of management.

59. Brown is to be distinguished from Father James Brown, who was a licensed priest in the Diocese. He was also accused of sexually abusing children. Father Brown is now deceased.
60. Mr Phillip D’Ammond said in evidence that Brown sexually abused him from the age of 13.67 Mr D’Ammond had been placed at St Alban’s home by his adoptive mother following her suffering of a stroke.68 The abuse allegedly occurred multiple times between 1975 and 1977.69 Mr D’Ammond says he also witnessed Brown sexually abusing another boy from St Alban’s.70

61. Brown became Mr D’Ammond’s legal guardian after Mr D’Ammond left St Alban’s.71

62. In 1985, Brown was licensed as a lay reader in the Weston parish.72

63. In 1996, Mr D’Ammond reported his abuse by Brown to the police.73 Brown was charged with three offences but the charges were dismissed at the committal proceedings. Brown was defended at the time by Mr Paul Rosser QC, the then Deputy Chancellor of the Diocese (see below).74

64. In 2008, another victim of Brown reported his abuse to police. An investigation commenced and Brown was arrested and charged on 25 June 2010.75

65. On 20 April 2011, Brown pleaded guilty to 27 charges of child sexual abuse relating to 20 male victims. One of the charges related to Mr D’Ammond.76 Ultimately, Brown was convicted and sentenced to 20 years’ imprisonment with a non-parole period of 12 years.77

**CKC**

66. CKC was a priest in the Diocese from the mid 1960’s until 1996 when he moved to the Diocese of Ballarat.78

67. CKA and CKB told the Royal Commission they were abused by CKC while they served as altar boys in the Diocese in the 1970s.79 Their evidence is discussed separately below.

68. The evidence of CKA included the following:

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67 Exhibit 42-0004, ‘Statement of Phillip D’Ammond’, Case Study 42, STAT.1080.001.0001_R at [17]-[19].
68 Exhibit 42-0004, ‘Statement of Phillip D’Ammond’, Case Study 42, STAT.1080.001.0001_R at [5].
69 Exhibit 42-0004, ‘Statement of Phillip D’Ammond’, Case Study 42, STAT.1080.001.0001_R at [8], [12]-[14].
70 Exhibit 42-0004, ‘Statement of Phillip D’Ammond’, Case Study 42, STAT.1080.001.0001_R at [20].
71 Exhibit 42-0004, ‘Statement of Phillip D’Ammond’, Case Study 42, STAT.1080.001.0001_R at [27].
72 Exhibit 42-0001, ‘Letter to James Brown re Lay Licence’, Case Study 42, ANG.0053.001.1235_R (Tab 4 of Tender Bundle).
73 Exhibit 42-0004, ‘Statement of Phillip D’Ammond’, Case Study 42, STAT.1080.001.0001_R at [37].
74 Exhibit 42-0004, ‘Statement of Phillip D’Ammond’, Case Study 42, STAT.1080.001.0001_R at [39].
75 Exhibit 42-0001, ‘Statement of Agreed Facts on Sentence’, Case Study 42, NSW.0030.006.0192_R (Tab 288 of Tender Bundle);
Exhibit 42-0001, ‘Statement of Agreed Facts on Sentence’, Case Study 42, NSW.0030.006.0192_R (Tab 288 of Tender Bundle);
Exhibit 42-0001, ‘Transcript of proceedings on sentence’, Case Study 42, NSW.0030.006.0025_R (Tab 289 of Tender Bundle).
77 Exhibit 42-0001, ‘St John’s College, Morpeth, Students in Residence, Class of 1963’, Case Study 42, ANG.0041.001.0262_R (Tab 1 of Tender Bundle); Exhibit 42-0001, ‘Letter from Bishop Herft to CKC dated 26 February 1996’, ANG.0050.003.4678_R (Tab 17 of Tender Bundle).
78 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [13]; Exhibit 42-0093, ‘Statement of CKB’, Case Study 42, STAT.1109.001.0001_R at [12].
a. His mother disclosed the abuse to the then head of the Diocese, Bishop Shevill, in around 1975, and nothing was done.\textsuperscript{80}

b. He personally first disclosed CKC’s abuse to the Diocese in 1984.\textsuperscript{81}

c. Subsequently CKA disclosed this abuse to then Dean Lawrence in 1996 and 1999.\textsuperscript{82}

69. In February 2000, CKA and CKB reported some of CKC’s abuse to the police and CKC was charged.\textsuperscript{83} The criminal proceedings against CKC took place from 2000 to 2001.\textsuperscript{84} The charges were ultimately withdrawn by the prosecution.\textsuperscript{85}

70. Mr Keith Allen, a member of Diocesan Council and a Trustee for the Diocese, and Mr Rosser QC, then the Deputy Chancellor of the Diocese, acted for CKC in the criminal proceedings. CKC was close friends with the Registrar of the Diocese at the time, Mr Peter Mitchell.\textsuperscript{86} Mr Mitchell provided a written reference to Mr Allen for use in CKC’s criminal proceedings.\textsuperscript{87}

71. There is a current criminal investigation into CKA and CKB’s allegations of abuse against CKC.\textsuperscript{88}

**Stephen Hatley Gray**

72. Stephen Hatley Gray was appointed as the Rector of the Parish of Wyong in 1988 by Bishop Holland,\textsuperscript{89} after previously working in the Diocese of Sydney.

73. Sometime between midnight and 4am on 12 February 1990, Hatley Gray had anal intercourse with a 15 year old boy. The victim reported his assault to police at about 5am that same morning.\textsuperscript{90}

74. Hatley Gray was arrested and charged with homosexual intercourse with a male under 18 years and over 10 years on 12 February 1990.\textsuperscript{91} He pleaded guilty to this offence on 7

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\textsuperscript{80} Exhibit 42- 0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [22]-[24].

\textsuperscript{81} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [29].

\textsuperscript{82} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [35], [37].

\textsuperscript{83} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [39], [44]; Exhibit 42-0092, ‘Statement of CKB’, Case Study 42, STAT.1109.001.0001_R at [22].

\textsuperscript{84} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [44]; Exhibit 42-0092, ‘Statement of CKB’, Case Study 42, STAT.1109.001.0001_R at [24].

\textsuperscript{85} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [48]; Exhibit 42-0092, ‘Statement of CKB’, Case Study 42, STAT.1109.001.0001_R at [26].

\textsuperscript{86} Transcript of P Mitchell, Case Study 42, 10 August 2016, 16902:45-47.

\textsuperscript{87} Exhibit 42-0001, ‘Character Reference by Registrar Peter Mitchell for [CKC]’, Case Study 42, ANG.0005.003.9051_R (Tab 72 of Tender Bundle); Exhibit 42-0001, ‘Letter from Peter Mitchell to Keith Allen’, Case Study 42, IND.0486.001.0348_R (Tender Bundle Tab 67).

\textsuperscript{88} Transcript, Case Study 42, 2 August 2016, 16204:36-16205:10.

\textsuperscript{89} Exhibit 42-0001, ‘Pre-sentence Report for Stephen Hatley Gray’, Case Study 42, NSW.2008.001.0114_R at 0117_R (Tab 11A of Tender Bundle).

\textsuperscript{90} Exhibit 42-0018, ‘Crime Information Report’, Case Study 42, NPF.045.001.0168_R.

\textsuperscript{91} Exhibit 42-0018, ‘Crime Information Report’, Case Study 42, NPF.045.001.0168_R.
September 1990 and received a fine of $100 and a good behaviour bond for three years. Mr Allen, represented Hatley Gray during his criminal proceedings. Bishop Alfred Holland provided a written reference for Mr Hatley Gray for use in the criminal proceedings.

Allan Kitchingman

75. Kitchingman studied at Morpeth College and was ordained in 1963. Kitchingman was convicted of indecently assaulting a 16-year old boy. As a result of his conviction, the then Bishop of Newcastle, James Housden, arranged to transfer Kitchingman to the Diocese of Grafton, where he became involved with the North Coast Children’s Home.

76. Kitchingman later moved between the Dioceses of Grafton, Armidale and the Northern Territory, and was the Administrator of the Northern Territory until he retired to the Diocese of Newcastle in 2000.

77. In 1968, Kitchingman was convicted of indecently assaulting a 16-year-old boy. As a result of his conviction, the then Bishop of Newcastle, James Housden, arranged to transfer Kitchingman to the Diocese of Grafton, where he became involved with the North Coast Children’s Home.

78. In 1968, Kitchingman was convicted of indecently assaulting a 16-year-old boy. As a result of his conviction, the then Bishop of Newcastle, James Housden, arranged to transfer Kitchingman to the Diocese of Grafton, where he became involved with the North Coast Children’s Home.

79. Kitchingman later moved between the Dioceses of Grafton, Armidale and the Northern Territory, and was the Administrator of the Northern Territory until he retired to the Diocese of Newcastle in 2000.

80. Mr Lawrence, then the Dean of Newcastle, also gave oral evidence at the trial in support of Kitchingman. According to the sentencing transcript, Mr Lawrence told the Court that he had known Kitchingman and his wife for ‘close to 40 years’, during which Mr Lawrence had ‘frequent contact with him’ and visited him in the Northern Territory. Mr Lawrence said that ‘because he thought so highly of the offender, and notwithstanding recent adverse publicity

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92 Exhibit 42-0001, ‘District Court indictment of Stephen Hatley Gray’, Case Study 42, ANG.0050.002.5002_R (Tab 11C of Tender Bundle).
94 Transcript of K Allen, Case Study 42, 8 August 2016, 16655:36-39.
95 Exhibit 42-0001, ‘Character reference for Stephen Hatley Gray by Bishop Alfred Holland’, Case Study 42, ANG.0050.002.9884_R (Tab 11 of Tender Bundle).
96 Exhibit 42-0001, ‘St John’s College, Morpeth, Students in Residence, Class of 1963’, Case Study 42, ANG.0041.001.0262_R (Tab 1 of Tender Bundle).
98 Exhibit 42-0001, ‘Letter from Bishop of Newcastle to Bishop of Grafton’, Case Study 42, ANG.9340.01002.0009 (Tab 1AB of Tender Bundle).
100 Exhibit 42-0001, ‘R v Alan Kitchingman – transcript of sentencing’, Case Study 42, ANG.9320.01113.0047_R (Tab 112AA of Tender Bundle).
101 Exhibit 42-0001, ‘R v Alan Kitchingman – transcript of sentencing’, Case Study 42, ANG.9320.01113.0047_R at 0055_R (Tab 112AA of Tender Bundle).
about clergymen giving evidence in support of other clergy in matters such as this, he wanted to be here for the offender’. Mr Lawrence said that Kitchingman had told him he ‘was deeply remorseful’. Judge Coolahan summarised that ‘Dean Lawrence spoke very highly of the offender and his work, both within and without the Church’. At the time of the 2002 court case, it was not disclosed to the Court that Kitchingman had a 1968 conviction for a child sexual abuse offence.103

81. After his release, Kitchingman continued living in Newcastle and worshipped at the Cathedral. The Royal Commission found in Case Study 3: North Coast Children’s Home that, as at November 2013, neither the Diocese of Grafton nor the Diocese of Newcastle had commenced disciplinary action against Kitchingman, although both were able to under their disciplinary frameworks. Further, the Diocese had not implemented any risk management plan concerning Kitchingman’s continuing involvement with the Cathedral.104

Ian Barrack

82. Barrack, a long time worshipper at the Cathedral,105 commenced as an ordination student at Morpeth College in February 1997. At that time he was about 28 years old and married. During that year, Barrack befriended CKU, the son of another student at the college, CKR.106 At that time CKU was 12 years old.107

83. Between August 1998 and December 1998, Barrack regularly sexually abused CKU.108

84. On 16 November 1998, CKR complained to Archdeacon Bruce Hoare about Barrack’s increasing attentions towards her son and that Barrack had given CKU a toy depicting a man having sex with a sheep.109 At that time she was not aware of the sexual abuse.

85. In or about March 1999, Bishop Herft was told about CKR’s complaint, which at that time related to the sex toy. In the meantime, Barrack had been refused ordination and had left Morpeth College.110

86. In May 2002, CKU disclosed to CKR that he had been sexually abused by Barrack. CKU then reported the abuse to police at Singleton.111

102 Exhibit 42-0001, ‘R v Alan Kitchingman – transcript of sentencing’, Case Study 42, ANG.9320.01113.0047_R at 0053_R-0054_R (Tab 112AA of Tender Bundle).
103 Exhibit 42-0001, ‘R v Alan Kitchingman – transcript of sentencing’, Case Study 42, ANG.9320.01113.0047_R at 0056_R and 0061_R (Tab 112AA of Tender Bundle).
105 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23413:4-17.
106 Exhibit 42-0026, ‘Statement of CKU’, Case Study 42, STAT.1086.001.0001_R at [12]-[16].
107 Exhibit 42-0026, ‘Statement of CKU’, Case Study 42, STAT.1086.001.0001_R at [13].
108 Exhibit 42-0026, ‘Statement of CKU’, Case Study 42, STAT.1086.001.0001_R at [33].
109 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [31].
110 Exhibit 42-0001, ‘Letter from Bishop Roger Herft to Ian Barrack’, ANG.0050.004.4922_R (Tab 40 of Tender Bundle); Exhibit 42-0074, ‘Supplementary Statement of Archbishop Roger Herft’, STAT.1094.001.0001_R at [101].
111 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [47]-[49]; Exhibit 42-0027, ‘Statement of CKU’, Case Study 42, STAT.1086.001.0001_R at [51]-[52].
On 21 February 2005, Barrack was charged with two counts of sexual assault against CKU. On 10 May 2006, Barrack pleaded guilty to one count of sexual intercourse with a child aged between 10 and 16 years. In September 2006, Barrack was sentenced to two year’s imprisonment with a non-parole period of 12 months.

Graeme Lawrence and associates (Gregory Goyette, Andrew Duncan, Bruce Hoare and Graeme Sturt)

Graeme Lawrence

Graeme Lawrence was a student at Morpeth College from 1963 to 1965. Also at Morpeth at times during that period were Rushton, Kitchingman, CKC, and Brian Farran, who later became the Bishop of the Diocese.

In 1965, Mr Lawrence was ordained as a deacon in the Diocese of Riverina. During this time, he shared accommodation with Brian Farran who was an assistant curate. Their friendship carried through to the time that Farran became Bishop of Newcastle.

In 1966, Mr Lawrence was ordained a priest in the Diocese of Riverina and remained in that diocese until May 1984. From 1975 until May 1984, Mr Lawrence was the Rector at St Alban’s Church in the Parish of Griffith in the Diocese of Riverina.

In the period 1978 to 1984, he was also the Archdeacon of the Diocese of Riverina. During this period he was also the Administrator and Commissary of the Diocese of Riverina from time-to-time when the Bishop of that diocese was absent.

Mr Lawrence commenced a relationship with Mr Gregory Goyette in around 1975. Mr Goyette came to live with him in the rectory at St Alban’s Church. Their relationship continues to this day.

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112 Exhibit 42-0026, ‘Statement of CKU’, Case Study 42, STAT.1086.001.0001_R at [56].
113 Exhibit 42-0026, ‘Statement of CKU’, Case Study 42, STAT.1086.001.0001_R at [61].
114 Exhibit 42-0026, ‘Statement of CKU’, Case Study 42, STAT.1086.001.0001_R at [61].
115 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23397:31.
116 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23397:33-35.
117 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23397:40-42.
118 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23398:8-10.
119 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23398:19-21.
120 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23398:30-32.
121 Transcript of B Farran, Case Study 42, 16 November 2016, 23206:13-27.
122 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23401:31-43.
123 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23398:34-36.
124 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23398:38-41.
125 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23398:43-45.
126 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23398:47-23399:17.
127 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23402:4-19.
93. From 1975 to May 1984, numerous young priests trained under Mr Lawrence at St Alban’s Church. These priests included:

   a. Mr Bruce Hoare, who was a curate at St Alban’s Church from 1973 to 1977 and who lived in the clergy house at St Alban’s,

   b. Mr Graeme Sturt, who was a curate at St Alban’s Church from 1977 until 1980 and who lived in the clergy house, and

   c. Mr Andrew Duncan, who was a curate at St Alban’s Church from 1979 until early 1981 and who lived in the clergy house.

94. Mr Lawrence formed friendships with Mr Hoare and Mr Sturt but not a particular friendship with Mr Duncan. He was aware at the time that Mr Hoare was homosexual, and at some point became aware that Mr Sturt was too. Mr Lawrence initially told the Royal Commission that he did not know that Mr Duncan was a homosexual at the time, but later said that he suspected that Mr Duncan was having sex with 14 year old male CKH in around 1979.

95. In June 1984, Mr Lawrence became Dean of the Cathedral in Newcastle. He was appointed to this position by Bishop Holland. He remained in that position until 31 December 2008. Mr Lawrence agreed that this was a position of ‘considerable leadership’ in the Diocese and that he had ‘considerable influence’. When the Bishop was away from the Diocese, Mr Lawrence acted in the position of Commissary.

96. During Mr Lawrence’s time as the Dean, Mr Hoare and Mr Sturt transferred to the Diocese of Newcastle as priests. Mr Hoare lived on the Cathedral grounds on two occasions, each lasting around two to three years. Mr Hoare rose to the position of Archdeacon in 1996.

97. Mr Lawrence was also involved in the Anglican Church at a national level. From around 1978 until 2009, he was a member of the General Synod and for some years was a member of the Standing Committee of the General Synod.

128 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23399:28-29.
129 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23402:21-29.
130 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23403:1-16.
131 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23403:32-43.
133 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23402:44-46.
134 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23403:24-30.
135 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23404:4-7.
136 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23464:21-23.
137 Transcript of A Holland, Case Study 42, 3 August 2016, 16306:35-37.
138 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23339:32-38.
139 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23339:40-42 and 23400:5-8.
140 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23339:44-23400:3.
141 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23404:8-15.
142 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23485:9-18.
143 Exhibit 42-0147, ‘Statement of Bruce Hoare’, Case Study 42, STAT.1063.001.0001_R at [6].
144 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23400:34-41.
98. For a short period in 2002, Mr Lawrence was on a sub-committee of the Standing Committee that developed the Anglican Church’s national model professional standards framework. He said that at that time, he was supportive of the proposed new professional standards framework.

99. Mr Lawrence’s retired as Dean in December 2008.

100. From March to October 2009, Mr Lawrence performed locums tenens positions in the Diocese of Wangaratta. He was suspended in October 2009 at which time a disciplinary process was commenced against him relating to allegations that he and Mr Goyette, Mr Duncan, Mr Hoare and Mr Sturt had had sexual relations with CKH. That process eventually resulted in Mr Lawrence’s deposition from Holy Orders (also known as ‘defrocking’) in 2010. This disciplinary process is discussed in more detail later in these submissions.

101. CKH alleges that Mr Duncan initiated a sexual relationship with him when he was 14 years old in Griffith and that Mr Lawrence initiated a sexual relationship with him when he was 16 years old (what at that time was below the age of consent). These allegations were investigated by the police during 2009 to 2010, but the police decided to take no further action.

102. Mr Lawrence denied that he had any knowledge of Rushton’s sexual offending against children.

103. Many witnesses, including Bishop Herft, Bishop Farran, Reverend Colvin Ford, Reverend Rod Bower, Bishop George Browning, Reverend Roger Dyer, Bishop Roger Appleby, CKH, and Mr Peter Mitchell, identified Mr Lawrence as a person with considerable influence and power in the Diocese. Bishop Farran said Mr Lawrence had been described as ‘the most influential priest in the Diocese of Newcastle for over 25 years’ and said Mr Lawrence:

   is a very charismatic person, has a very strong personality, he’s tall — and I guess all of these things kind of go into a leadership profile. Very articulate, good verbal fluency. Strong – strong willed. Able to withstand – stare down people.

104. Bishop Herft said of Mr Lawrence:

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145 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23401:2-7; Exhibit 42-0001, ‘The Sexual Abuse Working Group ‘Work in Progress’ Report to Standing Committee of General Synod’, Case Study 42, ANG.9320.01800.1900 (Tab 121 of Tender Bundle).

146 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23401:12-15.

147 Exhibit 42-0116, ‘Statement of Graeme Lawrence’, Case Study 42, STAT.1079.001.0001 at [1].

148 Transcript of CKH, Case Study 42, 9 August 2016, 16866:4-10.

149 Transcript of CKH, Case Study 42, 9 August 2016, 16867:4-15.

150 Transcript of CKH, Case Study 42, 9 August 2016, 16872:28-43.

151 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23404.31-35.


154 Transcript of B Farran, Case Study 42, 16 November 2016, 23209:15-19.

155 Transcript of R Herft, Case Study 42, 12 August 2016, 17229:5-11.
he had huge influence in many parts of the diocese. He had been there from I think the early '80s and so a lot of the clergy knew him quite personally. There was a sense in which, at meetings when he spoke or at Synod when he spoke, people would take cognisance of what he said. He had a very strong influence in the community here in Newcastle.

105. The evidence established that Mr Lawrence had a strong and loyal following in the Cathedral. Bishop Farran said Mr Lawrence made people ‘dependent’ upon him. As will be discussed in more detail later in these submissions, there remains a group within the Cathedral who are strident supports of Mr Lawrence and who believe his defrocking was unfair and unjust.

106. There is also evidence before the Commission, which is discussed in further detail later in these submissions, that certain allegations were raised with Bishop Herft when he was Bishop of Newcastle that Mr Lawrence had sexually abused children. Mr Lawrence, who gave oral evidence to the Royal Commission, strenuously denied that such allegations were ever raised with him.

107. Mr Lawrence is currently a parishioner at St Stephen’s in Adamstown. The priest in charge is Reverend Christopher Bird.

**Gregory Goyette**

108. As noted above, Mr Goyette has been Mr Lawrence’s partner since around 1975. Mr Goyette lived with Mr Lawrence at St Albans’ Church and later at the Cathedral, when Mr Lawrence was the Dean. He was involved with the church as a lay person, including as an organist and choir master. Mr Goyette is a teacher by profession.

109. CKH alleges that he was involved in a sexual relationship which lasted some years with Mr Lawrence and Mr Goyette from the time he was around 16 years old. This allegation eventually led to a disciplinary process, and to a direction from Bishop Farran that Mr Goyette be prohibited from holding any lay office in the Church.

**Andrew Duncan**

110. As noted above, from 1979 until 1987, Mr Duncan was a junior priest under Mr Lawrence’s supervision at St Alban’s Church in the parish of Griffith. In 1979, Mr Duncan was ordained as a Deacon and on 30 November 1979, was ordained as a priest. He transferred to Deniliquin

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157 Transcript of G Lawrence, Case Study 42, 16 November 2016, 23209:31.
158 Exhibit 42-0133, ‘Statement of Reverend Chris Bird’, Case Study 42, STAT.1100.001.0001_R at [4].
159 Exhibit 42-0001, ‘Statement of Bishop Brian Farran in relation to Graeme Lawrence et al’, Case Study 42, IND.0019.001.0012 (Tender Bundle Tab 337); Exhibit 42-0040, ‘Statement of CKH’, Case Study 42, STAT.1078.001.0001_R at [32].
160 Transcript of CKH, Case Study 42, 9 August 2016, 16872:45-47.
161 Exhibit 42-0040, ‘Statement of CKH’, Case Study 42, STAT.1078.001.0001_R at [32]-[34], [46].
162 Exhibit 42-0001, ‘Statement of Bishop Brian Farran in relation to Graeme Lawrence et al’, Case Study 42, IND.0019.001.0012 (Tender Bundle Tab 337).
February 1981. He relinquished his Holy Orders at the request of Bishop Farran on 6 August 2012 rather than face disciplinary action in relation to his alleged sexual abuse of CKH.

Bruce Hoare

111. From 1971 to 1973, Mr Hoare attended Morpeth College. As noted above, Mr Hoare was at St Alban’s Church in the parish of Griffith in the period 1973 to around 1976. He was ordained as a Deacon on May 1973 and was ordained as a priest in December 1973, at which time he was appointed as Assistant Priest at St Alban’s Church.

112. Mr Hoare stayed in the Riverina Diocese until 1988, when he became the Rector of Cardiff and later Area Dean in the Diocese of Newcastle. In 1996, Mr Hoare was appointed as Archdeacon of the Diocese. At this time, he became a member of the Diocesan Council, a position which ceased when he became the Canon Residentiary at Christ Church Cathedral in 2002.

113. In 2007, Mr Hoare was formally disciplined by Bishop Farran on the recommendation of the Professional Standards Committee in relation to drunken and lewd sexual behaviour with a male trainee priest. In September 2012, Mr Hoare was deposed from Holy Orders by Bishop Farran following the Professional Standards Board’s determination of CKH’s allegations.

Graeme Sturt

115. Mr Sturt was a priest in the Diocese of Riverina and later in the Diocese of Newcastle. On 3 October 2009, CKH submitted a letter alleging sexual misconduct and abuse by several priests including Mr Sturt to the Diocese of Melbourne. Upon receiving the complaint, Bishop Farran stood Mr Sturt down.

116. Following a hearing into CKH’s complaint before the Professional Standards Board, in December 2010 the Board recommended Mr Sturt be deposed from Holy Orders. Mr Sturt and Mr Lawrence launched an unsuccessful action in the Supreme Court of New South Wales.
and in September 2012, Bishop Farran elected not to depose Mr Sturt but chose to prohibit him from exercising his ordained ministry for five years. Mr Sturt passed away in 2015.

1.7 Bishops of the Diocese

Bishop James Housden

117. Bishop James Housden was the Bishop of the Diocese from 1958 to 1972. This case study did not consider the actions of Bishop Housden in any detail. However, some actions of Bishop Housden were detailed in Case Study 3. In that Case Study, there was evidence that demonstrated Bishop Housden was aware of child sex offending by priest Kitchingman in 1968 and arranged for Kitchingman to move to the Diocese of Grafton following his conviction.

Bishop Ian Shevill

118. Bishop Ian Shevill served as the Bishop of Newcastle from 1973 to 1977. There is some evidence that allegations of child sexual abuse were made known to the Diocesan hierarchy during Bishop Shevill’s episcopate.

119. Further, Bishop Greg Thompson, the current Bishop of the Diocese, alleges that in 1976, when he was 19 years old, Bishop Shevill indecently assaulted him in company with Canon Eric Barker. There is also evidence that Bishop Shevill sexually abused a female child in North Queensland in 1958. These allegations are discussed in more detail later in these submissions.


Bishop Alfred Holland

121. Bishop Alfred Holland was the Bishop of Newcastle from February 1978 to August 1992. He is now retired. Bishop Holland gave oral evidence to the Royal Commission.

122. During Bishop Holland’s episcopate, Rushton and Mr Lawrence occupied key positions of leadership. Bishop Holland promoted Rushton to the position of Archdeacon of Maitland in
186 Bishop Holland recruited Mr Lawrence to become Dean of Newcastle Cathedral in 1984.  

123. There is evidence before the Royal Commission of extensive sexual offending against children occurring in the Diocese during Bishop Holland’s episcopacy. There is also evidence that certain of these allegations, including in relation to Rushton, were brought to Bishop Holland’s attention during his episcopacy, although this is strenuously disputed by Bishop Holland.  

124. The Diocese took no disciplinary action in relation to clergy alleged to have perpetrated child sexual abuse during Bishop Holland’s term. These matters are discussed in further detail later in these submissions.

**Bishop Richard Appleby**


187 He overlapped with Mr Lawrence in 1965 but says that they did not develop a close friendship at that time.

126. Bishop Appleby was the Assistant (Auxiliary) Bishop of Newcastle from 1983 to 1992, serving firstly under Bishop Holland and then under then Bishop Herft. He was part of the leadership group of the Diocese, which included Rushton and Mr Lawrence.

127. While at the Diocese, Bishop Appleby developed a friendship with Mr Lawrence and came to know him ‘quite well’. For around eight years, then Assistant Bishop Appleby lived on the grounds of the Cathedral next to the Deanery.

128. Bishop Appleby gave oral evidence to the Royal Commission. He said that in his capacity as Assistant Bishop, he performed a wide range of liturgical and pastoral roles across the Diocese. He was responsible for coordinating the selection of candidates for ordination. He had oversight of the development of a welfare agency for the Church, known as the Samaritans Foundation, and ultimately became the Chair of this foundation.

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186 Exhibit 42-0001, ‘Anglican Directory 2000’, Case Study 42, ANG.0316.001.0001_R (Tab 56A of Tender Bundle); Exhibit 42-0011, ‘Statement of Bishop Alfred Holland’, Case Study 42, STAT.1061.001.0001_R at [12].

187 Exhibit 42-0011, ‘Statement of Bishop Alfred Holland’, Case Study 42, STAT.1061.001.0001_R at 0007, pp [5]-[6].


189 Transcript of R Appleby, Case Study 42, 4 August 2016, 16506:9-17.

190 Transcript of R Appleby, Case Study 42, 4 August 2016, 16506:39 to 16507:14.

191 Exhibit 42-0025, ‘Statement of Bishop Richard Appleby’, Case Study 42, STAT.1085.001.0001_R at [14].


193 Transcript of R Appleby, Case Study 42, 4 August 2016, 16514:29-31.

194 Transcript of R Appleby, Case Study 42, 4 August 2016, 16514:32-40.

195 Transcript of R Appleby, Case Study 42, 4 August 2016, 16502:18-29.
129. Bishop Appleby strenuously denied knowledge of child sexual abuse within the Diocese during his term as Auxiliary Bishop.  He agreed he would have been the natural contact point for receiving such complaints.

130. From 1996 to 1999, Bishop Appleby was the Bishop of the Northern Territory. From 1999 to 2006, Bishop Appleby was the Regional Bishop in the Diocese of Brisbane. In 2006, Bishop Appleby retired and returned to Newcastle. He worshipped at the Cathedral. Bishop Appleby was the Acting Dean of the Cathedral in the interim period between Mr Lawrence’s retirement in December 2008 and the appointment of his replacement in around 2009.

131. From 2009 until his relocation to Sydney in 2016, Bishop Appleby was a parishioner at St Stephen’s in Adamstown. As noted above, Mr Lawrence and his partner Mr Goyette continue to worship there.

Bishop Roger Herft

132. Bishop Roger Herft gave oral evidence to the Royal Commission. He was enthroned as Bishop of Newcastle in May 1993 and served until February 2005. He was then the Archbishop of Perth and Metropolitan of the Province of Western Australia until his resignation on 15 December 2016.

133. While at Newcastle, then Bishop Herft’s leadership team included Mr Lawrence and Rushton, as well as the then Registrar of the Diocese, Mr Peter Mitchell. Bishop Herft says that he did not develop a friendship with Mr Lawrence. Bishop Herft said that Mr Lawrence had huge influence in the Diocese and Newcastle community. However, he denied he was intimidated by Mr Lawrence.

134. As detailed in Section 4 of these submissions, numerous allegations of child sexual abuse were made known to the Diocese during Bishop Herft’s tenure.

135. During Bishop Herft’s episcopate, no report of child sexual abuse was ever made to the police save for the matters of Barrack, DGA and DBD; and no disciplinary processes were followed against clergy or church workers in relation to allegations of child sexual abuse.

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197 Transcript of R Appleby, Case Study 42, 4 August 2016, 16526:9-14.

198 Exhibit 42-0025, ‘Statement of Bishop Appleby’, Case Study 42, STAT.1085.001.0001_R at [15].

199 Exhibit 42-0025, ‘Statement of Bishop Appleby’, Case Study 42, STAT.1085.001.0001_R at [17].

200 Transcript of R Appleby, Case Study 42, 4 August 2016, 16502:47-16503:14

201 Exhibit 42-0116, ‘Statement of Graeme Lawrence’, Case Study 42, STAT.1079.001.0001_R at [1].


203 Transcript of R Appleby, Case Study 42, 4 August 2016, 16503: 20-22

204 Exhibit 42-0074, ‘Statement of Archbishop Roger Herft’, Case Study 42, STAT.0073.001.0001_R at [4].

205 Exhibit 42-0073, ‘Statement of Archbishop Roger Herft’, Case Study 42, STAT.1094.001.0001_R at [8].

206 Transcript of R Herft, Case Study 42, 12 August 2016, 17229:13-17.

207 Transcript of R Herft, Case Study 42, 12 August 2016, 17228:47 – 17229:11.

208 Transcript of R Herft, Case Study 42, 29 August 2016, 17309:1-2.
Bishop Brian Farran

136. Bishop Brian Farran gave oral evidence to the Royal Commission. He was the Bishop of Newcastle from 24 June 2005 to 15 December 2012.  

137. Earlier, Bishop Farran had lived and studied at Morpeth College from 1962 to 1964. During part of that period Mr Lawrence also studied there.

138. Bishop Farran was ordained as a deacon on 30 November 1967 at St Alban’s Church in the parish of Griffith, and in 1968 was ordained as a priest. He then became as assistant curate at St Alban’s Church at a time when Mr Lawrence was the senior curate there. During this period, Bishop Farran and Mr Lawrence shared accommodation for around a year. He came to know Mr Lawrence well during this period and they continued a ‘firm friendship’ when both lived in the Diocese of Newcastle. Bishop Farran left the parish of Griffith in 1972. It was Mr Lawrence who nominated Bishop Farran for the position of Bishop of Newcastle.

139. Very shortly upon Bishop Farran’s arrival in the Diocese, the new professional standards framework was adopted. During Bishop Farran’s tenure as Bishop of Newcastle, there was unrest within the Diocese about the way the new professional standards framework had been applied in dealing with two priests – Mr John Gumbley and COJ – both of whom had been accused of sexually inappropriate conduct with adult females.

140. In October 2009, CKH made a formal complaint to the Church about Mr Lawrence, Mr Goyette, Mr Duncan, Mr Hoare and Mr Sturt. Bishop Farran immediately withdrew Mr Lawrence’s permission to officiate with the Diocese and also took interim steps against the other respondents. The disciplinary process that followed was protracted, in part because the investigation was placed on hold while the police investigated and in part because Mr Lawrence and Mr Sturt challenged the findings of the Diocese’s Professional Standards Board in the NSW Supreme Court.

141. The evidence shows that Bishop Farran equivocated regarding the action he would take following the Professional Standard Board’s recommendations but ultimately in September 2010, he followed the recommendations with respect to all respondents except Mr Sturt. He defrocked Mr Lawrence, Mr Hoare and Mr Duncan and banned Mr Goyette from any position within the Anglican Church.

142. There was evidence of a considerable backlash against Bishop Farran arising from his role with respect to Mr Lawrence and his associates. This included complaints made by parishioners to

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209 Transcript of B Farran, Case Study 42, 16 November 2016, 23202:42-44.
210 Transcript of B Farran, Case Study 42, 16 November 2016, 23204:5-6.
211 Transcript of B Farran, Case Study 42, 16 November 2016, 23204:11-13.
212 Transcript of B Farran, Case Study 42, 16 November 2016, 23204:32-33.
213 Transcript of B Farran, Case Study 42, 16 November 2016, 23204:38 to 23205:3
215 Transcript of B Farran, Case Study 42, 16 November 2016, 23206:34-41 and 23208:36-40.
216 Transcript of B Farran, Case Study 42, 16 November 2016, 23207:10.
217 Transcript of B Farran, Case Study 42, 16 November 2016, 23208:24-27.
218 Exhibit 42-0107, ‘Statement of Bishop Brian Farran’, Case Study 42, STAT.1072.001.0001_R at [44].
219 Exhibit 42-0142, ‘Statement of the Hon Colin Elliott’, Case Study 42, STAT.1075.001.0001_R at [4].
the Episcopal Standards Commission. Bishop Farran said that he had ‘a terrible time’ in Newcastle.\textsuperscript{220} He said that there was a ‘strong culture of non-accountability’ in the Diocese as well as a ‘very paternalistic culture [of] ‘Father knows best’’.\textsuperscript{221}

**Assistant Bishop Peter Stuart**

143. Assistant Bishop Peter Stuart, who gave oral evidence to the Royal Commission, was appointed as the Assistant Bishop of Newcastle by Bishop Dr Brian Farran in 2009.\textsuperscript{222}

144. Assistant Bishop Stuart held office as the Administrator of the Diocese and served as the Acting Commissary of the Newcastle Diocese from the time of Bishop Farran’s resignation in December 2012 until February 2014.\textsuperscript{223}

145. Assistant Bishop Stuart was a member of the Ordinance Preparation Working Group established to draft amendments to the Professional Standards Ordinance 2005 in August 2012.\textsuperscript{224}

146. Assistant Bishop Stuart remains the Assistant Bishop of the Diocese and acts as Bishop Gregory Thompson’s Commissary when Bishop Thompson is on leave.\textsuperscript{225}

**Bishop Gregory Thompson**

147. Bishop Gregory Thompson gave oral evidence. He was enthroned Bishop of Newcastle in February 2014. He is the current Bishop of the Diocese.\textsuperscript{226}

148. Bishop Thompson is a survivor of child sexual abuse that he says occurred in a non-institutional setting.\textsuperscript{227} Bishop Thompson also alleges that as a 19 year old in 1976 he was the subject of sexual advances from Bishop Shevill, who was then the Bishop of Newcastle, and Canon Eric Barker.\textsuperscript{228}

149. In 2015, Bishop Thompson decided to make public his allegations against Bishop Shevill.\textsuperscript{229} The evidence shows that he experienced a considerable backlash from sections of the Diocese after these revelations.\textsuperscript{230}

\textsuperscript{220} Transcript of B Farran, Case Study 42, 16 November 2016, 23211:42.

\textsuperscript{221} Transcript of B Farran, Case Study 42, 16 November 2016, 23212:34-41.

\textsuperscript{222} Transcript of P Stuart, Case Study 42, 18 November 2016, 23317:23-25.

\textsuperscript{223} Transcript of P Stuart, Case Study 42, 18 November 2016, 23317:42-23318:1.

\textsuperscript{224} Transcript of P Stuart, Case Study 42, 18 November 2016, 23373:22-26.

\textsuperscript{225} Transcript of P Stuart, Case Study 42, 18 November 2016, 23317:19-21; Exhibit 42-0114, ‘Supplementary Statement of Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [2.4.1.5].

\textsuperscript{226} Transcript of G Thompson, Case Study 42, 24 November 2016, 23634:44-45.

\textsuperscript{227} Transcript of G Thompson, Case Study 42, 24 November 2016, 23635:7-8.

\textsuperscript{228} Transcript of G Thompson, Case Study 42, 24 November 2016, 23635:27-23636:37.

\textsuperscript{229} Transcript of G Thompson, Case Study 42, 24 November 2016, 23636:47-23637:6.

\textsuperscript{230} Transcript of G Thompson, Case Study 42, 24 November 2016, 23642:9-23643:2; Exhibit 42-0001, ‘Letter to Royal Commission from various parishioners in the Newcastle Diocese’, Case Study 42, CORR.0220.001.0001_R (Tab 421 of Tender Bundle).
1.8 Other key characters within the Diocese

Mr Keith Allen

150. Mr Keith Allen has practised as a solicitor since 1971 and is now retired. He has had a long involvement in the Diocese in a lay capacity.

151. Mr Allen was first elected to Diocesan Synod in about 1973 under Bishop Shevill and remained a member for 43 years. Mr Allen was heavily involved in the governance of the Diocese as a member of the Diocesan Council at various periods from around 1973 until 2015, and also a Trustee of the Diocese for over 25 years. From 1993 to 1999, he was a member of the Board of Investigation and from 1996 to 2007 was a member of the Panel of Triers.

152. Mr Allen told the Royal Commission that he has provided advice to Bishops over the years and that Bishop Holland and Bishop Herft had sought out his advice. He agreed that he had the ear of Bishop Holland, Bishop Herft and Bishop Farran.

153. Mr Allen acted as a solicitor for Hatley Gray in 1990 and for CKC in 2000 to 2001 in criminal proceedings brought against them in relation to child sexual abuse offences. Mr Allen admitted to altering a letter of resignation of Hatley Gray to backdate it to the day before he was charged with child sex offences.

154. Mr Allen also acted for CKM in a criminal proceeding (not relating to sexual abuse) and was involved in CKM’s civil claim against the Diocese in relation to his allegations of experiencing sexual abuse as a child at the hands of a former Church of England Boys Society (CEBS) leader.

155. Mr Allen had a series of conversations with Bishop Thompson and Diocesan Business Manager Mr John Cleary in early 2015 when he purported to disclose details of the inner workings of the Diocese in past years in relation to the handling of child sexual abuse allegations. He also made suggestions to them about how they should go about providing evidence to the Royal Commission. Mr Cleary made detailed filenotes about these conversations, which are in evidence.

231 Transcript of K Allen, Case Study 42, 5 August 2016, 16626:10-11.
232 Transcript of K Allen, Case Study 42, 5 August 2016, 16626:34-44.
233 Transcript of K Allen, Case Study 42, 5 August 2016, 16626:34-44; Transcript of K Allen, Case Study 42, 8 August 2016, 16753:15-17.
234 Transcript of K Allen, Case Study 42, 5 August 2016, 16626:18-19.
235 Transcript of K Allen, Case Study 42, 5 August 2016, 16630:2-23.
236 Transcript of K Allen, Case Study 42, 5 August 2016, 16627:30 to 16628:7.
237 Transcript of K Allen, Case Study 42, 5 August 2016, 16628:29-46.
238 Transcript of K Allen, Case Study 42, 5 August 2016, 16629:12-42.
239 Transcript of K Allen, Case Study 42, 8 August 2016, 16655:36-39.
240 Transcript of K Allen, Case Study 42, 8 August 2016, 16676:45 – 16677:1.
242 Exhibit 42-0033, ‘Letter from Keith Allen to John Cleary’, Case Study 42, ANG.0048.001.6210; Exhibit 42-0001, ‘Filenote by John Cleary of meeting with Keith Allen on 11 February 2015’, Case Study 42, ANG.0132.001.0014_R (Tab 392 of Tender Bundle).
243 Exhibit 42-0001, ‘Filenote by John Cleary of meeting with Keith Allen on 11 February 2015’, Case Study 42, ANG.0132.001.0014_R (Tab 392 of Tender Bundle); Exhibit 42-0001, ‘Filenote by John Cleary of meeting with Keith Allen and Bishop Greg Thompson on
Mr Paul Rosser QC

156. Mr Allen was dismissed by Bishop Thompson from the Diocesan Council and all other positions in the Diocese in 2015.244

157. Mr Paul Rosser QC is a barrister who was appointed Queen’s Counsel in 1989.245

158. In February 1996, Mr Rosser QC was appointed as the Deputy Chancellor of the Newcastle Diocese.246

159. In late 2009, Mr Rosser QC was appointed as the Chancellor for the Diocese. He resigned from this position in November 2010.247 In addition to other roles at a national and Diocesan level, Mr Rosser QC was a member of the Newcastle Diocesan Council from 1996 to 2010.248

160. At the same time as acting as Deputy Chancellor and later Chancellor, Mr Rosser QC acted for Brown249 and CKC250 respectively in relation to criminal proceedings for child sexual abuse offences. In the CKC matter he was instructed by Mr Allen.

161. In the period 2009 to 2010, whilst Chancellor, Mr Rosser QC adopted an active position in advocating for amendments to the professional standards regime in the Diocese. His assistance had not been sought by Bishop Farran, who later asserted that Mr Rosser QC had conflicts of interest.251 Mr Rosser QC resigned as Chancellor shortly thereafter.252

162. Mr Rosser QC’s role and the advice he gave is detailed separately in the submissions dealing with Bishop Herft and Bishop Farran.

Mr Peter Mitchell

163. Mr Peter Mitchell was the Registrar of the Diocese of Newcastle from January 1993 to January 2002. There are suggestions in the evidence that Mr Mitchell was involved in a committee

18 February 2015’, Case Study 42, NPF.0018.001.0024_R (Tab 393 of Tender Bundle); Exhibit 42-0001, ‘Filenote of meeting between Keith Allen, John Cleary and Bishop Greg Thompson’, Case Study 42, ANG.0132.001.0008_R (Tab 400 of Tender Bundle).

244 Exhibit 42-0001, ‘Letter from Bishop Greg Thompson to Keith Allen in relation to standing down from all positions’, Case Study 42, ANG.0195.001.0040_R (Tab 401 of Tender Bundle).


246 Transcript of P Rosser, Case Study 42, 30 August 2016, 17464:45-17464:1.

247 Transcript of P Rosser, Case Study 42, 30 August 2016, 17464:32-37.

248 Transcript of P Rosser, Case Study 42, 30 August 2016, 17464:23-25.

249 Transcript of P Rosser, Case Study 42, 30 August 2016, 17475:3-5, 17518:43-17519:8.

250 Transcript of P Rosser, Case Study 42, 30 August 2016, 17479:38-40.

251 Exhibit 42-0001, ‘Email from Bishop Brian Farran to Paul Rosser QC in relation to the issue of a perceived conflict of interest’, Case Study 42, ANG.0050.001.8589_R (Tab 265 of Tender Bundle).

252 Exhibit 42-0001, ‘Letter from Paul Rosser QC to Bishop Farran’, Case Study 42, ANG.0048.001.3015_R (Tab 258A of Tender Bundle).
advising the Bishop on the handling of child sexual abuse allegations,\textsuperscript{253} although Mr Mitchell denies this.\textsuperscript{254}

164. Mr Mitchell is close friends with CKC. He acted on behalf of the Diocese to answer subpoenas relating to CKC’s prosecution for child sexual abuse offences.\textsuperscript{255} He also provided CKC’s lawyer, Mr Allen, with a written reference for use in those criminal proceedings.\textsuperscript{256}

165. Mr Mitchell resigned from the Church’s employ in January 2002 after he was accused of misappropriating money from the Diocese.\textsuperscript{257} He pleaded guilty and was convicted of fraud, and in October 2002 he was sentenced to a period in custody.\textsuperscript{258} He was released from jail at the end of May 2003.\textsuperscript{259}

Mrs Jean Sanders

166. In 1995, Mrs Jean Sanders became a member of the Diocesan Committee to Monitor Sexual Issues of Sexual Harassment. She was one of the parish contact people for receiving allegations and attempting to conciliate them.\textsuperscript{260} She said the focus of that committee was on allegations of adult harassment and abuse and that child sexual abuse was outside its ‘jurisdiction’.\textsuperscript{261}

167. In 2001, Mrs Sanders was appointed to Chair the committee, which subsequently became known as the Committee for Allegations of Sexual Misconduct (CASM).\textsuperscript{262} In this capacity she said she received anonymous phone calls from mothers alleging their sons had been sexually abused by priests.\textsuperscript{263} She said she was also told by other priests that Rushton was a ‘serial abuser of boys’.\textsuperscript{264} Mrs Sanders says she reported these matters to then Bishop Herft.\textsuperscript{265}

168. Mrs Sanders also provided support to CKR after it was revealed that her son, CKU, had been sexually abused by Barrack.\textsuperscript{266}

\textsuperscript{253} Exhibit 42-0001, ‘Filenote by John Cleary of meeting with Keith Allen on 11 February 2015’, Case Study 42, ANG.0132.001.0014_R (Tab 392 of Tender Bundle); Exhibit 42-0001, ‘Filenote by John Cleary of meeting with Keith Allen and Bishop Greg Thompson on 18 February 2015’, Case Study 42, NPF.0018.001.0024_R (Tab 393 of Tender Bundle); Exhibit 42-0001, ‘Filenote of meeting between Keith Allen, John Cleary and Bishop Greg Thompson’, Case Study 42, ANG.0132.001.0008_R (Tab 400 of Tender Bundle).

\textsuperscript{254} Transcript of P Mitchell, Case Study 42, 10 August 2016, 16935:2-15, 16941:1-10, 22-34, 36-47, 16942:2-8.

\textsuperscript{255} Transcript of P Mitchell, Case Study 42, 10 August 2016, 16920:6-19; Exhibit 42-0001, ‘Letter from Peter Mitchell to Keith Allen’, Case Study 42, IND.0486.001.0348_R (Tender Bundle Tab 67 of Tender Bundle).

\textsuperscript{256} Exhibit 42-0001, ‘Character Reference by Registrar Peter Mitchell for [CKC]’, Case Study 42, ANG.0050.003.9051_R (Tender Bundle Tab 67 of Tender Bundle); Exhibit 42-0001, ‘Letter from Peter Mitchell to Keith Allen’, Case Study 42, IND.0486.001.0348_R (Tender Bundle Tab 67).

\textsuperscript{257} Transcript of P Mitchell, Case Study 42, 10 August 2016, 16895:17-34.

\textsuperscript{258} Exhibit 42-0001, ‘Article in the Newcastle Herald entitled: ‘Sorry’ over trust betrayal’, Case Study 42, PUB.0008.001.0053 (Tab 115 of Tender Bundle); Transcript of P Mitchell, Case Study 42, 10 August 2016, 16895:17-34.

\textsuperscript{259} Exhibit 42-0044, ‘Statement of Peter Mitchell’, Case Study 42, STAT.1089.001.0001_R at [20].

\textsuperscript{260} Exhibit 42-0042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0001_R at [9]-[10].

\textsuperscript{261} Exhibit 42-0042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0001_R at [9].

\textsuperscript{262} Exhibit 42-0042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0001_R at [12]-[13].

\textsuperscript{263} Exhibit 42-0042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0001_R at [20].

\textsuperscript{264} Exhibit 42-0042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0001_R at [27].

\textsuperscript{265} Exhibit 42-0042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0001_R at [16].

\textsuperscript{266} Exhibit 42-0042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0001_R at [37]-[39].
169. Mrs Sanders provided a statement to the Royal Commission. Due to health issues she was not called to give oral evidence.

Mr Robert Caddies

170. Mr Robert Caddies practised as a solicitor from in or around 1961 to June 2006 and has been involved in the Diocese from 1987 to present.

171. In around 1994, Mr Caddies accepted an appointment as a member of the Diocesan Monitoring Committee to Consider Issues of Sexual Harassment, which later became CASM. From about early 1996 to late 2005, Mr Caddies’ firm, Rankin and Nathan, acted as the legal representatives for the Diocese. Mr Caddies left Rankin and Nathan in June 2006.

172. Among other things, Mr Caddies provided advice to the Diocese about defamation when allegations of sexual abuse were raised and about the criminal offence of not reporting serious indictable offences to the police.

173. Mr Caddies was a member of the Diocesan Synod and the Cathedral’s Parish Council from approximately 2003 to 2011. He was also the Chairperson of the Audit Committee of the Diocese from around 2009 to 2014.

174. Mr Caddies has worshipped at the Cathedral since 1987. In addition to being a member of the Cathedral Parish Council, Mr Caddies was the Cathedral warden from in or around 2010 to 2012.

175. Mr Caddies is friends with Mr Lawrence and donated money to help fund Mr Lawrence’s Supreme Court challenge of the disciplinary process initiated by the Diocese against him.

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267 Exhibit 42-0042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0001_R.

268 Transcript of R Caddies, Case Study 42, 30 August 2016, 17552:8-9; Transcript of R Caddies, Case Study 42, 16 November 2016, 23110:14-16; Transcript of R Caddies, Case Study 42, 30 August 2016, 17550:40-47.

269 Exhibit 42-0001, ‘Memorandum from Bishop Herft to Archdeacons, the Dean and Area Deans’, Case Study 42, ANG.0054.001.0599 (Tab 13 of Tender Bundle).


271 Transcript of R Caddies, Case Study 42, 30 August 2016, 17552:8-9.

272 Transcript of R Caddies, Case Study 42, 16 November 2016, 23118:37-23123:40; Exhibit 42-0001, ‘Presentation by Robert Caddies’, Case Study 42, ANG.0054.001.0742 (Tender Bundle Tab 15); Exhibit 42-0001, ‘Observations provided to Stuart Littlemore QC re possible complaints of sexual harassment provided by Rankin & Nathan’, Case Study 42, ANG.0207.001.0358 (Tender Bundle Tab 17A); Exhibit 42-0001, Memorandum of advice prepared by Stuart Littlemore QC, Case Study 42, ANG.0048.001.7476 (Tender Bundle Tab 19); Exhibit 42-0001, ‘Facsimile from Robert Caddies to Bishop Roger Herft enclosing advice of Stuart Littlemore’, Case Study 42, ANG.0048.001.7475 (Tender Bundle Tab 20); Exhibit 42-0001, ‘Further Memorandum of Advice by Stuart Littlemore QC’, Case Study 42, ANG.0048.001.7475, Case Study 42, ANG.0327.001.0002 (Tender Bundle Tab 21).

273 Transcript of R Caddies, Case Study 42, 30 August 2016, 17551:9-23.

274 Transcript of R Caddies, Case Study 42, 30 August 2016, 17551:35-41.

275 Transcript of R Caddies, Case Study 42, 30 August 2016, 17550:40-47.

276 Transcript of R Caddies, Case Study 42, 30 August 2016, 17551:28-33.

277 Transcript of R Caddies, Case Study 42, 30 August 2016, 17553:2-11.

278 Transcript of R Caddies, Case Study 42, 30 August 2016, 17553:13-16.
Mr John Cleary

177. Mr John Cleary is the current Business Manager for the Diocese and was appointed to this position in January 2007. 280 Mr Cleary was also the Acting Professional Standards Director between March 2008 and January 2009. 281 He recruited Mr Michael Elliott to the position of Professional Standards Director in early 2009. 282

178. As the Diocesan Business Manager, Mr Cleary has been involved in providing redress to the survivors of child sexual abuse at the hands of clergy and others associated with the Diocese. 283 He also had some involvement in the amendments to the Professional Standards Ordinance in 2010 and 2012. 284 He is critical of those amendments, which he saw as an attempt to undermine the transparency of the process. 285

Mr Michael Elliott

179. Mr Michael Elliott is the current Director of Professional Standards for the Diocese and has held this position since January 2009. In his role, Mr Elliott is an acting member of the Professional Standards Committee (PSC) and was the convener of the PSC from 2009 until 2012. He has provided support to a large number of child sexual abuse survivors in the Diocese. 286

180. Mr Elliott gave evidence that he has experienced a high level of interference in his work. This has included isolation, bullying, under resourcing and vandalism such as vehicle and tyre damage, washing pulled from the clothesline at his home and his dog going missing. 287 He has also received harassing phone calls and text messages. 288

279 Exhibit 42-0001, ‘Letter from Various to Archbishop Glen Davies’, Case Study 42, ANG.0309.001.0002_R (Tender Bundle Tab 420); Exhibit 42-0001, ‘Letter to Royal Commission from various parishioners in the Newcastle Diocese’, Case Study 42, CORR.0220.001.0001_R (Tender Bundle Tab 421).


281 Transcript of J Cleary, Case Study 42, 23 November 2016, 23539:4-10.


284 Transcript of J Cleary, Case Study 42, 23 November 2016, 23541:45-23542:11.


287 Transcript of M Elliott, Case Study 42, 11 August 2016, 17068:12-44.

288 Transcript of M Elliott, Case Study 42, 11 August 2016, 17069:19-22.
2 Institutional response under Bishop Ian Shevill (1973 to 1977)

2.1 Introduction


182. While Bishop Shevill was the Bishop of Newcastle, Rushton, social worker and lay preacher Brown and ordinand Robert Ellmore sexually offended against children in the Diocese. The priest given the pseudonym ‘CKC’ and Canon Harold Marshall (now deceased) were also allegedly sexually abusing children.

183. This section of the submissions:

a. Describes the disciplinary framework which existed in the Diocese during Bishop Shevill’s episcopate;

b. Outlines the evidence of survivors of abuse at the hands of Rushton, Brown and CKC;

c. Considers evidence regarding Bishop Shevill’s awareness of certain allegations of abuse against Rushton, CKC and Marshall and the adequacy of any action (or lack thereof) to discipline them or report them to the police;

d. Addresses allegations that Bishop Shevill was himself a perpetrator of sexual abuse.

2.2 Disciplinary framework during Bishop Shevill’s episcopate

184. The Diocesan disciplinary framework that existed during Bishop Shevill’s episcopate (and also that of Bishop Holland and Bishop Herft) was as follows.

a. The Offences Canon 1962, which was an instrument of the General Synod that had been adopted by the Diocese; and

b. The Clergy Discipline Ordinance 1966, which was an instrument of the Diocese.

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289 Exhibit 42-0001, ‘Trials Tribulations & Triumphs - The Bishops of the Diocese of Newcastle - 1847-2013’, Case Study 42, PUB.0019.001.0001 at 0075 (Tab 353A of Tender Bundle).

290 Exhibit 42-0074, ‘Supplementary Statement of Archbishop Roger Herft’, Case Study 42, STAT.1094.001.0001_R at [160].


292 Exhibit 42-0001, ‘Offences Canon 1962’, Case Study 42, ANG.0050.002.1172 (Tab 431 of Tender Bundle).

293 Exhibit 42-0001, ‘Clergy Discipline Ordinance 1966’, Case Study 42, ANG.0050.004.1677 (Tab 432 of Tender Bundle).
Offences Canon

185. The Offences Canon 1962 vested diocesan tribunals with jurisdiction to hear and determine certain charges against persons licensed by the bishop (for example, clergy and lay preachers). One such charge was ‘disgraceful conduct’, which could encompass child sexual abuse.

186. According to the Offences Canon 1962 and the Constitution of the Anglican Church, charges could be made in the particular diocese in which the accused person was licensed by the Bishop or in which that person resided. There was no facility to lay charges against people who were associated with the Diocese but who were not licensed by the Bishop (for example, youth group leaders).

Clergy Discipline Ordinance

187. The Clergy Discipline Ordinance 1966 constituted the Panel of Triers as the tribunal in the Diocese to hear the charges. It provided for a hearing to take place which in many respects mirrored a court hearing – counsel and solicitors could appear; witnesses were required to give evidence on oath or affirmation; and the rules of evidence applied.

188. Under the Clergy Discipline Ordinance 1966, a charge of ‘disgraceful conduct’ could be made by the Bishop, a person appointed by the Bishop or any adult member of the Church resident in the Diocese. Where the Bishop made the charge, the matter would proceed directly to the Panel of Triers. Where another person made the charge, it would be considered by a Board of Enquiry which would decide whether or not to refer it to the Panel of Triers for a hearing.

189. Where the Panel of Triers found the accused guilty, it could make recommendations as to the appropriate ‘sentence’, including deposition from Holy Orders. It was for the Bishop to impose the sentence and the Bishop had discretion not to follow the Panel of Trier’s recommendations.

190. While this framework operated in the Diocese, the Panel of Triers did not hear any charges of child sexual abuse against any member of clergy.

191. The Diocese adopted the national model professional standards framework of the Anglican Church in 2005. This framework is discussed in more detail in a later part of these submissions. It is not relevant to Bishop Shevill’s episcopate.

192. During the episcopate of Bishop Shevill there were no Diocesan policies in place dealing with sexual harassment or sexual abuse and no code of conduct which set out expectations regarding the behaviour of clergy and other persons associated with the Diocese.

Available finding:

AF1 In the 1970s, the disciplinary framework was limited. Nevertheless, a framework did exist which would have permitted Bishop Shevill to take disciplinary action if allegations that clergy had perpetrated child sexual abuse were made known to him.

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294 Exhibit 42-0001, ‘The Constitution of the Anglican Church Of Australia’, Case Study 42, ANG.0048.002.1533 at 1551, s 54 (Tab 31AA of Tender Bundle).

295 Transcript of R Appleby, Case Study 42, 4 August 2016, 16525:29-35; Transcript of K Allen, Case Study 42, 5 August 2016, 16630:25-28; Transcript of R Herft, Case Study 42, 12 August 2016, 1717254:1-41. [Check Holland’s evidence]
2.3 Survivors

Mr Paul Gray

193. The Royal Commission heard oral evidence from Mr Paul Gray that he had been sexually abused between the ages of 10 and 14 by Rushton and others. Mr Gray first met Rushton when he was about nine years old in the mid-1960s. His family attended the Anglican Church at Cessnock where Rushton was a priest.296

194. From about the age of 10, Mr Gray regularly attended Sunday School and he became an altar server when he was 12. From the ages of 11 to 14, Mr Gray was a member of the Church of England’s Boys Society.297

195. Mr Gray’s evidence was:

  a. In around 1963, when he was about 10 years old, Rushton anally raped him.

  b. From that time, Rushton sexually abused him on a weekly to fortnightly basis until he was 14 years of age.298

  c. As he was an altar server, Rushton took him to services in the outlying churches of the parish. Following these services, Rushton on occasion took Mr Gray back to the rectory and sexually abused him.299

  d. On one occasion Rushton compelled him to perform oral sex on him in the vestry of a church while Rushton was wearing his Church robes.300

  e. In the mid-1960s, Rushton took him to St Alban’s on a number of occasions and left him there during which time he was raped by other men. This happened repeatedly for around 18 months.301

  f. Mr Gray was locked in a room at St Alban’s for hours at a time and men would enter the room and rape him. He said that one of the caretakers, Mr Ron Barry, kept him quiet by beating him. He also saw other boys being sexually abused at St Alban’s.302 Mr Barry is now deceased.303

  g. Rushton took Mr Gray to a church camp at Yondaio where he was chased during the night by two other men at the camp into the bushes near a cliff and raped.304

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296 Transcript of P Gray, Case Study 42, 2 August 2016, 16239:41-43.
297 Transcript of P Gray, Case Study 42, 2 August 2016, 16240:3-9.
300 Transcript of P Gray, Case Study 42, 2 August 2016, 16240:35-43.
302 Transcript of P Gray, Case Study 42, 2 August 2016, 16242:18-34.
303 Exhibit 42-0132, ‘Statement of Norman Barry’, Case Study 42, STAT.1264.001.0001 at [8].
304 Transcript of P Gray, Case Study 42, 2 August 2016, 16241:10-18.
196. Mr Gray said that he repressed the memories of the abuse until 2010, when he was told by his mother that accusations of child sexual abuse against Rushton had been reported in the media.305

197. In October 2010, Mr Gray disclosed his abuse to the Church.306 Shortly thereafter, he suffered a mental breakdown and was admitted to hospital on a number of occasions.307 The Diocese paid for Mr Gray’s admission to a private hospital and two five-day programs at a treatment centre for survivors of child sexual abuse.308

198. In 2011, Mr Gray engaged legal representatives after the Diocese indicated it would not continue to pay for his psychiatric treatment.309 In November 2011, the Diocese agreed to fund some further counselling sessions.310

199. Mr Gray has been diagnosed with Dissociative Identity Disorder.311 In June 2013, the Diocese reached a financial settlement with Mr Gray in the amount of $462,336.90 including costs in relation to his abuse.312

Mr Phillip D’Ammond

200. The Royal Commission heard oral evidence from Mr D’Ammond, a survivor of sexual abuse at the hands of Jim Brown.

201. Mr D’Ammond’s evidence was as follows:

   a. He was fostered from birth by Dr Phyllis D’Ammond.313

   b. When he was 13 years old in 1975, Dr D’Ammond suffered a stroke and he was placed at St Alban’s as a ward of the State.314

   c. In August 1975, the Matron of St Alban’s, Mrs Dulcie Barry, introduced Mr D’Ammond to Brown, who was at that time a youth worker at the home.315

   d. Brown offered to take Mr D’Ammond home for the school holidays.316 Mr D’Ammond said that Brown sexually abused him a number of times over that two-week holiday period.317 He said that from that time, Brown regularly took Mr

305 Transcript of P Gray, Case Study 42, 2 August 2016, 16243:26-46.
307 Transcript of P Gray, Case Study 42, 2 August 2016, 16244:6-35.
308 Transcript of P Gray, Case Study 42, 2 August 2016, 16244:13-27.
309 Transcript of P Gray, Case Study 42, 2 August 2016, 16244:42-47.
310 Transcript of P Gray, Case Study 42, 2 August 2016, 16245:2-7; Exhibit 42-0003, ‘Deed of Settlement and Release between Paul Gray and the Anglican Diocese of Newcastle’, Case Study 42, ANG.0050.002.7274_R.
311 Transcript of P Gray, Case Study 42, 2 August 2016, 16239:33-34.
313 Transcript of P D’Ammond, Case Study 42, 2 August 2016, 16253:21-22.
314 Transcript of P D’Ammond, Case Study 42, 2 August 2016, 16253:45 – 16254:1.
315 Transcript of P D’Ammond, Case Study 42, 2 August 2016, 16254:20-21, 29-33.
316 Transcript of P D’Ammond, Case Study 42, 2 August 2016, 16254:31-32
317 Transcript of P D’Ammond, Case Study 42, 2 August 2016, 16255:15-30, 45-46.
D’Ammond out of St Alban’s for the weekends and holidays and frequently sexually abused him. 318

e. In the May 1977 school holidays, a 15 year old boy from St Alban’s moved into Brown’s house for a few months. Mr D’Ammond said he witnessed Brown having anal sex with the boy who slept with Brown in a double bed. 319

f. In 1977 when he was 15, Mr D’Ammond said he began to resist when Brown attempted to abuse him. 320

g. In December 1977, Mr D’Ammond left St Alban’s and commenced living with Brown, who became his guardian. 321 He said that by this time, the sexual abuse had ceased. 322

h. Mr D’Ammond lived with Brown until he was 17 or 18 years old. Mr D’Ammond then moved to Sydney. 323

202. Mr D’Ammond first disclosed his abuse to the police in April 1996 and charges were laid against Brown. 324 Brown was no longer involved with the Anglican Church by this time. 325 Mr Rosser QC, then the Deputy Chancellor of the Diocese, 326 acted for Brown during the committal proceedings. Brown denied the charges. All charges were dismissed at the committal hearing. 327

203. In June 2010, Brown was arrested and charged by police with child sexual abuse offences relating to three victims. At that time, Brown denied all charges. 328 Mr Brown again engaged Mr Rosser QC as his counsel. Mr Rosser QC was by this time the Chancellor of the Diocese of Newcastle. 329

204. Further statements were taken by police and additional charges were laid in relation to a total of 20 victims. 330 Towards the end of 2010, Brown indicated his willingness to plead guilty to the charges. 331 Brown ultimately pleaded guilty to an indictment containing 27 counts, including one charge relating to the sexual abuse of Mr D’Ammond, and asked for a further 20 offences to be taken into account in sentence assessment charges. 332 Brown was sentenced

319 Transcript of P D’Ammond, Case Study 42, 2 August 2016, 16257:8-14.
320 Transcript of P D’Ammond, Case Study 42, 2 August 2016, 16258:5-10.
322 Transcript of P D’Ammond, Case Study 42, 2 August 2016, 16258:5.
323 Transcript of P D’Ammond, Case Study 42, 2 August 2016, 16258:46 – 16259:2.
324 Transcript of P D’Ammond, Case Study 42, 2 August 2016, 16260:3-19.
325 Transcript of P D’Ammond, Case Study 42, 2 August 2016, 16259:25-30.
326 Exhibit 42-0094, ‘Statement of Paul Rosser QC’, Case Study 42, STAT.1062.001.0001_R at [29]-[30], [43].
327 Transcript of P D’Ammond, Case Study 42, 2 August 2016 at 16260:19-28.
328 Exhibit 42-0001, ‘Transcript of proceedings on sentence’, Case Study 42, NSW.0030.006.0025_R at 0037_R (Tab 289 of Tender Bundle).
329 Exhibit 42-0094, ‘Statement of Paul Rosser QC’, Case Study 42, STAT.1062.001.0001_R at [43].
331 Exhibit 42-0001, Case Study 42, ‘Statement of agreed facts on sentence’, NSW.0030.006.0192_R at 0212_R at [156] (Tab 288 of Tender Bundle).
in the East Maitland District Court on 2 March 2012 to an aggregate sentence of 10 years’ imprisonment with a non-parole period of six years.

The Crown successfully appealed the sentence. On 18 September 2012, the New South Wales Court of Criminal Appeal imposed a new sentence of 20 years’ imprisonment with a non-parole period of 12 years. The earliest date of eligibility for parole was specified as 23 November 2023. Mr Rosser QC also represented Brown at the appeal.

In November 2011, Mr D’Ammond submitted a claim for compensation from the Anglican Diocese of Newcastle. On 26 September 2013, Mr D’Ammond received a financial settlement from the Diocese of $425,000 of which he received $210,000 after legal costs.

**CKA and CKB**

CKA and CKB were born in 1961 and 1963 respectively. CKA gave oral evidence and a written statement to the Royal Commission. CKA’s brother, CKB, provided a written statement to the Royal Commission.

The brothers grew up in a religious family. Their mother was an organist at the local church and their father did maintenance at the church. CKA said their family life revolved around the Anglican Church, which provided a real sense of community.

Through their family’s association with the Church, CKA and CKB became altar boys when they each turned 10 years old. Both completed their altar boy training under the guidance of their parish priest, CKC. CKC was a trusted family friend who often came to their family home for lunch. CKA said that as the parish priest, CKC was held in high regard.

CKA gave evidence that he was sexually abused by CKC during the five years that he served as an altar boy from 1971 until 1975. CKA was aged 10 to 14 years old during this time. CKA said that the abuse took place at various churches in the parish and also in CKC’s car. He said that

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336 Transcript of P D’Ammond, Case Study 42, 2 August 2016, 16261:31-34.
338 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [5].
339 Exhibit 42-0092, ‘Statement of CKB’, Case Study 42, STAT.1109.001.0001_R at [4].
340 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R.
341 Exhibit 42-0092, ‘Statement of CKB’, Case Study 42, STAT.1109.001.0001_R.
342 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [6]; Exhibit 42-0092, ‘Statement of CKB’, Case Study 42, STAT.1109.001.0001_R at [6].
343 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [6].
344 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [7]; Exhibit 42-0092, ‘Statement of CKB’, Case Study 42, STAT.1109.001.0001_R at [7].
345 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [9]; Exhibit 42-0092, ‘Statement of CKB’, Case Study 42, STAT.1109.001.0001_R at [7].
346 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [10]; Exhibit 42-0092, ‘Statement of CKB’, Case Study 42, STAT.1109.001.0001_R at [7], [9].

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the abuse occurred at least fortnightly and escalated in severity over time. It consisted of groping, fondling, oral sex and anal sex.\(^{347}\)

211. In 1975, CKC was transferred to another parish in the Diocese. CKA and CKB gave evidence that shortly thereafter, CKC arranged for them both to stay overnight at the new rectory so they could serve as altar boys the following Sunday.\(^{348}\) CKA and CKB both said that they were sexually abused by CKC during this weekend visit.\(^{349}\) At that time, CKA was 14 years old and CKB was 11.\(^{350}\)

212. CKA and CKB disclosed some of their abuse to their mother on the Sunday of that weekend, shortly thereafter, CKC arranged for them both to stay overnight at the new rectory so they could serve as altar boys the following Sunday.\(^{348}\) CKA and CKB both said that they were sexually abused by CKC during this weekend visit.\(^{349}\) At that time, CKA was 14 years old and CKB was 11.

213. Both CKA and CKB gave evidence of the distress they experienced when CKC delivered the sermon at their mother’s funeral in 1977 and attended the wake at their family home.\(^{353}\)

214. CKA gave evidence that he first disclosed CKC’s abuse to the Diocese in 1984,\(^{354}\) and then again when he telephoned what he understood to be the Diocese’s sexual abuse hotline in 1996 and 1999.\(^{355}\) Details of these disclosures and the response of the Diocese are set out in subsequent sections of these submissions. CKB gave evidence that he never reported CKC’s abuse to the Diocese because he thought that nothing could be done and that he might not be believed.\(^{356}\)

215. In February 2000, CKA and CKB reported CKC’s abuse of them to the police and CKC was charged later that year.\(^{357}\) The criminal proceedings against CKC took place from 2000 to 2001,\(^{358}\) but were ultimately ‘no-billed’ (that is, withdrawn).\(^{359}\) Details about the course of this prosecution are set out in Section 4 of these submissions, which deals with Bishop Herft’s
episcopacy. CKA and CKB gave evidence that they received no support from the Diocese throughout these proceedings.360

216. In the years following CKC's criminal proceedings, CKA's life spiralled downwards and he continued to agitate for a response from the Diocese for over a decade.361 CKA gave evidence of the redress that he ultimately received from the Diocese including counselling, compensation and a public apology.362 His brother, CKB, told the Royal Commission that he found the Diocese's response poor because he was never offered any form of redress.363

217. CKA gave evidence of the lasting effects that CKC's abuse, and the institutional response of the Diocese, has had on their lives. These impacts include:

a. Dropping out of school;364
b. The inability to maintain employment;365
c. Mental illness;366
d. The loss of faith in the Church;367
e. Ongoing threats from people in the Diocese;368
f. The destruction of family relationships;369
g. Over-protective parenting;370 and ultimately
h. The breakdown of the relationship between brothers.371

218. The Royal Commission heard how CKA found the process of dealing with the Church as abusive as the sexual abuse itself.372 CKA said that while CKC's abuse was horrific and still preys heavily on his mind, at least it is over. He said that it is the impact of the Church's response that is ongoing.373

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360 Exhibit 42-0023, 'Statement of CKA', Case Study 42, STAT.1093.001.0001_R at [47]; Exhibit 42-0092, 'Statement of CKB', Case Study 42, STAT.1109.001.0001_R at [24]-[26].
361 Exhibit 42-0023, 'Statement of CKA', Case Study 42, STAT.1093.001.0001_R at [54], [50]-[62].
362 Exhibit 42-0023, 'Statement of CKA', Case Study 42, STAT.1093.001.0001_R at [66].
363 Exhibit 42-0092, 'Statement of CKB', Case Study 42, STAT.1109.001.0001_R at [30].
364 Exhibit 42-0092, 'Statement of CKB', Case Study 42, STAT.1109.001.0001_R at [34].
365 Exhibit 42-0023, 'Statement of CKA', Case Study 42, STAT.1093.001.0001_R at [65].
366 Exhibit 42-0023, 'Statement of CKA', Case Study 42, STAT.1093.001.0001_R at [65].
367 Exhibit 42-0023, 'Statement of CKA', Case Study 42, STAT.1093.001.0001_R at [63]; Exhibit 42-0092, 'Statement of CKB', Case Study 42, STAT.1109.001.0001_R at [28].
368 Exhibit 42-0023, 'Statement of CKA', Case Study 42, STAT.1093.001.0001_R at [67]; Transcript of CKA, Case Study 42, 4 August 2016, 16:45:34 – 16:45:28.
369 Exhibit 42-0023, 'Statement of CKA', Case Study 42, STAT.1093.001.0001_R at [66]; Exhibit 42-0092, 'Statement of CKB', Case Study 42, STAT.1109.001.0001_R at [31].
370 Exhibit 42-0023, 'Statement of CKA', Case Study 42, STAT.1093.001.0001_R at [66]; Exhibit 42-0092, 'Statement of CKB', Case Study 42, STAT.1109.001.0001_R at [31].
371 Exhibit 42-0023, 'Statement of CKA', Case Study 42, STAT.1093.001.0001_R at [68]; Exhibit 42-0092, 'Statement of CKB', Case Study 42, STAT.1109.001.0001_R at [33].
372 Exhibit 42-0023, 'Statement of CKA', Case Study 42, STAT.1093.001.0001_R at [64].
373 Exhibit 42-0023, 'Statement of CKA', Case Study 42, STAT.1093.001.0001_R at [63].
219. CKA made a number of recommendations to the Royal Commission, including that conflicts of interest need to be better managed within the Church.\textsuperscript{374}

CKG

220. The Royal Commission received a written statement from CKG.\textsuperscript{375} CKG was placed in St Christopher's Home for Little Children in Taree in about 1961 when he was about four years old, together with his older brother, CKF, and two sisters. While at St Christopher's Home, CKG alleges that he was released into the care of a woman, often on weekends, who made CKG sleep in her bed where she would fondle and kiss him.\textsuperscript{376}

221. In January 1968, when CKG was about ten years old, CKG and his brother CKF were transferred to St Alban’s. CKG remained in residence at St Alban’s until he left the Home at age 15 and 9 months.\textsuperscript{377}

222. CKG says that during his time at St Alban’s he was sexually abused on a number of occasions including by Rushton and Father Walter Ogle and other people who he was fostered out to on weekends.\textsuperscript{378}

223. In about 1970, when CKG was about 13 years old, he was taken to a priest’s house in Cessnock on several occasions where he believes he was drugged and anally raped. CKG recalls that Rushton and Father Ogle each took him to this house on at least one occasion, but he cannot recall the name of the priest who owned the house.\textsuperscript{379} CKG believes that he was also drugged and sexually abused by Father Ogle in about 1971, when he was sent to do work at Bellbird Rectory in Cessnock by the matron or warden.\textsuperscript{380}

224. CKG says he was sexually abused by priests on a number of other occasions between about 1971 and 1972, including one instance where he was filmed while being fondled by five men at a house in Wallsend when he was about 15 years old. After this incident, CKG disclosed the abuse to his father and to an officer at Cardiff Police Station who told him that there was nothing the police could do.\textsuperscript{381}

225. CKG left St Alban’s shortly after this incident in 1972.

\textsuperscript{374} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [72].

\textsuperscript{375} Exhibit 42-0138, ‘Statement of CKG’, Case Study 42, STAT.1090.001.0001_R.

\textsuperscript{376} Exhibit 42-0138, ‘Statement of CKG’, Case Study 42, STAT.1090.001.0001_R at [7].

\textsuperscript{377} Exhibit 42-0138, ‘Statement of CKG’, Case Study 42, STAT.1090.001.0001_R at [8], [22].

\textsuperscript{378} Exhibit 42-0138, ‘Statement of CKG’, Case Study 42, STAT.1090.001.0001_R at [10]-[12].

\textsuperscript{379} Exhibit 42-0138, ‘Statement of CKG’, Case Study 42, STAT.1090.001.0001_R at [12].

\textsuperscript{380} Exhibit 42-0138, ‘Statement of CKG’, Case Study 42, STAT.1090.001.0001_R at [13].

\textsuperscript{381} Exhibit 42-0138, ‘Statement of CKG’, Case Study 42, STAT.1090.001.0001_R at [15]-[19].
2.4 Bishop Shevill’s awareness of allegations

Disclosures of abuse concerning Canon Harold Marshall in or around 1975

226. Ms Noelle Freeman provided a statement to the Royal Commission but did not give oral evidence. She has a long-standing voluntary involvement in the Diocese. 382

227. Ms Freeman was a long-time worshipper at St Peter’s Anglican Church in East Maitland. For a 12-year period in around the 1970s, the parish priest was Canon Harold Marshall. 383

228. Ms Freeman said that towards the end of Canon Marshall’s tenure at St Peter’s, she was approached by two mothers who reported to her that Canon Marshall had sexually abused their daughters. The mothers reported that they had both attended a meeting with their husbands and Bishop Shevill where they complained of the abuse. According to the mothers, Bishop Shevill told them he would ‘fix it’, but asked them to keep quiet ‘to protect the good name of the Church.’ Ms Freeman said that Canon Marshall was given until the end of the year to get his affairs in order and retire. 384

229. Ms Freeman gave evidence that she discussed these allegations of abuse with Bishop Shevill, who said ‘we must never speak of it again’ and ‘we must protect the good name of the church’. 385

230. No reason has been suggested as to why Ms Freeman would give untruthful evidence about this matter. Her evidence ought to be accepted.

231. In the late 1970s, it was open to Bishop Shevill to launch a Board of Enquiry investigation into the allegations against Canon Marshall, and to restrict his licence pending a Diocesan Tribunal process.

232. There is no evidence that Bishop Shevill took any such steps.

Available findings:

| AF2   | In the 1970s, Bishop Shevill was made aware of allegations that Canon Harold Marshall had sexually abused two girls while he was the parish priest at St Peter’s in East Maitland. |
| AF3   | Bishop Shevill did not take any formal disciplinary steps against Canon Marshall. |
| AF4   | Bishop Shevill chose not to take any formal disciplinary steps because he was concerned to protect the reputation of the Church. |

382 Exhibit 42-080, ‘Statement of Noelle Freeman’ at [5]-[6], Case Study 42, STAT.1112.001.0001_R.

383 Exhibit 42-080, ‘Statement of Noelle Freeman’ at [7]-[9], Case Study 42, STAT.1112.001.0001_R.

384 Exhibit 42-080, ‘Statement of Noelle Freeman’ at [11], Case Study 42, STAT.1112.001.0001_R.

385 Exhibit 42-080, ‘Statement of Noelle Freeman’ at [10], Case Study 42, STAT.1112.001.0001_R.
Disclosure of abuse concerning CKC in 1975

233. The experiences of survivors CKA and CKB were outlined above. It has also been noted that CKA and CKB disclosed some of their abuse to their mother in 1975 after they had stayed overnight at CKC’s new rectory.

234. Their elder brother, CKL, gave the following evidence:

a. Part of the abuse of CKA, and CKB was disclosed by their mother to Bishop Shevill during his time as Bishop of Newcastle.386

b. In around 1975, at a time which was a few months after CKA and CKB had stayed overnight at CKC’s rectory, he drove his mother at her request to a ‘churchy looking sandstone building in Cooks Hill’. He assumed this was Bishop Shevill’s home.387

c. CKL’s mother told him that she had to see the Bishop about something very important and that she would ‘tell that Bishop off’.388

235. CKL said that his mother went inside the building for around 20 minutes and returned to the car sobbing uncontrollably. His mother would not tell CKL what had happened and they never discussed it again.389 CKL’s mother is deceased.

236. CKL told the Royal Commission that it was not until years later when he learned of his brothers’ allegations that they had been sexually abused by CKC that ‘the penny dropped’. CKL then formed the view that the alleged abuse by CKC was the matter which his mother discussed with Bishop Shevill about in 1975.390

237. CKL presented as a credible witness with a clear memory surrounding an unusual event involving his mother. CKL’s conclusions about the reason for and outcome of his mother’s visit to Bishop Shevill, especially considered in light of Ms Freeman’s evidence of her own disclosure to Bishop Shevill, are plausible.

238. There is no direct evidence before the Royal Commission as to what was discussed between CKL’s mother and Bishop Shevill. However, given the fact that she took the trouble to meet with Bishop Shevill, her stated intention to ‘tell him off’, and her visible distress after the meeting, it is reasonable to infer that she disclosed the allegation that CKC had sexually abused her boys and that she was not satisfied with Bishop Shevill’s response.

239. The Royal Commission heard that CKA later came to believe, through conversations with CKL, that Bishop Shevill had been dismissive of their mother’s report of CKC’s abuse. CKA gave evidence that this realisation was one of the main contributors to his nervous breakdown.391 Believing that his mother reported CKC’s abuse to Bishop Shevill before she died, CKA said that the Diocese degraded his family by allowing CKC to officiate at her funeral.392

386 Exhibit 42-0024, ‘Statement of CKL’, Case Study 42, STAT.1084.001.0001_R.
387 Exhibit 42-0024, ‘Statement of CKL’, Case Study 42, STAT.1084.001.0001_R at [15]-[18].
388 Exhibit 42-0024, ‘Statement of CKL’, Case Study 42, STAT.1084.001.0001_R at [17].
389 Exhibit 42-0024, ‘Statement of CKL’, Case Study 42, STAT.1084.001.0001_R at [19].
390 Exhibit 42-0024, ‘Statement of CKL’, Case Study 42, STAT.1084.001.0001_R at [20].
391 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [24].
392 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [25].
The evidence establishes that CKC remained a parish priest in the Diocese until February 1996. He then transferred to the Diocese of Ballarat, where he remained a priest for a period of eight years until he retired, and was thereafter granted a Permission to Officiate in that diocese. There is no evidence that any steps were taken by Bishop Shevill in relation to the allegations of sexual abuse.

**Available findings:**

| AF5 | CKA and CKB’s mother attended Bishop Shevill’s home in around 1975 and disclosed to him that her boys had been sexually abused by CKC. She was not satisfied with Bishop Shevill’s response to her disclosures. |
| AF6 | There is no evidence that Bishop Shevill took any action in relation to the disclosure of alleged sexual abuse on the part of CKC. |

### 2.5 Allegations that Bishop Shevill was a perpetrator

There is evidence from two sources that Bishop Shevill was himself a perpetrator of sexual abuse.

**Abuse of a 13 year-old girl in the 1950s**

The Royal Commission received documents from the Diocese of Rockhampton and the Diocese of Brisbane concerning an allegation that Bishop Shevill sexually abused a 13 year-old female student at a North Queensland school where he taught in the 1950s.

In February 2002, the former student made a formal complaint to the Diocese of North Queensland, alleging that Bishop Shevill had assaulted her when she was a school girl in the 1950s.

The complainant’s allegations were investigated and ultimately determined to be ‘very plausible’ by the Director of Professional Standards for the Province of Queensland, Mr Rod McLary. The Anglican Diocese of North Queensland subsequently made an ex gratia payment of $20,000 to the complainant in 2009, at which time the complainant was also sent a Deed of Release by the Church.

Mr McLary said in correspondence with the Diocese’s Director of Professional Standards, Mr Michael Elliott, in 2009 that it had been suggested to him that this complainant was not the only victim of Bishop Shevill within the Diocese of North Queensland. However, no other

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393 Transcript of R A Herft, Case Study 42, 29 August 2016 at 1717351:14-37 and 1717400:31-32; Exhibit 42-0001, ‘Letter from Bishop Garry Weatherill of Ballarat to Royal Commission regarding [CKC]’, Case Study 42, ANG.0334.001.0131_R (Tab 425 of Tender Bundle).

394 Exhibit 42-0001, ‘Email from Rod McLary to Michael Elliott’, Case Study 42, ANG.0328.001.0018_R (Tab 183 of Tender Bundle).

395 Exhibit 42-0001, ‘Email from Rod McLary to Michael Elliott’, Case Study 42, ANG.0328.001.0018_R (Tab 183 of Tender Bundle).

396 Exhibit 42-0001, ‘Deed of Release between [Redacted] and Diocese Synod of North Queensland’, Case Study 42, ANG.0321.001.0013_R (Tab 180 of Tender Bundle).

397 Exhibit 42-0001, ‘Email from Rod McLary to Michael Elliott’, Case Study 42, ANG.0328.001.0018_R (Tab 183 of Tender Bundle).
alleged survivors from Queensland have been identified in the evidence before the Royal Commission.

246. Bishop Bill Ray of the Diocese of North Queensland advised Assistant Bishop Stuart in 2015 of a potential further three claims against Bishop Shevill.398

Abuse of 19 year old Greg Thompson

247. Bishop Thompson gave evidence that in around 1976 when he was about 19 years of age, he lived in Newcastle and was considering a vocation in the Church. He was befriended by Canon Eric Barker, who was a senior member of the Diocese who lived in the Cathedral apartment.399

248. Canon Barker encouraged him to drink a lot of wine when they were together.400 On one occasion after dinner at the Canon’s house, Canon Barker started kissing and fondling Mr Thompson (as he then was) and telling him he should stay the night. Mr Thompson rejected the Canon’s advances.401

249. Canon Barker introduced Mr Thompson to Bishop Shevill. They went to the movies together. Bishop Thompson said he felt honoured to have been introduced to the Bishop of Newcastle.402 He thought the Canon and the Bishop must have seen some potential in him.403

250. However, the movie they took Mr Thompson to was R-rated and involved a homosexual theme. During the movie both Canon Barker and Bishop Shevill groped Mr Thompson in the genital area, including at the same time. Mr Thompson was scared and lost for words.404 That night, he stayed at Canon Barker’s apartment. Barker kissed and groped Mr Thompson and invited Mr Thompson into his room. Bishop Thompson said that Canon Barker told him, ‘If you want to get into the ministry, we have to have a relationship.’ Mr Thompson rebuffed his advances.405

251. Bishop Thompson disclosed these incidents publicly in 2015, although he did not name Canon Barker at that time.406 As is discussed in further detail in a later part of these submissions, Bishop Thompson experienced a backlash from segments of the Diocesan community after disclosing these matters.

252. The Royal Commission should accept Bishop Thompson’s account of these matters. He came across as a truthful witness, who was committed to supporting the survivors’ child sexual abuse within the Diocese. No reason has been demonstrated as to why Bishop Thompson would fabricate such allegations.

398 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [16.4].
399 Transcript of G Thompson, Case Study 42, 24 November 2016, 23635:27-29.
400 Transcript of G Thompson, Case Study 42, 24 November 2016, 23635:30-32.
401 Transcript of G Thompson, Case Study 42, 24 November 2016, 23635:33-37.
402 Transcript of G Thompson, Case Study 42, 24 November 2016, 23635:39-44.
403 Transcript of G Thompson, Case Study 42, 24 November 2016, 23635:43-44.
404 Transcript of G Thompson, Case Study 42, 24 November 2016, 23636:8-12.
405 Transcript of G Thompson, Case Study 42, 24 November 2016, 23636:14-25.
<table>
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<th>Available findings:</th>
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<tr>
<td>AF7</td>
<td>In around 1975 when Mr Greg Thompson (as he then was) was about 19 years old, Canon Eric Barker, who was then a senior figure in the Diocese, made repeated sexual advances to him and told him that they needed to have a relationship if Mr Thompson wished to ‘get into the Ministry’.</td>
</tr>
<tr>
<td>AF8</td>
<td>In around 1975 when Mr Thompson was about 19 years old, Canon Eric Barker and Bishop Shevill took him to the movies and both groped him in the genital area including at the same time.</td>
</tr>
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3 Institutional response under Bishop Alfred Holland (1978 to 1992)

3.1 Introduction

Bishop Alfred Holland commenced as the Bishop of the Diocese in February 1978 and he retired in 1992. During that period, Bishop Richard Appleby was the Assistant Bishop from 1983 to 1992.

There is evidence that during Bishop Holland’s episcopate, a number of people associated with the Diocese sexually offended against children, including Hatley Gray, Rushton and Brown. Sexual abuse was also perpetrated at the St Alban’s Boys Home.

Bishop Holland gave evidence to the Royal Commission that as far as he was aware, neither he nor other senior figures in the Diocese ever received any complaints concerning child sexual abuse during the period he was Bishop. He said he only became aware of allegations of child sexual abuse in the Newcastle Diocese when he read about it in the media some years later.

Similarly, Bishop Appleby said that in relation to Rushton, CKC, Brown and Mr Lawrence, he was not aware of any allegations of abuse concerning these men, nor were any other allegations raised with him during his time as Assistant Bishop. He only became aware of allegations of abusive behaviour sometime after he had left the Diocese.

However, a number of witnesses have given evidence that they did disclose allegations of child sexual abuse to Bishop Holland and then Assistant Bishop Appleby. In addition, the evidence shows that in 1990, Hatley Gray, who was a priest in the Diocese, was, following a plea of guilty, convicted of sexually abusing a 15 year-old boy. The evidence suggests that both Bishop Holland and Assistant Bishop Appleby had some involvement in this matter.

This section of the submissions:

a. Identifies the policies and procedures available in the Diocese at the time for disciplining clergy and responding to complaints of child sexual abuse;

b. Considers Bishop Holland’s evidence to the Royal Commission;

c. Specifically considers:

i. what information Bishop Holland and Assistant Bishop Appleby were provided about the 1990 prosecution of Hatley Gray for raping a 15 year-old boy;

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407 Transcript of A Holland, Case Study 42, 3 August 2016, 16304:24-27.

408 Transcript of A Holland, Case Study 42, 3 August 2016, 16308:10-15; Exhibit 42-0011, ‘Statement of Bishop Alfred Holland’, Case Study 42, STAT.1061.001.0001_R at 0005_R, [6].

409 Exhibit 42-0011, ‘Statement of Bishop Alfred Holland,’ Case Study 42, STAT.1061.001.0001_R at 0010_R, [33].

410 Exhibit 42-0025, ‘Statement of Bishop Richard Appleby’, Case Study 42, STAT.1085.001.0001_R at [63].

411 Exhibit 42-0025, ‘Statement of Bishop Richard Appleby’, Case Study 42, STAT.1085.001.0001_R at [71].
ii. what knowledge Bishop Holland and Bishop Appleby had of allegations that Rushton and Brown had sexually abused children; and

iii. whether Assistant Bishop Appleby was told by CKA in 1984 that he had been sexually abused by CKC as a boy; and

d. Considers the adequacy of Bishop Holland’s response.

3.2 Policies and procedures during Bishop Holland’s episcopate

259. During Bishop Holland’s tenure as Bishop, the only framework for dealing with clergy misconduct was that supplied by the Offences Canon 1962 and the Clergy Discipline Ordinance 1966 (discussed in Section 2.2 above).

260. Bishop Holland stated that during his tenure as Bishop, there were no legal structures or protocols in place to deal specifically with allegations of child sexual abuse or complaints of misconduct by a priest, other than the general diocesan tribunal and licensing processes. He stated that if any complaints of child sexual abuse were raised, he would have expected to be informed.

261. Bishop Appleby told the Royal Commission that he had no responsibilities in the handling of complaints made by members of the clergy. He said there was no formal structure or framework in place in the Diocese during his tenure for managing allegations against clergy, other than the Panel of Triers. In those circumstances, Bishop Appleby agreed that any serious allegations against a member of clergy would be raised with a senior member of the Diocese. Bishop Appleby agreed that he was a natural contact for receiving such a complaint.

3.3 Bishop Holland’s evidence at the public hearing

262. Bishop Holland gave oral evidence to the Royal Commission. He is of an advanced age but came across as a capable witness in command of his mental faculties. He was firm and unequivocal in his evidence. At no point did he assert that he had any problems with his memory.

263. Bishop Holland gave oral evidence during the August sittings of the hearing in this Case Study. After that time, new witnesses came forward and new documents also came to light concerning alleged reports of child sexual abuse allegations to Bishop Holland. This new
evidence was drawn to Bishop Holland’s attention by those assisting the Royal Commission, and Bishop Holland responded by way of providing two further supplementary statements.

264. The Diocesan Business Manager, Mr John Cleary, made filenotes of conversations that he had with Mr Keith Allen in 2015 in which record that Mr Allen told him that he would advise Bishop Holland to claim in any evidence to the Royal Commission that he had no recollection of child sexual abuse matters. According to the filenote, Mr Allen said that he intended to obtain a medical certificate for Bishop Holland showing that he was unfit to give evidence.

265. This allegation was raised in oral evidence both with Bishop Holland and Mr Allen. Bishop Holland said in oral evidence that he only knew Mr Allen in a professional capacity and not spoken to him since he left Newcastle. Bishop Holland’s only communication with Mr Allen since that time was to send Christmas cards. Bishop Holland said that he had not discussed giving evidence to the Royal Commission with Mr Allen.

266. Mr Allen agreed in oral evidence that he had had a conversation with Mr Cleary about Bishop Holland giving evidence. However, he put a different complexion on the matter and said that he told Mr Cleary that given Bishop Holland’s age, he might not be able to give evidence to the Royal Commission. Mr Allen also said he did not contact Bishop Holland and had never suggested to him that he ought not to remember anything should he be contacted by the Royal Commission or that Bishop Holland should consider obtaining a medical certificate if required to give evidence to the Royal Commission.

267. In view of the above evidence, no finding ought be made that Mr Allen intended to or did approach Bishop Holland to advise him to claim to the Royal Commission that he had no memory of events.

3.4 The 1990 prosecution of Stephen Hatley Gray

The offence

269. Hatley Gray was licensed by Bishop Holland as a priest in 1988 and was appointed the Rector of Wyong. In 1990, following a plea of guilty, Hatley Gray was convicted of the offence of homosexual intercourse with a male under 18 years and over 10 years on 12 February 1990.

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418 Exhibit 42-0001, ‘Letter from Royal Commission to solicitor for Bishop Holland, Miranda Moody of Forbes Chambers’, Case Study 42, CORR.0335.001.0001_R (Tab 425AA of Tender Bundle); Exhibit 42-0001, ‘Letter from Royal Commission to solicitor for Bishop Holland, Miranda Moody of Forbes Chambers’, Case Study 42, CORR.0332.001.0001_R (Tab 425C of Tender Bundle).

419 Exhibit 42-0104, ‘Supplementary Statement of Bishop Alfred Holland’, Case Study 42, STAT.1151.001.0001_R; Exhibit 42-0105, ‘Further Supplementary Statement of Bishop Alfred Holland’, Case Study 42, STAT.1265.001.0001_R.

420 Exhibit 42-0001, ‘Filenote by John Cleary of meeting with Keith Allen on 11 February 2015’, Case Study 42, ANG.0132.001.0014_R.

421 Transcript of A Holland, Case Study 42, 3 August 2016, 16304:33-43.

422 Transcript of A Holland, Case Study 42, 3 August 2016, 16305:29-38.

423 Transcript of K Allen, Case Study 42, 8 August 2016, 16652:3-7.


426 Exhibit 42-0001, ‘District Court indictment of Stephen Hatley Gray’, Case Study 42, ANG.0050.002.5002_R (Tab 11C of Tender Bundle).
270. According to police documents, the offence occurred somewhere between midnight and 4am on 12 February 1990. Hatley Gray had anal intercourse with a 15 year-old boy. The victim reported his assault to police at about 5am that same morning. Hatley Gray was arrested and charged later that same day.427

271. Mr Allen, then a member of Diocesan Council, and a Trustee for the Diocese, represented Hatley Gray during his criminal proceedings. On 7 September 1990, Hatley Gray was sentenced to a fine of $100 and a good behaviour bond for three years.431

Bishop Holland’s and Assistant Bishop Appleby’s knowledge of the offence

272. Both Bishop Holland and Bishop Appleby told the Royal Commission that they did not know (either at the time or during the prosecution of the offence) that Hatley Gray was alleged to have sexually abused a child. This was despite their knowledge that he was being prosecuted for something. For reasons that follow, their evidence should not be accepted by the Royal Commission.

Bishop Holland’s evidence

273. Bishop Holland gave evidence that in February 1990, he became aware that Hatley Gray had hosted a party at the Rectory with some male friends during which the Rectory had been damaged. Bishop Holland said he went to Wyong a short time after the incident, by which time Hatley Gray had left with his family and Bishop Holland never saw him again.435

274. Bishop Holland gave evidence that when he was at Wyong, Mr Allen had advised him to withdraw Hatley Gray’s licence because of the damage done to the Rectory and him having absconded. He said Mr Allen had told Bishop Holland that he need not be concerned and that Mr Allen would ‘look after it’. Bishop Holland said that he took this advice literally.438

275. On 30 May 1990, Mr Allen wrote to Bishop Holland requesting that he provide a written reference for Hatley Gray.

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427 Exhibit 42-0018, ‘Crime Information Report’, Case Study 42, NPF.045.001.0168_R.
428 Transcript of K Allen, Case Study 42, 8 August 2016, 16651:12-21.
429 Transcript of K Allen, Case Study 42, 5 August 2016, 16626:18-19.
430 Transcript of K Allen, Case Study 42, 8 August 2016, 16655:37-39.
434 Exhibit 42-0011, Statement of Bishop Alfred Holland, Case Study 42, STAT.1061.001.0001_R at 0009 at [24] and [27]; Transcript of A Holland, Case Study 42, 3 August 2016, 16383:4-5.
438 Transcript of A Holland, Case Study 42, 3 August 2016,16392:36-40.
276. Bishop Holland told the Royal Commission that he was not aware that Mr Allen was acting for Hatley Gray in a criminal proceeding prior to receiving the letter from Mr Allen requesting a reference.  

277. The letter advised that the matter would be coming before the District Court at Gosford. Bishop Holland was also advised in the letter that the use of the reference would depend upon the attitude of the Crown and the Judge.

278. Bishop Holland said he did not take much notice regarding Mr Allen’s request. Mr Allen had told him not to be concerned and he ‘switched off even thinking about it’. Bishop Holland denied that he had offered to attend court to give evidence for Hatley Gray. On 31 May 1990, Bishop Holland wrote a letter to Mr Allen enclosing a draft reference for Hatley Gray and invited Mr Allen’s guidance. The enclosed reference was headed ‘To Mr William Keith Allen, Solicitor Acting on behalf of Stephen Gray.

279. The draft reference stated in part, ‘I am deeply sorry this matter had occurred, and to me, it seems totally out of character ... It is highly unlikely that any Bishop will license him for priestly work’. This shows that Bishop Holland was prepared to assert he did know what was going on.

280. Bishop Holland nevertheless maintained he did not know the nature of the charges against Hatley Gray and thought they related to the damage to the Rectory. Bishop Holland told the Royal Commission that he was unaware that Hatley Gray had been charged with sexually abusing a boy until he received documents from the Royal Commission.

281. Bishop Holland stated that he did not ask about the criminal proceedings when he wrote the reference. He wrote the reference because in his view, Hatley Gray had done good work during his ministry and that it was appropriate that he had an opportunity to rebuild his life.

282. Bishop Holland agreed that he was prepared to write a letter not knowing what it would be used for and not being aware of the allegations against Hatley Gray. He also agreed that this was seriously remiss for a person holding the position of Bishop of a diocese.

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439 Transcript of A Holland, Case Study 42, 3 August 2016, 16388:34-37.
440 Exhibit 42-0020, ‘Letter from Keith Allen to Bishop Holland’, Case Study 42, ANG.0050.001.3180.
441 Transcript of A Holland, Case Study 42, 3 August 2016, 16389:42-44.
442 Transcript of A Holland, Case Study 42, 3 August 2016, 16390:5-7.
444 Exhibit 42-0001, ‘31 May 1990 letter from Bishop Holland to Keith Allen’, Case Study 42, ANG.0050.002.9886 (Tab 8 of Tender Bundle).
446 Exhibit 42-0001, ‘Draft reference for Stephen Hatley Gray’, Case Study 42, ANG.0050.002.9893 (Tab 10 of Tender Bundle).
447 Transcript of A Holland, Case Study 42, 3 August 2016 at 16389:2-6; Exhibit 42-0011, ‘Statement of Bishop Alfred Holland’, Case Study 42, STAT.1061.001.0001_R at [24].
448 Transcript of A Holland, Case Study 42, 3 August 2016, 16394:30-35.
449 Transcript of A Holland, Case Study 42, 3 August 2016, 16389:8-10.
450 Transcript of A Holland, Case Study 42, 3 August 2016, 16389:33-36; Exhibit 42-0104, ‘Supplementary Statement of Bishop Alfred Holland’, Case Study 42, STAT.1151.001.0001 at [27].
451 Transcript of A Holland, Case Study 42, 3 August 2016, 16392:7-20.
Bishop Holland stated that he should have inquired of Mr Allen as to the true nature of the charges and that he had allowed Mr Allen to ‘fob him off’. However, he agreed that Mr Allen might have suggested that he should write to all Australian Bishops advising them not to employ Hatley Gray without contacting the Diocese of Newcastle first.

Mr Allen’s evidence

Mr Allen gave evidence that Bishop Holland was aware that Hatley Gray had been charged with a child sex offence. Mr Allen agreed that he requested Bishop Holland for the reference solely for the purpose of assisting in the criminal prosecution against Hatley Gray.

Mr Allen agreed he told Bishop Holland that he would handle the matter but this was in relation to Bishop Holland offering to attend court and give evidence on Hatley Gray’s behalf.

Bishop Appleby’s evidence

Bishop Appleby gave a different account of events to Bishop Holland. He said that in the late 1980s, he received an early morning call from Bishop Holland informing him that there had been a ‘serious disturbance’ at the Wyong Rectory the previous evening. Bishop Appleby said he was asked to go to Wyong and obtain a resignation from Hatley Gray.

Bishop Appleby gave evidence that he left immediately for Wyong after he received the telephone call. When then Assistant Bishop Appleby arrived at the Rectory, he found serious damage to its interior. He told Hatley Gray that this was inappropriate behaviour for a priest and that he should consider providing Bishop Holland with his resignation.

Bishop Appleby said that Hatley Gray wrote out a resignation in front of him which Bishop Appleby read and then gave to Bishop Holland upon his return to Newcastle.

It is noted in passing (and relevant to the examination of the institutional response) that in a time of a perceived crisis, and putting to one side the evidence of Bishop Holland and Bishop Appleby as to what they believed the crisis was, the two senior men acted together.

Bishop Appleby stated that he did not recall receiving a letter from Mr Allen dated 31 May 1990 requesting that he provide a written reference for Hatley Gray nor did he recall providing Interested Parties with any such reference. He stated that he did not recall that Mr Allen had asked him to provide a reference and that if he had asked him to provide a reference, it would only have been to assist Mr Allen in the criminal prosecution against Hatley Gray.

452 Exhibit 42-0104, ‘Supplementary Statement of Bishop Alfred Holland’, Case Study 42, STAT.1151.001.0001 at [29].
454 Transcript of K Allen, Case Study 42, 8 August 2016, 16656:31-35.
455 Transcript of K Allen, Case Study 42, 8 August 2016, 16657:16-23.
456 Transcript of K Allen, Case Study 42, 8 August 2016, 16657:33-40.
457 Transcript of R Appleby, Case Study 42, 4 August 2016 at 16533:19-30; Exhibit 42-0025, ‘Statement of Bishop Richard Appleby’, Case Study 42, STAT.1085.001.0001_R at [76]-[77].
458 Transcript of R Appleby, Case Study 42, 4 August 2016 at 16533:27-43; Exhibit 42-0025, ‘Statement of Bishop Richard Appleby’, Case Study 42, STAT.1085.001.0001_R at [77]-[78].
459 Transcript of R Appleby, Case Study 42, 4 August 2016, 16549:19-24.
460 Transcript of R Appleby, Case Study 42, 4 August 2016, 16534:11-14.
461 Transcript of R Appleby, Case Study 42, 4 August 2016, 16549:28-32.
462 Transcript of R Appleby, Case Study 42, 4 August 2016, 16539:6-22.
such a reference. Bishop Appleby agreed that having now seen that the letter was received by his office, he would have seen it at the time.

291. Bishop Appleby gave evidence that he did not enquire of Mr Allen as to the nature of the charges against Hatley Gray. Bishop Appleby believed he would have spoken with Bishop Holland who would have told him that he was dealing with the situation and to leave it to him. Bishop Appleby told the Royal Commission that he did not have a recollection this was the case but it was an assumption consistent with his experience.

Other evidence

292. Also in evidence before the Royal Commission is a pre-sentence report from Reverend David Williams to the District Court dated 3 September 1990. Reverend Williams stated in the report that he had spoken with Bishop Holland on three separate occasions about Hatley Gray. The report also stated:

I have discussed [Hatley Gray’s] future with the Bishop of Newcastle ... and the possibility of Stephen Gray being restored to the exercise of his ministry as a priest in the Anglican [sic] church. Both Bishops are aware of his great gifts and they do not regard this offence as necessarily an indelible impediment to his rehabilitation to work as a priest in the future.

293. The Royal Commission received a written statement from Reverend Hugh Bright. In around 2009 and 2010, when Mr Bright was ministering in the Parish of Lakes in the Diocese, a group of parishioners who knew the family members of Hatley Gray’s victim, told him that Hatley Gray had suddenly left the Parish of Wyong in the early 1990s as a result of the charges. They told him that they were shocked to see Hatley Gray on television in around 1992 officiating over a memorial service for two of Ivan Milat’s victims in the Belanglo Forest, ‘given that it was well known through the families of the victims that the Diocese had promised them that Gray would never minister again following his conviction.’

294. Reverend Raymond Manuel also gave a statement to the Royal Commission. He said he was friends with Hatley Gray and went to see him at the Wyong Rectory the day after the offence. He said the main issue was not damage to the Rectory, but the allegation that Hatley Gray had had sexual intercourse with an underage boy. Hatley Gray initially denied this allegation to Reverend Manuel.

295. Reverend Manuel said that he spoke with then Assistant Bishop Appleby a few days later who told him that the matter was being dealt with ‘quietly’ because it was ‘sensitive’. He also

463 Exhibit 42-0025, ‘Statement of Bishop Richard Appleby’, Case Study 42, STAT.1085.001.0001_R at [80]; Exhibit 42-0001, ‘Character reference for Stephen Hatley Gray by Bishop Alfred Holland’, Case Study 42, ANG.0050.001.2484 (Tab 11 of Tender Bundle).

464 Transcript of R Appleby, Case Study 42, 5 August at 16546-9-14.

465 Transcript of R Appleby, Case Study 42, 4 August at 16541:18-21.

466 Transcript of R Appleby, Case Study 42, 4 August at 16541:12-16.

467 Transcript of R Appleby, Case Study 42, 4 August at 16542:3-5.


469 Exhibit 42-0136, ‘Statement of Hugh Bright’, Case Study 42, STAT.1164.001.0001_R at [16].

470 Exhibit 42-0136, ‘Statement of Hugh Bright’, Case Study 42, STAT.1164.001.0001_R at [17].

471 Exhibit 42-0150, ‘Statement of Raymond Manuel, Case Study 42, STAT.1236.001.0001 at [18].

472 Exhibit 42-0150, ‘Statement of Raymond Manuel, Case Study 42, STAT.1236.001.0001 at [21].
said that a week or two later he received a telephone call from then Dean Lawrence who asked him to write a reference for Hatley Gray.\(^{473}\) In oral evidence, Mr Lawrence denied that he had made such a request.\(^{474}\) Reverend Manuel said he had known for many years that Hatley Gray was convicted of sexual abuse of a minor and he believes it was public knowledge and was reported in the media at the time.\(^{475}\)

296. An article was published in the local media shortly after the incident, which stated that a 47-year-old Anglican Church minister had been charged with sexually assaulting a 15-year-old boy at a Rectory on the NSW Central Coast.\(^{476}\)

297. Two days after the offence occurred, Bishop John Reid of the Anglican Diocese of Sydney wrote to Bishop Holland on 14 February 1990 responding to news of Hatley Gray’s resignation. Bishop Reid wrote that when he had recommended Hatley Gray to the Diocese originally, he had informed Bishop Holland in good faith that he believed Hatley Gray’s ‘problems with his sexuality had been resolved’.\(^{477}\) This is discussed further below.

Conclusion

298. The Royal Commission should find that Bishop Holland and then Assistant Bishop Appleby were aware of the nature of the offences committed by Hatley Gray for the following reasons:

a. First, Bishop Holland and Assistant Bishop Appleby were involved in requiring Hatley Gray’s immediate resignation following the conduct. It is difficult to see - indeed it is implausible - that damage to the Rectory alone would generate such a requirement without any further investigation. Bishop John Reid’s reference two days after the resignation to Hatley Gray’s ‘problems with his sexuality’ makes no sense in the context of property damage;

b. Secondly, both knew that Mr Allen was acting for Hatley Gray in a criminal prosecution and both were asked to provide references. Bishop Holland’s evidence that he paid little attention to the request is at odds with him responding to it by way of a draft reference. It is implausible that Bishop Holland and Assistant Bishop Appleby would not have discussed the nature of the criminal allegations with either Mr Allen or Hatley Gray;

c. Thirdly, Mr Allen said that Bishop Holland and Bishop Appleby were both aware of the allegations;

d. Fourthly, there was media attention about a parish priest sexually assaulting a 15 year-old boy;

e. Fifthly, there is evidence that the sexual assault was common knowledge in the parish at the time;

f. Sixthly, Reverend Williams said in his pre-sentencing report to the Court that he had discussed the matter with Bishop Holland on three occasions and that Bishop

\(^{473}\) Exhibit 42-0150, ‘Statement of Raymond Manuel, Case Study 42, STAT.1236.001.0001 at [23].

\(^{474}\) Transcript of G Lawrence, Case Study 42, 18 November 2016, 23408:41-44.

\(^{475}\) Exhibit 420150, ‘Statement of Raymond Manuel, Case Study 42, STAT.1236.001.0001 at [31].

\(^{476}\) Exhibit 42-0001, ‘Minister charged with sexual assault of 15-year-old boy’, Case Study 42, ANG.0050.001.3260 (Tab 6A of Tender Bundle).

\(^{477}\) Exhibit 42-0001, ‘Letter from Bishop John Reid to Bishop Alfred Holland’, Case Study 42, ANG.0050.002.9911 (Tab 6 of Tender Bundle).
Holland’s view was that the matter would not necessarily preclude Hatley Gray returning to the Ministry in the future;

g. Finally, it is implausible that Bishop Holland and Assistant Bishop Appleby would not have discussed the matter among themselves, particularly given that Bishop Holland immediately sent Assistant Bishop Appleby to see Hatley Gray and procure his resignation.

299. Bishop Holland and Bishop Appleby’s evidence to the Royal Commission that they did not know that Hatley Gray had been prosecuted for sexually assaulting a boy should not be accepted.

Available findings:

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<td><strong>AF9</strong></td>
<td>Bishop Holland requested Assistant Bishop Appleby to secure Hatley Gray’s immediate resignation in February 1990.</td>
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<tr>
<td><strong>AF10</strong></td>
<td>Bishop Holland was aware in 1990 that Hatley Gray was prosecuted for sexually assaulting a boy.</td>
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<tr>
<td><strong>AF11</strong></td>
<td>Bishop Appleby was aware in 1990 that Hatley Gray was prosecuted for sexually assaulting a boy.</td>
</tr>
<tr>
<td><strong>AF12</strong></td>
<td>Bishop Holland’s evidence to the Royal Commission denying that he had known that Hatley Gray was prosecuted for sexually assaulting a boy should not be accepted.</td>
</tr>
<tr>
<td><strong>AF13</strong></td>
<td>Bishop Appleby’s evidence to the Royal Commission denying that he had known that Hatley Gray was prosecuted for sexually assaulting a boy should not be accepted.</td>
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Previous warning to Bishop Holland from Bishop Reid

300. The letter from Bishop Reid of the Anglican Diocese of Sydney to Bishop Holland on 14 February 1990 responding to news of Hatley Gray’s resignation, is significant not just as evidence of what Bishop Holland knew in February 1990, but what Bishop Holland knew about Hatley Gray before he licensed him.

301. Bishop Reid wrote that when he had recommended Hatley Gray to the Diocese originally, he had informed Bishop Holland in good faith that he believed Hatley Gray’s ‘problems with his sexuality had been resolved’.478

302. Bishop Holland gave evidence that he had no memory of talking to Bishop Reid about Hatley Gray before appointing him as a priest in the Diocese of Newcastle.479 Bishop Holland stated that he understood the reference by Bishop Reid to Hatley Gray ‘having problems with his sexuality’ to mean Hatley Gray’s latent homosexuality of which Bishop Holland said he had not previously been aware.480 He said that if he had talked with Bishop Reid prior to appointing

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478 Exhibit 42-0001, ‘Letter from Bishop John Reid to Bishop Alfred Holland’, Case Study 42, ANG.0050.002.9911 (Tab 6 of Tender Bundle).


480 Exhibit 42-0011, ‘Statement of Bishop Alfred Holland’, Case Study 42, STAT.1061.001.0001_R at [20].
Hatley Gray regarding Hatley Gray’s problems with his sexuality, it was ‘highly unlikely’ that he would have appointed him as Rector of Wyong.\textsuperscript{481}

303. Bishop Holland agreed, however, that he had some idea from prior discussion with Bishop Reid that Hatley Gray may have engaged in sexually inappropriate behaviour\textsuperscript{482} Notwithstanding that agreement, Bishop Holland still maintained that he had no recollection of a conversation with Bishop Reid regarding issues with Hatley Gray’s sexuality and that he would not have appointed Hatley Gray in the Diocese if he had known that Hatley Gray had sexual difficulties.\textsuperscript{483}

304. Bishop Holland’s evidence is difficult to follow. However, because of the vague terminology of the language used in the letter as to precisely what Bishop Reid was referring to, and the lack of any ability to obtain Bishop Reid’s version of events, there is insufficient evidence to find that prior to Bishop Holland’s licensing of Hatley Gray he was aware of any prior sexual offending against boys on the part of Hatley Gray.

**Falsification of the date of Hatley Gray’s resignation**

305. As noted above, the victim reported the assault to police at 5am on 12 February 1990.\textsuperscript{484}

306. Also as noted above, Bishop Holland said he became aware in February 1990 that Hatley Gray had ‘hosted a party’. He did not state how he became aware.

307. Bishop Holland’s evidence was also that at that time he was told by Mr Allen to withdraw Hatley Gray’s licence.

308. A logical inference may be drawn that on being arrested, Hatley Gray contacted the solicitor advising the Anglican Church, Mr Allen.

309. Mr Allen in turn rang Bishop Holland and gave him advice. A further inference is that Bishop Holland acted on the advice, by contacting Assistant Bishop Appleby.

310. As noted above, Assistant Bishop Appleby attended at the Wyong Rectory:

a. On his own evidence, after an early morning phone call with Bishop Holland; and

b. After the ‘serious disturbance’ had occurred.

311. Assistant Bishop Appleby said that his purpose in attending the Wyong Rectory was to secure Hatley Gray’s resignation. Assistant Bishop Appleby said that Hatley Gray wrote out a resignation in front of him when he went to the Wyong Rectory.\textsuperscript{485}

\textsuperscript{481} Transcript of A Holland, Case Study 42, 3 August 2016, 16385:41 – 16386:6

\textsuperscript{482} Transcript of A Holland, Case Study 42, 3 August 2016 at 16410:6-12.

\textsuperscript{483} Transcript of A Holland, Case Study 42, 3 August 2016 at 16409:28-31.

\textsuperscript{484} Exhibit 42-0018, ‘Crime Information Report’, Case Study 42, NPF.045.001.0168_R.

\textsuperscript{485} Transcript of R Appleby, Case Study 42, 4 August 2016, 16539:6-22.
312. In evidence before the Royal Commission was a handwritten resignation from Hatley Gray bearing the date ‘11 February 1990’. However, the police records show that the sexual assault did not occur until the early hours of 12 February 1990.

313. Bishop Appleby could not assist the Royal Commission with why the resignation from Hatley Gray was dated 11 February 1990 even though the incident involving the sexual abuse of the boy did not occur until the early hours of 12 February 1990 and he did not obtain the resignation until after that time.

314. In evidence before the Royal Commission were two filenotes prepared by Mr Cleary in which Mr Allen purportedly told him in early 2015 that he had assisted Hatley Gray to falsify Hatley Gray’s resignation letter in order to ‘cause less problems for the diocese’.

315. Mr Allen initially said in oral evidence that Hatley Gray probably did not resign until after he had been charged on 12 February 1990 and that he did not know how the resignation came to be dated 11 February 1990. However, Mr Allen said he thought the resignation was dated 11 February 1990 to allow Hatley Gray to remain in ‘good standing’ and that possibly it had been backdated.

316. Mr Allen eventually conceded that he had destroyed the original resignation. Mr Allen could not say at whose request the resignation date was changed but said that there was some discussion at the time with the late Archdeacon David Bowden.

317. Mr Allen agreed that the Newcastle Diocese Year Book of 1990 said that Hatley Gray resigned on 11 February 1990 and that this was misleading. The 1990 Year Book on its face was false and would allow a false representation to be made that Hatley Gray resigned before he committed the offence. Mr Allen accepted that by changing the date of Hatley Gray’s resignation, it would be recognised by the Church that at the time of his resignation, he was in good standing with his Bishop and that would have provided Hatley Gray with the opportunity to move to another diocese. A clear inference is that it would also have protected the Diocese’s reputation to some extent by asserting that Hatley Gray resigned as a priest before perpetrating the sexual abuse.

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487 Exhibit 42-0018, ‘Crime Information Report’, Case Study 42, NPF.045.001.0168_R.


489 Exhibit 42-0001, ‘Filenote by John Cleary’, Case Study 42, ANG.0207.001.0279_R; Exhibit 42-0001, ‘Filenote by John Cleary of meeting with Keith Allen and Bishop Greg Thompson on 18 February 2015’, Case Study 42, NPF.0018.001.0024_R.

490 Transcript of K Allen, Case Study 42, 8 August 2016, 16669:6-14.

491 Transcript of K Allen, Case Study 42, 8 August 2016, 16688:18-26.


493 Transcript of K Allen, Case Study 42, 8 August 2016, 16672:3-13.

494 Transcript of K Allen, Case Study 42, 8 August 2016, 16670:31-38; Exhibit 42-0037, ‘Newcastle Yearbook 1990 Extract referring to Stephen Gray’s resignation’, Case Study 42, ANG.0341.001.0001_E_R.

495 Transcript of K Allen, Case Study 42, 8 August 2016 at 16671:21-23; Exhibit 42-0037, ‘Newcastle Yearbook 1990 Extract referring to Stephen Gray’s resignation’, Case Study 42, ANG.0341.001.0001_E_R.

496 Transcript of K Allen, Case Study 42, 8 August 2016 at 16670:45 – 16671:23.
Available findings:

AF14 Hatley Gray sexually assaulted a boy on 12 February 1990 and wrote a resignation after this offence at the request or suggestion of either Bishop Holland, Assistant Bishop Appleby or both.

AF15 Mr Allen falsified Hatley Gray’s letter of resignation to make it appear that he had resigned before committing the offence.

AF16 Mr Allen did so to allow Hatley Gray to remain in good standing with the Diocese and to protect the reputation of the Diocese.

AF17 The Newcastle Diocese Year Book of 1990 falsely represented that Hatley Gray had resigned on 11 February 1990, which was before he had committed the offence.

Failure of Bishop Holland to warn other Dioceses about Hatley Gray’s conduct

318. Bishop Holland said in his statement to the Royal Commission that he ‘immediately delicensed’ Hatley Gray because of the damage he caused to the Rectory. There is no evidence that Bishop Holland withdrew Hatley Gray’s licence. Rather, Hatley Gray resigned.

319. Also as noted above, Bishop Appleby said he was sent by Bishop Holland to procure Hatley Gray’s resignation. That is consistent with the letter of resignation that is in evidence, save for the date.

320. The purpose in securing the immediate resignation is a matter of concern when considering the institutional response.

321. Reverend Manuel’s evidence was that when he spoke with Assistant Bishop Appleby a few days after 12 February 1990, he told him that the matter was being dealt with quietly because it was sensitive.

322. As noted above and accepted by Mr Allen, resignation prior to an offence occurring would permit those within the Diocese, including Bishop Holland, to formally indicate that Hatley Gray remained of good standing at the time he left the Diocese.

323. There is no evidence before the Royal Commission that Bishop Holland subsequently took any steps to warn other dioceses. It should be found that Bishop Holland failed to take any steps to warn other dioceses that Hatley Gray had been convicted of sexually abusing a child.

324. According to a contemporaneous February 2015 filenote prepared by Mr Cleary, Mr Allen told him that soon after Hatley Gray’s charges were finalised in 1990, he was appointed as a youth worker in the Willochra diocese. The filenote records, ‘Allen described Gray as a ‘dangerous person’ especially as a youth worker.’

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497 Exhibit 42-0011, ‘Statement of Bishop Alfred Holland’, Case Study 42, STAT.1061.001.0001_R at .0008_R at [18].

498 Exhibit 42-0001, ‘Filenote of meeting between Keith Allen, Bishop Greg Thompson and John Cleary 18 February 2015’, Case Study 42, NPF.0019.001.0024 at 0025 (Tab 393 of Tender Bundle).
325. Reverend Bright and Reverend Manuel gave evidence that in 1992, Hatley Gray presided over the memorial service for two of Ivan Milat’s victims in the Belanglo Forest. This occurred after Hatley Gray left the Diocese.  

Available findings:

AF18 Bishop Holland failed to take any steps to warn other dioceses that Hatley Gray had been convicted of sexually abusing a child.

AF19 The lack of any response of the Diocese following Hatley Gray’s conduct enabled him to work in another diocese, including as a youth worker, where he had access to children.

3.5 Disclosures to the Diocese of allegations against Rushton and Brown

Disclosures by Ms Suzan Aslin concerning Rushton and Brown in around 1979

326. Rushton and Brown were close associates for much of the 1970s and 1980s. Rushton and Brown appear to have formed a relationship following Rushton’s transfer to Weston as Priest in Charge in 1968. Brown assumed the position of Lay Synod Representative of Weston under Rushton in 1972.

327. Also in the late 1960s or early 1970s, Rushton and Brown began their association with St Alban’s. In the late 1960s, possibly when he became Priest in Charge at Weston, Rushton became chaplain of St Alban’s. He later sat on the Management Committee of St Alban’s, a Committee to which Brown was appointed in or about 1977.

328. In 1979, Rushton was the Rector at Wallsend Parish in the Diocese of Newcastle. At that time Brown was a lay reader and youth group leader at the Kurri Kurri Anglican Church in the Diocese.

329. Ms Suzan Aslin gave written and oral evidence to the Royal Commission. She said that in around 1977, two of her sons became involved in the Anglican Church through their involvement with a Venturer unit in Kurri Kurri. She was approached by Brown, who suggested...
her sons and their Venturer unit join with an Anglican Church youth group run by Brown. Ms Aslin’s sons then began attending a weekly meeting at the church at Kurri Kurri.

330. Ms Aslin told the Royal Commission that on one occasion she met Rushton who attended a weekend gathering at Morpeth College involving some of the Venturer and church groups. Brown and some younger priests also attended. Ms Aslin observed that Rushton seemed to be the centre of the group and that as a group they all agreed to any suggestion from Rushton.

331. In or about late 1978, Ms Aslin’s son, Ian, who was then 15 years old, told her that he believed that Brown was pursuing him. Shortly after that, Ms Aslin and Ian went to dinner at Brown’s house. During the evening, Brown kissed Ian on the lips. Ms Aslin was unaware of this until she was told later that evening by her son.

332. By the time of this dinner, Ms Aslin was concerned that Brown was pursuing her son. She found male homosexual pornography in Brown’s room and confronted him with it. They had an argument and a physical scuffle and Brown told Ian, ‘You will be mine’ before Ms Aslin and Ian left.

333. In around early 1979, Ms Aslin became aware that Brown was fostering a boy from St Alban’s and was going to become his guardian. She told the Royal Commission that she was ‘horrified’ when she heard this.

334. Ms Aslin gave evidence that Brown told her in around early 1979 that Rushton was also fostering boys from St Alban’s. Brown also told her that he and Rushton were going on a tour together of gay bars in Europe and showed her a brochure.

335. Shortly thereafter, in early 1979, Ms Aslin approached Professor David Frost, a member of the Newcastle Synod and a lecturer at Newcastle University where she was studying, and set out about her concerns regarding Brown and Rushton. She told Professor Frost that Brown and Rushton were fostering boys from St Alban’s and that they were intending to travel to Europe together on a ‘sex trip’. Ms Aslin also told him that Brown was pursuing her son. Professor Frost said he would contact Bishop Holland regarding her concerns.

504 Transcript of S Aslin, Case Study 42, 2 August 2016 at 16266:22-44.
505 Transcript of S Aslin, Case Study 42, 2 August 2016 at 16267:12-18.
506 Transcript of S Aslin, Case Study 42, 2 August 2016, 16267:25-40.
507 Transcript of S Aslin, Case Study 42, 2 August 2016 at 16268:24.
508 Transcript of S Aslin, Case Study 42, 2 August 2016 at 16268:36 – 16269:1.
509 Transcript of S Aslin, Case Study 42, 2 August 2016 at 16270:1-10.
510 Transcript of S Aslin, Case Study 42, 2 August 2016 at 16269:38.
511 Exhibit 42-005, ‘Statement of Suzan Aslin’, Case Study 42, STAT.1103.001.0001 at [19]-[21].
512 Transcript of S Aslin, Case Study 42, 2 August 2016, 16271:12-17.
513 Transcript of S Aslin, Case Study 42, 2 August 2016, 16271:44-45.
514 Transcript of S Aslin, Case Study 42, 2 August 2016, 16272:3-10.
516 Transcript of S Aslin, Case Study 42, 2 August 2016, 16272:12-20.
517 Transcript of S Aslin, Case Study 42, 2 August 2016, 16273:15-30.
518 Exhibit 42-0005, ‘Statement of Suzan Bettye Aslin’, Case Study 42, STAT.1103.001.0001_R at [25].
519 Transcript of S Aslin, Case Study 42, 2 August 2016, 16273:32-37.
336. Professor David Frost gave a written statement to the Royal Commission in which he recalled a female mature-aged student approaching him after class sometime in the late 1970s to discuss her concerns with respect to the Anglican Diocese of Newcastle. He did not recall her name but as no other student ever raised such concerns with him, he had no reason to doubt it was Ms Aslin.\textsuperscript{520}

337. Professor Frost said that shortly thereafter he went to see Bishop Holland at his residence and told him that Ms Aslin was concerned about her son and that there had been some homosexual contact with some clergy. Professor Frost stated that Bishop Holland asked Professor Frost to leave the matter ‘entirely with him’.\textsuperscript{521}

338. Professor Frost gave evidence that Bishop Holland rang him about a week after their meeting and told him that he had had an interview with Ms Aslin. Professor Frost did not recall being told anything further.\textsuperscript{522}

339. Ms Aslin gave evidence that sometime after her meeting with Professor Frost, she received a phone call at home from Bishop Holland. She vividly recalled the telephone call, as she said that she received the call while sitting naked on her bed after just getting out of the shower.\textsuperscript{523} Ms Aslin said she had not ever previously spoken with Bishop Holland.\textsuperscript{524} However, Bishop Holland told her who he was during the call. In addition, she later saw him on television and recognised his voice as belonging to the person whom she had spoken to during the telephone call. She identified his accent was cultured and ‘English’.\textsuperscript{525}

340. Ms Aslin said that during the call, she told Bishop Holland that Rushton and Brown were fostering boys from St Alban’s and that Rushton and Brown were travelling together to Europe on a ‘sex trip’.\textsuperscript{526} She also told him that Brown had pursued her son.\textsuperscript{527} Ms Aslin said that Bishop Holland told her he was ‘appalled’ and asked her to leave the matter with him.\textsuperscript{528} She never heard from him again.

341. Bishop Holland told the Royal Commission that he had no recollection of any conversation with Professor Frost concerning Ms Aslin.\textsuperscript{529} Bishop Holland also emphatically denied that he ever telephoned Ms Aslin.\textsuperscript{530} Bishop Holland said that Rushton was a popular priest and seemed to be competent and well respected.\textsuperscript{531} He said he did not know and had never met Brown,\textsuperscript{532} though he agreed he might have issued Brown with a lay reader’s licence.\textsuperscript{533}

\textsuperscript{520} Exhibit 42-0081, ‘Statement of David Leonard Frost’, Case Study 42, STAT.1122.001.0001 at [19]-[20].
\textsuperscript{521} Exhibit 42-0081, ‘Statement of David Leonard Frost’, Case Study 42, STAT.1122.001.0001 at [21]-[22].
\textsuperscript{522} Exhibit 42-0081, ‘Statement of David Leonard Frost’, Case Study 42, STAT.1122.001.0001 at [23].
\textsuperscript{523} Transcript of S Aslin, Case Study 42, 2 August 2016, 16274:17-21.
\textsuperscript{524} Transcript of S Aslin, Case Study 42, 2 August 2016, 16273:39 – 16274:7.
\textsuperscript{525} Transcript of S Aslin, Case Study 42, 2 August 2016, 16280:9-18.
\textsuperscript{526} Transcript of S Aslin, Case Study 42, 2 August 2016, 16273:23-30 and 16274:9-35.
\textsuperscript{527} Transcript of S Aslin, Case Study 42, 2 August 2016 at 16278:10-34.
\textsuperscript{528} Transcript of S Aslin, Case Study 42, 2 August 2016, 16274:11-13.
\textsuperscript{529} Transcript of A Holland, Case Study 42, 3 August 2016 at 16315:17-25; Exhibit 42-0104, Supplementary Statement of Bishop Alfred Holland, STAT.1151.001.0001 at [15].
\textsuperscript{530} Transcript of A Holland, Case Study 42, 3 August 2016, 16315:6-15, 27-33, 39-43.
\textsuperscript{531} Transcript of A Holland, Case Study 42, 3 August 2016, 16305:43-45.
\textsuperscript{532} Transcript of A Holland, Case Study 42, 3 August 2016, 16314:3-5.
\textsuperscript{533} Transcript of A Holland, Case Study 42, 3 August 2016, 16314:7-18.
The Royal Commission should prefer the accounts of Ms Aslin and Professor Frost to that of Bishop Holland. Ms Aslin and Professor Frost have specific memories of their conversations with Bishop Holland and of the circumstances in which they had them. It was, for both of them, a serious and memorable occasion to be speaking to their Bishop about such matters. Ms Aslin’s son, Ian Ross-Gowan, provided a written statement to the Royal Commission in which he recalled being aware in 1978 that Ms Aslin had reported her concerns to Professor Frost and Bishop Holland. In addition, Professor Frost’s evidence was that Bishop Holland told him that he had spoken with Ms Aslin.

There is no evidence that Bishop Holland took any steps in relation to these revelations about Rushton and Brown. He denied any knowledge of the matter. The inference is available that he took no steps in response.

### Available findings:

**AF20** In around 1979, Bishop Holland spoke with Ms Aslin on the telephone and she told him about Brown’s advances towards her son, that Brown and Rushton were fostering boys from the St Alban’s Boys’ Home and that they planned to go on a ‘sex trip’ to Europe together.

**AF21** Bishop Holland took no steps in response to being made aware of these matters.

### 3.6 Possible disclosures to Mrs Dulcie Barry and Mr Ron Barry concerning offending by Rushton and others at St Alban’s Boys’ Home

The Royal Commission has received evidence stating that Mrs Dulcie Barry and Mr Ron Barry were the ‘House Parents’ of St Alban’s between 1966 and 1980 and were subsequently the House Parents of the St Alban’s Family Group Home in Greta Street Aberdare until 1984, at which time they retired. Both Mr and Mrs Barry are now deceased.

Mr Gray said that one of the caretakers during the period when Rushton would take him to St Alban’s, Mr Barry, would keep him quiet before and after he was sexually abused by different men by beating him. Mr Gray told the Royal Commission that he called Mr Barry ‘the gatekeeper’. He also stated that, from time to time, it was Mrs Barry who would let him out of the locked room at the end of the corridor in St Alban’s where Mr Gray alleges he was sexually abused by multiple men on various occasions. Mr Gray’s allegation of abuse at St Alban’s is set out in detail above.

CKG said that Mr and Mrs Barry were the Warden and Matron respectively while he was at the Home, from 1968. CKG said that between 1968 and 1973, he disclosed his abuse to Mrs Barry on numerous occasions, and was usually accused of lying and was punished. CKG

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534 Exhibit 42-0006, ‘Statement of Ian Ross-Gowan’, Case Study 42, STAT.1106.001.0001_R at [19].
535 Exhibit 42-0132, ‘Statement of Norman Barry’, Case Study 42, STAT.1264.001.0001 at [6].
536 Exhibit 42-0132, ‘Statement of Norman Barry’, Case Study 42, STAT.1264.001.0001 at [6].
538 Exhibit 42-0138, ‘Statement of CKG’, Case Study 42, STAT.1090.001.0001_R at [8].
said he did not tell Mr Barry about his abuse, because he believed that Mr Barry knew about the abuse and supported it. 539

347. CKG also alleged that, at one time when he was 13 or 14 years old, Mr Barry and Rushton watched him while he was showering. He stated that he recalled Mr Barry issued demands to him to bend over and scrub his toes while Rushton watched him in the shower on this occasion.540

348. Mr D’Ammond told the Royal Commission that his time at St Alban’s under the care of Mr and Mrs Barry was good and, while he did not disclose his abuse by Brown to Mrs Barry, he believed that she would have protected him if he had done so.541

349. The Royal Commission received a statement from Mr Norman Barry, the youngest son of Mr Ron Barry and Mrs Dulcie Barry.542 Mr Norman Barry stated that he moved to St Alban’s with his parents, where he lived from the age of 14 in 1966 until he married and left the home in about January 1973.543

350. Mr Norman Barry gave evidence that he had a close relationship with the resident boys at St Alban’s over the time that he resided at the home. He stated that throughout his time living, working and playing with the resident boys at St Alban’s, he never heard any suggestion that his father had been physically abusive towards any of the boys and said that there was ‘never any talk, suggestion or hint of sexual abuse’ of any of the boys.544

351. Mr Norman Barry stated that he does not recall ever meeting Mr Gray during his time at St Alban’s and says he never heard his father referred to by any of the resident boys as the ‘gatekeeper’. He also said that, apart from his parent’s flat, there were no individual bedrooms at St Alban’s or any room with a deadlock.545

352. Mr Norman Barry stated that, prior to his parents becoming the House Parents at St Alban’s in the latter half of 1966 the House Parents in charge of the home were a couple with a surname pronounced similar to ‘Barry’ which may have been ‘Farre’ or ‘Farrie’.546

353. Mr Ron Barry and Mrs Dulcie Barry cannot respond to the allegations. There is no reason to doubt that Mr Gray is a truthful witness. However, his evidence on this point is insufficiently precise to allow a finding to be made that Mr Barry or Mrs Barry had express knowledge that boys were sexually abused at St Alban’s. CKG has given clear evidence that he did disclose his abuse to Mrs Barry. However, he was not tested in any way on that evidence. For these reasons, it is not open on the Briginshaw standard to make a finding that Mr Barry or Mrs Barry were aware of the abuse.

539Exhibit 42-0138, ‘Statement of CKG’, Case Study 42, STAT.1090.001.0001_R at [19]-[20].
540 Exhibit 42-0138, ‘Statement of CKG’, Case Study 42, STAT.1090.001.0001_R at [15].
541 Transcript of P D’Ammond, Case Study 42, 2 August 2016, 16256:3-7.
542 Exhibit 42-0132, ‘Statement of Norman Barry’, Case Study 42, STAT.1264.001.0001.
543 Exhibit 42-0132, ‘Statement of Norman Barry’, Case Study 42, STAT.1264.001.0001 at [13]-[15].
544 Exhibit 42-0132, ‘Statement of Norman Barry’, Case Study 42, STAT.1264.001.0001 at [19], [27].
545 Exhibit 42-0132, ‘Statement of Norman Barry’, Case Study 42, STAT.1264.001.0001 at [19], [27].
546 Exhibit 42-0132, ‘Statement of Norman Barry’, Case Study 42, STAT.1264.001.0001 at [10].
3.7 Disclosures concerning Rushton’s abuse of COE in 1980

354. There is evidence from a number of witnesses that Bishop Holland was informed in 1980 of an allegation that Rushton had sexually abused the young son of a priest in the Diocese. The priest has been given the pseudonym COA, his wife the pseudonym COC, and his son the pseudonym COE. In 1980, COE was one of Rushton’s altar servers.547

Alleged meeting with Bishop Holland in 1980

355. COE provided a statement to the Royal Commission. COE was five years old when the abuse allegedly occurred in 1980. All that he can now remember is that Rushton masturbated in front of him.548 His mother confirmed that he had given this account to her in 1980.549 COE said in his statement that it was well-known in his family that his father had informed Bishop Holland of the abuse.550

356. COE’s father, COA, when still aged in his 40s, had a catastrophic stroke in 1982.551 He did not give evidence.

357. COE’s mother, COC, gave a statement to the Royal Commission. She said that she and her husband, COA, met with Bishop Holland within a week of discovering the abuse. The meeting took place at BishopsCourt.552 COC said she told Bishop Holland that Rushton had masturbated in front of her five year old son. She said Bishop Holland was dismissive and suggested that her eldest son was the perpetrator. According to COC, he said ‘whether you like it or not, homosexuality is here, and here to stay’.553

358. COC said that following the meeting with Bishop Holland, Rushton came to her door in a rage and threatened to sue her if she continued to discuss COE’s abuse.554

359. COC said she did not recall anyone other than her and COA being present at the meeting with Bishop Holland.555 COC also said she could not recall telling her friends Mr Christopher and Mrs Valerie Hall about the abuse but since they were close friends, if she was to tell anyone, she would have told them.556

360. COC said that after the meeting with Bishop Holland she felt that she and her husband were alienated by many in the clergy in a subtle way. COC said that Bishop Holland later told COA that there was no room for him in the Diocese.557 COC also said that in 1983 she received a

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548 Exhibit 42-0156, ‘Statement of COE’, Case Study 42, STAT.1261.001.0001_R at [12]-[13].
549 Exhibit 42-0156, ‘Statement of COC’, Case Study 42, STAT.1259.001.0002_R at [15].
550 Exhibit 42-0156, ‘Statement of COE’, Case Study 42, STAT.1261.001.0001_R at [10].
551 Exhibit 42-0156, ‘Statement of COE’, Case Study 42, STAT.1261.001.0001_R at [21].
552 Exhibit 42-0156, ‘Statement of COC’, Case Study 42, STAT.1259.001.0002_R at [19].
553 Exhibit 42-0156, ‘Statement of COC’, Case Study 42, STAT.1259.001.0002_R at [21].
554 Exhibit 42-0156, ‘Statement of COC’, Case Study 42, STAT.1259.001.0002_R at [23].
555 Exhibit 42-0156, ‘Statement of COC’, Case Study 42, STAT.1259.001.0001_R at [19].
556 Exhibit 42-0156, ‘Statement of COC’, Case Study 42, STAT.1259.001.0001_R at [25].
557 Exhibit 42-0156, ‘Statement of COC’, Case Study 42, STAT.1259.001.0001_R at [26]-[27].
letter from a law firm on behalf of the Diocese which requested her to stop talking about the matter. She said she no longer has a copy of the letter, and no copy has been obtained by the Royal Commission.

361. Mr Christopher Hall and Mrs Valerie Hall also provided statements to the Royal Commission. Mr Hall said he was told in ‘1978 or 1979’ by COC that Rushton had masturbated in front of COE. He said that he and his wife accompanied COA and COC to the meeting with Bishop Holland where COC advised that Rushton has sexually abused her son. Mr Hall said that Bishop Holland told them that unless there was ‘definite evidence’ there was nothing he could do. Mr Hall told the Royal Commission that he got the impression that there would be repercussions if the allegations were repeated. He felt they were dismissed by Bishop Holland like naughty school children.

362. Mrs Hall also said the four of them had met with Bishop Holland in 1978 or 1979. She said Bishop Holland was dismissive of COC’s account and told them they needed ‘photographic evidence to prove things like that, and until then, there was nothing he could do’. There was no offer of assistance or commitment to do anything. She said they were all shocked by Bishop Holland’s response.

Rushton’s threat of legal action against Pamela Wilson in 1980

363. The Royal Commission also heard oral evidence from Ms Pamela Wilson. She told the Royal Commission that she became a parishioner in the parish of Wallsend in 1973 at which Rushton was the parish priest. She was active in the Diocese as a Sunday School teacher, scripture teacher, mother’s union president and Chair of the Pastoral Care Committee.

364. Ms Wilson said that in around 1980, COA and COC told her that their son had been abused by Rushton. COA and COC said that they had told Bishop Holland but they had not been believed. They told her that Bishop Holland described the allegations as ‘lies’ and said that Rushton would never do anything like that.

365. Ms Wilson gave evidence that she was ‘horrified’ at what COA and COC had told her so she decided to write a letter to Bishop Holland. However, after some reflection she did not write the letter as she thought that Bishop Holland was unlikely to believe her if he did not believe one of his own priests. Ms Wilson never spoke to Bishop Holland about the allegations.
However, she explained in oral evidence that she had told COC over the telephone of her intention to write the letter and that Rushton had access to this telephone line.\textsuperscript{569}

366. Ms Wilson said that shortly afterwards she received a telephone call from Rushton. She said that he told her to destroy her letter to Bishop Holland or he would take legal action.\textsuperscript{570}

Report to Bishop Holland by Lesley Danger in 1980

367. The Royal Commission also received a statement from Ms Lesley Danger, who was an active member of the Anglican Church in Newcastle during the period of Bishop Holland’s episcopate.\textsuperscript{571}

368. Ms Danger stated that in early 1980, she met with Bishop Holland in the Diocesan Registry office to discuss a personal matter with him. She said that during this meeting, she also raised the allegations that Rushton had ‘interfered with’ COE. Ms Danger stated that Bishop Holland responded that he could do nothing in relation to the allegations as Rushton had threatened legal action.\textsuperscript{572}

Bishop’s Holland’s evidence

369. Bishop Holland initially denied that he was ever told by a priest that his son had been abused by Rushton.\textsuperscript{573} He later told the Royal Commission that he had no memory of being told by a priest that Rushton had sexually abused the priest’s son. He stated that if he had received such an allegation, he would have ‘automatically brought the two priests in and discussed the matter with them’.\textsuperscript{574}

370. The statements of COC, COE and Mr and Mrs Hall were obtained after Bishop Holland gave oral evidence in August 2016. This evidence was provided to Bishop Holland for his comment. He said in a supplementary statement that there was ‘nothing else to be said’ on the subject.\textsuperscript{575}

371. Bishop Holland agreed in oral evidence that it would be an extraordinary revelation if he had been made aware that a priest within his Diocese was abusing a child but maintained that he had no memory of any fellow priest making an allegation of that nature about Rushton.\textsuperscript{576}

372. Bishop Holland said that he would have thought a priest whose child had been abused by another priest would have come to him at once and told him.\textsuperscript{577} He denied that any such disclosure was ever made to him and said that if a disclosure had been made he was ‘almost bound’ to have acted on it.\textsuperscript{578}

\textsuperscript{569} Transcript of P Wilson, Case Study 42, 3 August 2016, 16301:35-38. Transcript redacted for de-identification purposes.

\textsuperscript{570} Exhibit 42-0010, ‘Statement of Pamela Wilson’, Case Study 42, STAT.1092.001.0001_R at [13].

\textsuperscript{571} Exhibit 42-0140, ‘Statement of Lesley Danger’, Case Study 42, STAT.1120.001.0001_R at [4].

\textsuperscript{572} Exhibit 42-0140, ‘Statement of Lesley Danger’, Case Study 42, STAT.1120.001.0001_R at [8]-[10].

\textsuperscript{573} Transcript of A Holland, Case Study 42, 3 August 2016, 16312:14-16.

\textsuperscript{574} Transcript of A Holland, Case Study 42, 3 August 2016, 16308:17-27.

\textsuperscript{575} Exhibit 42-0156, ‘Statement of COC’, Case Study 42, STAT.1259.001.0002_R at [21]-[22].

\textsuperscript{576} Transcript of A Holland, Case Study 42, 3 August 2016, 16308:35-45.

\textsuperscript{577} Transcript of A Holland, Case Study 42, 3 August 2016, 16312:38-44.

\textsuperscript{578} Transcript of A Holland, Case Study 42, 3 August 2016, 16312:46 – 16313:4.
373. Bishop Holland also told the Royal Commission that he had no knowledge of Ms Danger bringing this allegation to him. He believed this could not have occurred as it ‘beggars belief I would not have taken action when told of a priest sexually abusing the son of another priest let alone any other child’.

374. Bishop Holland stated that he would at least have called the priests in to discuss the allegation. He denied ever telling anyone that he could do nothing because Rushton threatened legal action.

375. In a further supplementary statement, Bishop Holland stated he did not know either Mr Hall or Mrs Hall and had no recollection of ever meeting with them at any time. He recalled the priest COA and his wife, COC. He said he recalled having difficulty placing COA in another parish due to him not being ‘gifted to lead a parish’ and he could find no parish for COA.

376. Bishop Holland was certain he never met with COA and COC or anyone else on the subject of the sexual abuse of COE. He confirmed his oral evidence and his two previous statements made to the Royal Commission that he could not recall any person reporting child sexual abuse to him during his tenure as Bishop of Newcastle.

Conclusions

377. The Royal Commission should find that Bishop Holland was told that Rushton had sexually abused a priest’s young son. Four witnesses (COC, Mr Hall, Mrs Hall and Ms Danger) have given evidence that they reported this matter to Bishop Holland. It is not plausible that so many witnesses – with no apparent motive to lie - would give the same false account. It is difficult to understand how Bishop Holland has no recollection of this matter. The Royal Commission should not accept Bishop Holland’s evidence on this issue.

378. It is also difficult to see how a bishop with pastoral responsibilities to his Diocese and the children within that diocese could regard the alleged sexual abuse of a five year old by a senior cleric to be anything other than a police matter, or at the very least a matter for the Board of Enquiry and possibly the Panel of Triers. However, there is no evidence that any steps at all were taken in relation to Rushton following these disclosures. On the contrary, in 1983, Bishop Holland promoted Rushton to the position of Archdeacon of Maitland, which meant he formed part of the leadership team within the Diocese.

Available findings:

AF22 Bishop Holland was informed in 1980 by COC and COA that Rushton had sexually abused their young son.

References:

579 Exhibit 42-0104, ‘Supplementary Statement of Bishop Alfred Holland’, Case Study 42, STAT.1151.001.0001_R at [19]-[20].
580 Exhibit 42-0104, ‘Supplementary Statement of Bishop Alfred Holland’, Case Study 42, STAT.1151.001.0001_R at [21]-[22].
581 Exhibit 42-0105, ‘Further Supplementary Statement of Bishop Alfred Holland’, Case Study 42, STAT.1265.001.0001_R at [6].
582 Exhibit 42-0105, ‘Further Supplementary Statement of Bishop Alfred Holland’, Case Study 42, STAT.1265.001.0001_R at [8].
583 Exhibit 42-0105, ‘Further Supplementary Statement of Bishop Alfred Holland’, Case Study 42, STAT.1265.001.0001_R at [14]-[15].
584 Exhibit 42-0105, ‘Further Supplementary Statement of Bishop Alfred Holland’, Case Study 42, STAT.1265.001.0001_R at [22].
585 Exhibit 42-0105, ‘Further Supplementary Statement of Bishop Alfred Holland’, Case Study 42, STAT.1265.001.0001_R at [30].
586 Transcript of A Holland, Case Study 42, 3 August 2016, 16306:7-9.
587 Transcript of A Holland, Case Study 42, 3 August 2016, 16306:30-33.
AF23 Bishop Holland failed to take any action to report, risk manage or discipline Rushton once he was made aware of the allegation that Rushton had sexually abused a young boy.

3.8 Disclosure of allegations concerning Brown in 1987

379. There is evidence that Assistant Bishop Appleby was informed in 1987 of allegations that Brown had sexually misconducted himself with a boy in the past. Bishop Appleby disputed this in evidence.

380. The Royal Commission heard from a witness who was a youth worker in the Diocese in 1987. She gave evidence that in 1987 she developed a friendship with a young man who disclosed to her that he had been sexually abused by Brown some years earlier when he was still a boy.\(^{588}\)

381. The former youth worker gave evidence of later being called to a meeting in 1987 at which then Assistant Bishop Appleby and another person were present.\(^{589}\) She said that at that meeting, the other man present said that he knew what the young man had told her about Brown.\(^{590}\) She said that Assistant Bishop Appleby said that Brown would be moved to the Maitland parish.\(^{591}\) At that time, Rushton was the rector of Maitland parish.\(^{592}\)

382. The former youth worker also said she was told at the meeting not to discuss the allegations against Brown with anyone.\(^{593}\)

383. In oral evidence, Bishop Appleby told the Royal Commission that he had no recollection of the meeting attended by the former youth worker although it was possible a meeting occurred.\(^{594}\) However, Bishop Appleby said if a meeting did occur, that no allegations of inappropriate behaviour by Brown were raised at that meeting.\(^{595}\)

384. Bishop Appleby also gave evidence that as Brown was a lay member of the church, he was free to attend whichever parish he liked. Bishop Appleby had no power to move Brown to another parish.\(^{596}\) This explanation is not a convincing one for the reason that Brown was licensed by the Bishop as a lay preacher on around 31 January 1986.\(^{597}\) Holding the Bishop’s licence meant that Brown was subject to the Bishop’s direction.

385. Bishop Appleby was at pains to stress that while he had no recollection of a meeting occurring, discussion of ‘abusive behaviour by James Brown’ was something he would not have forgotten. He said he would have acted upon such allegations if they had been made.\(^{598}\) As he

\(^{588}\) Transcript of youth worker, Case Study 42, 2 August 2016, 16283:20-39. Transcript redacted for de-identification purposes.
\(^{589}\) Transcript of youth worker, Case Study 42, 2 August 2016, 16287:20-28. Transcript redacted for de-identification purposes.
\(^{590}\) Exhibit 42-0007, ‘Statement of youth worker’, Case Study 42, STAT.1101.001.0001_R at [19].
\(^{591}\) Exhibit 42-0007, ‘Statement of youth worker’, Case Study 42, STAT.1101.001.0001_R at [18]-[19].
\(^{592}\) Exhibit 42-0001, ‘Extract from Anglican Directory’, Case Study 42, ANG.0050.004.2894_R (Tab 30 of Tender Bundle).
\(^{593}\) Exhibit 42-0007, ‘Statement of youth worker’, Case Study 42, STAT.1101.001.0001_R at [19].
\(^{594}\) Transcript of R Appleby, Case Study 42, 5 August 2016, 16530:24-38. Transcript redacted for de-identification purposes.
\(^{595}\) Transcript of R Appleby, Case Study 42, 5 August 2016, 16530:40-47. Transcript redacted for de-identification purposes.
\(^{596}\) Transcript of R Appleby, Case Study 42, 5 August 2016, 16532:9-17. Transcript redacted for de-identification purposes.
\(^{598}\) Transcript of R Appleby, Case Study 42, 5 August 2016, 16531:8-18, 16532:19-22, 16533:3-7. Transcript redacted for de-identification purposes.
had not taken any ‘decisive action’, it suggested to him that no such issue was raised and he
was therefore certain that allegations of child sexual abuse committed by Brown was not
raised at that meeting.\footnote{Transcript of R Appleby, Case Study 42, 5 August 2016, 16531:18-24, 39-41. Transcript redacted for de-identification purposes.}

\begin{itemize}
\item Following Bishop Appleby’s oral evidence in August 2016, he produced his diaries to the Royal
Commission and then gave further oral evidence in November 2016. The 1987 diary shows an
appointment on 12 February 1987 with the young man to whom the youth worker had
spoken.\footnote{Exhibit 42-0001, ‘Extract of entries from Bishop Appleby’s diaries including filenote prepared by Bishop Appleby’, Case Study 42, IND.0570.001.0001_R at 0009_R (Tab 4B of Tender Bundle). Evidence redacted for de-identification purposes.} The diary also shows that Bishop Appleby had scheduled a meeting with Brown
days later on 16 February 1987 and a further meeting with Brown on 12 June 1987.\footnote{Exhibit 42-0001, ‘Extract of entries from Bishop Appleby’s diaries including filenote prepared by Bishop Appleby’, Case Study 42, IND.0570.001.0001_R at 0010_R and 0011_R (Tab 4B of Tender Bundle) and Transcript of R Appleby, Case Study 42, 23 November 2016, 23455:13-21 and 23456:13-15.}

\item In oral evidence, Bishop Appleby said that the young man who was allegedly abused was an
adult by February 1987 and the diary indicated that the appointment was with him.\footnote{Transcript of R Appleby, Case Study 42, 23 November 2016, 23454:27-29.} Bishop
Appleby said he did have that appointment with the young man at the time and also other
meetings with him at around that time as they were discussing the possibility of the man’s
ordination.\footnote{Transcript of R Appleby, Case Study 42, 23 November 2016, 23454:32-36.} It was not suggested by the youth worker that the young man had been present
at the meeting she attended with Bishop Appleby and another man.

\item Bishop Appleby said he had no recollection of what was said at the two meetings with
Brown.\footnote{Transcript of R Appleby, Case Study 42, 23 November 2016, 23456:31-34.} However, he also stated that ‘the almost certain explanation for him coming to see
me on those occasions was that many young men come to see me and talk about the question
of ordination’;\footnote{Transcript of R Appleby, Case Study 42, 23 November 2016, 23455:22-26.} Given Bishop Appleby said he had no recollection of either meeting, his
evidence as to what the meetings were about is pure speculation.

\item Notably, Bishop Appleby had scheduled no other meetings with Brown in 1984, 1985 or 1987.

\item The Royal Commission should find that the youth worker did meet with Assistant Bishop
Appleby in 1987 and have a conversation in the terms alleged by the youth worker. This is
because:
\begin{itemize}
\item The youth worker presented as a frank and credible witness with no motive to lie. She
provided a plausible reason for being present at the meeting with Bishop Appleby,
which was that the victim had disclosed the offending to her and she was told at the
meeting not to tell anyone about it. It is difficult to understand why she would make
such an account up;
\item Bishop Appleby concedes the meeting with the youth worker could have occurred;
\item Bishop Appleby has no recollection of what was discussed at any such meeting with
the youth worker, if it did occur. For that reason, he is not well placed to deny that a
particular discussion took place;
\item Bishop Appleby’s explanation that he could not have been told because if he was he
would have taken ‘decisive action’ is unconvincing. As will be seen below in relation
\end{itemize}

\end{itemize}
to CKA, Bishop Appleby did not take ‘decisive action’ upon being made aware of other allegations of child sexual abuse.

391. While there is a sequence of diary entries in 1987, that is not sufficient in itself to make any finding as to what may have occurred at the meetings.

392. The question is that of disclosure of the allegation and the response to it. The first hand evidence of the youth worker, combined with the fact that the victim’s name was written in Bishop Appleby’s diary at the relevant time, indicates that the meeting was with Bishop Appleby. The fact that there is a sequence of an appointment naming the victims and then two appointments with Brown shortly thereafter, while not of itself sufficiently probative of the matter, when combined with the testimony of the youth worker, is corroborative of the youth worker’s evidence.

**Available findings:**

**AF24** Bishop Appleby met with a youth worker and another man in 1987 and at that meeting:

- It was acknowledged to the youth worker that a young man had disclosed to her his allegation that he had been sexually abused by Brown as a boy;
- The youth worker was told that Brown would be moved to the Maitland parish; and
- The youth worker was asked not to discuss the allegations against Brown with anyone.

### 3.9 Disclosures to the Diocese of allegations against CKC

393. As detailed in Section 2.3 above, the Royal Commission received evidence from survivors CKA and CKB regarding the sexual abuse they say suffered at the hands of their parish priest, CKC, while they served as altar boys in the Diocese during the 1970s.

394. CKA gave evidence that he first disclosed his abuse at the hands of CKC to the Diocese when he met with the Assistant Bishop Appleby in ‘June 1984’. He explained that he met with Assistant Bishop Appleby at the Bishop’s house to complain about Father Arthur Bridge’s business practices. 606 He had just ceased working with Father Bridge.

395. CKA said that after he had explained his concerns about Father Bridge, Assistant Bishop Appleby said ‘We’ll deal with this’, and CKA said, ‘Yeah, I know how you blokes deal with things’. CKA said Appleby then asked CKA what he was talking about. CKA said he then disclosed that he had been sexually abused over several years by CKC when he was a child. He said he also named Rushton, Father James Brown and another priest. CKA said that Assistant Bishop Appleby said he would ‘look into it’ but that he never heard back from the Church.

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about the matter. CKA also said in evidence that ‘it was commonly accepted amongst the altar servers that [Rushton] was molesting boys.’

396. CKA said that following his disclosure to Bishop Appleby in 1984, he was distressed to find that, instead of being sanctioned by the Church, CKC was in fact promoted. There is evidence before the Royal Commission that CKC was promoted in the Diocese shortly after CKA’s disclosure.

397. Consistent with CKA’s account is a filenote of a conversation between CKA and Mr Lawrence taken by Mr Lawrence in January 1999. Mr Lawrence recorded that CKA had told him during their conversation that CKA had disclosed the abuse to then Assistant Bishop Appleby in 1984 and the matter had been ‘swept under the carpet’.

398. During the August sitting of the hearing in this Case Study, Bishop Appleby denied any recollection of knowing CKA and having any meeting with CKA at any time, although he accepted that he may well have met with CKA and his family in relation to matters involving Father Bridge. Bishop Appleby told the Royal Commission that, while he would have been the natural contact point for receiving a complaint about sexual abuse, he has absolutely no recollection of receiving CKA’s alleged disclosure. Bishop Appleby was emphatic that had CKA disclosed CKC’s sexual abuse he would not have forgotten such allegations.

399. Bishop Appleby told the Royal Commission that he would have acted ‘decisively’ upon receipt of such allegations by, firstly, informing Bishop Holland and giving him a filenote of the conversation, and secondly, by following up on how the matter was being handled. Bishop Appleby said he would have responded to CKA’s allegations in accordance with his reputation for dealing with such matters in a ‘decisive and firm’ way.

400. Bishop Appleby told the Royal Commission in his statement dated 18 July 2016 and during his oral evidence on 4 August 2016 that he confirmed his recollection by checking his appointment diaries from 1983 to 1985 with ‘great care’ and found ‘absolutely no entry showing that CKA came to see [him]’.

401. On 5 August 2016, Bishop Appleby reiterated that he had checked his diaries closely for any records of relevant meetings and that ‘there is no single entry for CKA having made a time to come and see [him]’. In response to this evidence, Bishop Appleby was asked on 5 August

607 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [29].

608 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [29].

609 Exhibit 42-0022, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [33].

610 Exhibit 42-0001, ‘Filenote of Dean Graeme Lawrence about Diocesan response to [CKA] from 8-12 January 1999’, NSW.0037.001.0295_R (Tab 68 of Tender Bundle).

611 Exhibit 42-0001, ‘Facsimile from [CKA] to [Redacted] (ODPP)’, Case Study 42, NSW.0037.001.0295_R (Tab 68 of Tender Bundle).


615 Transcript of R Appleby, Case Study 42, 4 August 2016, 16524:21-43.

616 Exhibit 42-0025, ‘Statement of Bishop Appleby’, Case Study 42, STAT.1085.001.0001_R at [74].

617 Transcript of R Appleby, Case Study 42, 5 August 2016, 16555:13-23.
to produce his diaries to the Royal Commission, which he undertook to do. Bishop Appleby told the Royal Commission that, so far as he knows, every meeting he ever had was recorded in his diaries. Although he conceded that incidental and impromptu meetings, such as a visit to his home, probably would not have been recorded in his diary.

On 8 August 2016, Bishop Appleby produced those diaries in response to a Summons served by the Royal Commission. Together with his diaries, Bishop Appleby produced a document summarising relevant meetings recorded in his diaries from 1984 to 1990. Bishop Appleby’s diaries contain a reference to a meeting on 12 July 1984 with CKA ‘parents’ at their home and, contrary to Bishop Appleby’s written and oral evidence to the Royal Commission, the diaries also show an appointment with CKA on 13 August 1984 at Bishop Appleby’s then residence at 48 Newcombe Street, Newcastle. Accordingly, it appears that a meeting did take place between CKA and then Assistant Bishop Appleby at the Assistant Bishop’s home, although it occurred in August rather than in June.

Bishop Appleby produced a supplementary statement to the Royal Commission and gave further oral evidence to address the apparent conflicts between his first statement, his oral evidence on 4 and 5 August 2016, and his personal diaries produced to the Royal Commission. Bishop Appleby said he was embarrassed and apologised to the Royal Commission for any misleading impression arising from his evidence.

Bishop Appleby explained that his practice was to use his diary as a reminder of future appointments and events, not to record appointments after the event. Consequently, Bishop Appleby said that his diary shows that at some stage he arranged to meet CKA at the Bishop’s residence on 13 August 1984. He maintained that he could not recall this meeting taking place but accepted that it probably did.

When interviewed by police in September 2014, Bishop Appleby denied meeting with CKA. Bishop Appleby explained that he overlooked his 13 August 1984 meeting with CKA because the Detective who interviewed him suggested the meeting took place at the Diocesan Office and, consequently, this did not trigger a memory for Bishop Appleby.

By way of his supplementary statement to the Royal Commission, Bishop Appleby gave evidence that his diary seemed to confirm an intended meeting with CKA’s family at their
home on 12 July 1984. Bishop Appleby said that the timing of this meeting accords with his memory of the issues surrounding Bridge at the time.630

407. The Royal Commission should prefer CKA’s account to that of Bishop Appleby:

a. Originally, in his written statement and during two days of oral evidence, Bishop Appleby was insistent that he had not met with CKA and told the Royal Commission that he had carefully checked his diaries, which confirmed there was no meeting;

b. The Royal Commission subsequently required the production of Bishop Appleby’s diaries which showed that there was in fact a meeting between then Assistant Bishop Appleby and CKA on 13 August 1984. This shows a reason to be cautious in accepting either Bishop Appleby’s memory or his credibility or both;

c. CKA has a clear and precise memory of disclosing the abuse of CKC to then Assistant Bishop Appleby;

d. In contrast, Bishop Appleby asserted that he had no recollection of the conversation. The fact that he has no recollection makes it difficult for Bishop Appleby to deny that CKA’s version of the conversation;

e. Consistent with CKA’s evidence to the Royal Commission is the fact that CKA told Mr Lawrence during a 1999 conversation that he had disclosed the abuse to Assistant Bishop Appleby in 1999. This was many years before this Royal Commission commenced.

408. There is no evidence that then Assistant Bishop Appleby took any steps in relation to CKC after being advised in 1984 of the allegations he had sexually abused a child. After this time, CKC remained licensed as a priest in the Diocese until February 1996.631 There is also no evidence that then Assistant Bishop Appleby took any steps in relation to Rushton, who remained an Archdeacon in the Diocese.

Available findings:

AF25 Then Assistant Bishop Appleby met with CKA at Assistant Bishop Appleby’s home on 13 August 1984. At that meeting, CKA disclosed to Assistant Bishop Appleby that he had been sexually abused by CKC when he was a boy.

AF26 Then Assistant Bishop Appleby took no steps to report or risk manage CKC after he was advised in 1984 that CKC had sexually abused a child many years earlier. CKC remained licensed as a priest in the Diocese.

AF27 At the 13 August 1984 meeting between CKA and Assistant Bishop Appleby, CKA told him that Rushton sexually abused children.

AF28 Then Assistant Bishop Appleby took no steps to report or risk manage Rushton following CKA’s allegations made in 1984, and Rushton remained an Archdeacon in the Diocese.

630 Exhibit 42-0117, ‘Supplementary Statement of Bishop Appleby, Case Study 42, STAT.1085.002.0001_R at [17].

631 Exhibit 42-0001, ‘Letter from Bishop Herft to CKC dated 26 February 1996’, ANG.0050.003.4678_R (Tab 17 of Tender Bundle).
3.10 Conclusions on the treatment of child sexual abuse allegations during Bishop Holland’s episcopate

409. In a candid conversation with Bishop Thompson and Mr Cleary in early 2015, which Mr Cleary recorded by way of a filenote, Mr Allen said in relation to claims of child sexual abuse during Bishop Holland’s tenure that Bishop Holland had a ‘do nothing approach’. 632 This is an accurate description of Bishop Holland’s approach for the reasons set out below.

410. Bishop Holland gave evidence he was now aware that there were many allegations that Rushton had abused boys during his tenure as priest in Wallsend and Maitland. 633 Bishop Holland now accepted that Rushton sexually abused a large number of boys while he worked in the Diocese of Newcastle. 634

411. Bishop Holland also agreed that he had licensed Rushton as a priest in the Diocese and this had allowed Rushton to have access to many children. 635 However, Bishop Holland did not accept any responsibility in having failed to exercise his management responsibilities as head of the Diocese, because he said he did not know of any allegations against Rushton. 636

412. Seven individuals gave evidence to the Royal Commission that they personally reported allegations of child sexual abuse against Rushton and Brown to Bishop Holland between 1979 and 1980. Bishop Holland’s evidence is that he either has no recollection of such reports, or that no such reports were made. His evidence should be not be accepted.

413. The Royal Commission has also received allegations from three people that they were abused by Rushton after 1979. 637 The failure by Bishop Holland to act on the allegations he received regarding abuse by Rushton between 1979 and 1980 was a lost opportunity to prevent further abuse being perpetrated by Rushton who the Diocese has now acknowledged to be a prolific offender.

414. Bishop Holland also gave evidence that he never spoke with Ms Aslin about her allegations concerning Brown in 1979. The evidence of Ms Aslin and Professor Frost that they both spoke to Bishop Holland about Brown at that time should be preferred. Brown was convicted in 2012 for sexually abusing 20 children. Fifteen of those children were abused after 1979. 638 Bishop Holland’s failure to act at the time in relation to Brown was another lost opportunity to prevent further abuse by Brown.

415. Then Assistant Bishop Appleby similarly received a disclosure of sexual abuse allegations against Brown in 1987, and based on Assistant Bishop Appleby’s diary entries, probably in February 1987. Brown was convicted of a number of offences that occurred after February 1987 involving seven victims. 639 The Royal Commission should also find that CKA disclosed

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632 Exhibit 42-0001, ‘Filenote of John Cleary dated 27 March 2015’, Case Study 42, ANG.0132.001.0008 (Tab 400 of Tender Bundle).
634 Transcript of A Holland, Case Study 42, 3 August 2016, 163318:18-22.
635 Transcript of A Holland, Case Study 42, 3 August 2016, 16310:2-10.
636 Transcript of A Holland, Case Study 42, 3 August 2016, 16310:12-15.
637 Exhibit 42-0130, ‘Reports of Abuse Allegedly Perpetrated by Father Peter Rushton’, Case Study 36, ANG.0367.001.0001.
allegations of child sexual abuse involving CKC and Rushton to Assistant Bishop Appleby in 1984. Again, no steps were taken by the then Assistant Bishop in relation to this allegations.

Available findings:

AF29  Bishop Holland’s inaction in relation to allegations that Rushton was a perpetrator of child sexual abuse placed children in the Diocese at risk of harm. There are allegations that three children were abused by Rushton after the allegations were made known to Bishop Holland in 1979 and 1980.

AF30  Bishop Holland’s inaction in relation to allegations made in 1979 that Brown was a perpetrator of child sexual abuse placed children in the Diocese at risk of harm from Brown. Brown was later convicted of sexually offending against 13 children after 1979.

AF31  Bishop Appleby’s inaction in relation to allegations made in February 1987 that Brown was a perpetrator of child sexual abuse placed children in the Diocese at risk of harm from Brown. Brown was later convicted of sexually offending against seven children after February 1987.

AF32  Bishop Appleby’s inaction in relation to allegations made in 1984 that CKC was a perpetrator of child sexual abuse placed children in the Diocese at risk of harm from CKC.

AF33  Bishop Appleby’s inaction in relation to allegations made in 1984 that Rushton was a perpetrator of child sexual abuse placed children in the Diocese at risk of harm from Rushton.

AF34  Bishop Holland and then Assistant Bishop Appleby:

   a.  When able to ignore disclosures of allegations of sexual abuse, chose to do so;

   b.  When unable to ignore allegations, either because of the people involved or police prosecution, responded in a manner to protect the reputation of the Diocese in preference to the proper investigation of the allegations, the taking of any steps to prevent further abuse and the interests of the alleged or ultimately proven victim;

   c.  By their acts or omissions, enabled alleged or convicted perpetrators to continue working with access to children and without alerting other members of the clergy to the disclosed allegations.
4. Institutional response under Bishop Roger Herft (May 1993 to February 2005)

4.1 Introduction

416. Bishop Roger Herft was the Bishop of Newcastle from May 1993 to February 2005. He was then the Archbishop of Perth until his resignation on 15 December 2016.

417. Throughout Bishop Herft’s term in the Diocese, Mr Lawrence was Dean of the Cathedral. Rushton was the Archdeacon of Maitland until 1998. Rushton retired in 2001 and was granted a permission to officiate in the Diocese by Bishop Herft during his retirement.

418. During Bishop Herft’s tenure as Bishop of Newcastle, paedophilia generally, and paedophilia within the Anglican Church in particular, was a live issue. Bishop Herft agreed that, in light of the findings of the Wood Royal Commission in 1997 and the report on paedophilia within the Tasmanian Diocese released in 1998, paedophilia was a great concern within the Anglican Church of Australia during his tenure as Bishop of Newcastle. In 1996, Bishop Herft addressed the issue of child sexual abuse by clergy in his address to Synod. He told the Royal Commission that by the time of his address in 1996, the issue of paedophilia in the Church was ‘well on his radar’.

419. Bishop Herft acknowledged in evidence that, as the person responsible for licensing clergy in the parish, during his term as Bishop it was important that he was aware of any allegations of child sexual abuse levelled against members of the clergy in his Diocese. He also told the Royal Commission that he accepted that part of his role as Bishop was to manage the risk that his clergy may present if allegations were made against them.

420. Bishop Herft told the Royal Commission that by the time he took over as Bishop of Newcastle, Bishop Holland had left the Diocese and had appointed Mr Lawrence as the Commissary. Bishop Herft received no notification from Mr Lawrence of any allegations of child sexual abuse made against members of the clergy or laypeople associated with the Diocese.

421. Bishop Herft said that he was also not made aware by Bishop Appleby, who had been Assistant Bishop under Bishop Holland, of whether there were any allegations of child sexual abuse...
against clergy or laypeople in the Diocese. Bishop Appleby had left the Diocese about two years prior to Bishop Herft’s appointment.

422. This section of the submissions:
   a. Describes how policies were developed for handling allegations of sexual misconduct including child sexual abuse, including when the police were to be notified of allegations;
   b. Discusses the 1998 advice of then Deputy Chancellor Mr Paul Rosser QC to Bishop Herft to seek to avoid hearing allegations of child sexual abuse where possible to do so;
   c. Outlines the Diocese’s complaint-management and record-keeping practices, including the development of the so-called ‘yellow envelope’ system;
   d. Discusses the Diocese’s screening practices in relation to its clergy and lay officials;
   e. Considers the way in which Bishop Herft and others in the Diocese handed allegations that the following individuals had perpetrated child sexual abuse:
      i. Mr Lawrence
      ii. Brown
      iii. Rushton
      iv. CKC, and
      v. Barrack.

4.2 Framework for handling allegations of child sexual abuse

Disciplinary framework

423. The disciplinary framework for clergy in the Diocese under Bishop Herft was the same as that which applied during the episcopates of Bishop Ian Shevill and Bishop Holland, being that constituted by the General Synod’s Offences Canon 1962,  and the Diocese’s Clergy Discipline Ordinance 1966. These instruments were discussed in Section 2 above.

424. Bishop Herft agreed that it was appropriate to prosecute allegations of child sexual abuse against clergy under the formal disciplinary mechanisms available to him during his tenure. However, he conceded that no allegations of child sexual abuse were prosecuted before the Panel of Triers during his episcopate.

650 Transcript of R Herft, Case Study 42, 12 August 2016, 17227:39-44.
651 Transcript of R Herft, Case Study 42, 12 August 2016, 17227:31-37.
652 Exhibit 42-0001, ‘Offences Canon 1962’, Case Study 42, ANG.0050.002.1172 (Tab 431 of Tender Bundle).
653 Exhibit 42-0001, ‘Clergy Discipline Ordinance 1966’, Case Study 42, ANG.0050.004.1677 (Tab 432 of Tender Bundle).
654 Transcript of R Herft, Case Study 42, 12 August 2016, 17254:27-41.
425. Bishop Herft gave evidence that part of the answer as to why he did not take action through the formal disciplinary framework in response to child sexual abuse allegations was because of the high degree of proof required to proceed against clergy under that framework. He said that the formal process was cumbersome and there was a reluctance to use the Canons ‘in any significant way’ following an unsuccessful prosecution in a matter brought before the Panel of Triers early in his episcopate. This was the only attempted prosecution under the formal disciplinary framework during Bishop Herft’s tenure as Bishop.

Introduction of policy for dealing with Sexual Harassment in 1993

426. During Bishop Herft’s tenure, there were developments in the Diocesan policy framework that had implications for the way in which allegations of child sexual abuse were handled.

427. In October 1993, the Diocese published a policy called ‘Principles and Procedures for Dealing with Sexual Harassment by Ministers in the Diocese of Newcastle’ (1993 Policy). This policy applied to all of those who were licensed by the Bishop, be they clergy or lay people.

428. The term ‘sexual harassment’ in the 1993 Policy was wide enough to include child sexual abuse since it was defined as unwelcome behaviour or sexual relationships in a pastoral context including ‘any behaviour which has as its purpose some form of sexual gratification.’

429. The 1993 Policy expressly acknowledged that ‘sexual harassment’ could include conduct by an adult towards a child which was illegal. However, that policy made no reference to any reporting requirements or guidelines as to when or how such incidents should be reported to the police or the Department of Community Services.

430. The scheme of the 1993 Policy was in the first instance to attempt to conciliate complaints. The Bishop was to appoint a number of Sexual Harassment Conciliators to receive complaints and conciliate them. The conciliators were to be organised on a deanery level and integrated by way of a diocesan organising and monitoring committee. The 1993 Policy said that the Archdeacons and Bishop should not be involved in the early stage of dealing with a complaint.

431. If the complaint could not be conciliated, it was to be referred to the Bishop. If the Bishop could not resolve the complaint, it was open to refer the complaint to the Board of Enquiry.
which could then decide whether to refer the complaint to the Panel of Triers to be dealt with under the Clergy Discipline Ordinance 1966.664

432. The 1993 Policy provided that no complaint would be proceeded with unless the complainant was prepared to have his or her name and details of the complaint referred to the respondent.665

433. The 1993 Policy also provided that the Diocese was under an ‘obligation’ to provide pastoral support to complainants and respondents.666

434. Shortly after the introduction of the 1993 Policy, the Diocese published a pamphlet identifying the contact details for the conciliators in various areas of the Diocese.667


The 1995 Policy made minor amendments to the complaint-handling procedure.

Diocesan Monitoring Committee – CASM

436. In around 1994, the Diocese established the Diocesan Monitoring Committee to Consider Issues of Sexual Harassment.668 The original membership of this committee included Mr Robert Caddies and Ms Deirdre Anderson.669

437. Mr Caddies was an employed solicitor of Rankin & Nathan - the law firm retained on behalf of the Trustees of the Diocese of Newcastle from 1996 until around August 2005.670 Mr Caddies was also a member of the Diocesan Synod and the parish council from approximately 2003 to 2011 and a member of the committee from 1995 until 2003.671 The Royal Commission has received evidence from Mrs Jean Sanders that Mr Caddies acted as the committee’s legal representative during the period of his membership.672

438. Mr Caddies gave oral evidence that he was asked to join the committee because ‘the church wanted a lawyer on the committee’.673 He said that his role ‘was really one of putting a legal perspective on the matters that came before the committee.’674

664 Exhibit 42-0001, ‘Clergy Discipline Ordinance 1966-2001’, Case Study 42, ANG.0050.004.1677 (Tab 432 of Tender Bundle).


666 Exhibit 42-0001, ‘Principles & Procedures for dealing with sexual harassment by ministers in the Diocese of Newcastle’, Case Study 42, ANG.0327.001.0059 at 0062, [8] (Tab 435 of Tender Bundle).

667 Exhibit 42-0001, ‘Sexual Harassment Conciliators – What are they and how can they help?’, Case Study 42, ANG.0054.001.0490 (Tab 436 of Tender Bundle).

668 Exhibit 42-0001, ‘Memorandum from Bishop Herft to Archdeacons and others dated 12 September 1994’, Case Study 42, ANG.0054.001.0599 (Tab 13 of Tender Bundle).

669 Exhibit 42-0001, ‘Memorandum from Bishop Herft to Archdeacons, the Dean and Area Deans’, Case Study 42, ANG.0054.001.0599 (Tab 13 of Tender Bundle).

670 Exhibit 42-0102, ‘Statement of Robert Norman Caddies’, Case Study 42, STAT.1000.001.0001_R; Exhibit 42-0001, ‘Letter from Bishop Brian Farran to Robert Caddies’, Case Study 42, ANG.0327.001.0020 (Tab 141 of Tender Bundle).

671 Exhibit 42-0102, ‘Statement of Robert Norman Caddies’, Case Study 42, STAT.1000.001.0001_R.

672 Exhibit 42-042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0001_R at [12].

673 Transcript of R Caddies, Case Study 42, 16 November 2016, 23118:4-18.

674 Transcript of R Caddies, Case Study 42, 16 November 2016, 23118:4-18.
439. The committee eventually became known as the Committee for Allegations of Sexual Misconduct (CASM) and that is how it will be referred to in these submissions. The purpose of CASM was to deal with allegations relating to sexual harassment pursuant to the framework established by the 1993 Policy.

Limitations of the ‘sexual harassment’ framework

440. Bishop Herft said that until 1999, the policy for dealing with child sexual abuse complaints was the 1993 (and later 1995) Policy. However, he accepted that these policies were essentially directed towards adult sexual harassment and not sexual offending against children.

441. Bishop Herft gave evidence that under the 1993 and 1995 Policies, the Bishop and Archdeacons were not to be involved in the early stages of sexual harassment complaints received by the Committee.

442. The focus under that policy was mediating sexual harassment complaints between a complainant and the respondent confidentially through a Church conciliator. The conciliators were acting as his agent when receiving complaints of sexual harassment.

443. Bishop Herft admitted that the mediation framework established under the 1995 Policy was not an appropriate way of dealing with allegations of child sexual abuse.

444. Notwithstanding that the applicable policy framework at the time directed the conciliators to exclude the Archdeacons and Bishops from the complaint management process in relation to sexual harassment complaints, Bishop Herft’s expectation was that he would be made aware of any child sexual abuse allegations.

445. Bishop Herft would meet with the conciliators approximately once a year. He admitted that, while it was his belief that the conciliators would bring any complaints of child sexual abuse they had received to his attention when he met with them, he could not recall any specific policy or instruction directing the conciliators to notify him of child sexual abuse allegations.

446. Prior to 2001 when Mrs Sanders became Chair of the CASM, Bishop Herft would meet with the Chair ‘probably once every few months’ at which time he expected allegations of child sexual abuse would have been brought to his attention. He admitted that, as Bishop, he needed to know immediately if there was an allegation that one of the priests of his Diocese...

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675 Exhibit 42-0001, ‘Professional Standards Ordinance 2005’, Case Study 42, ANG.0050.001.4524 at 4524 (Tab 448A of Tender Bundle).

676 Exhibit 42-0076, ‘Statement of Archbishop Roger Herft’, Case Study 42, STAT.0073.001.0001 at [11]; Exhibit 42-0100, ‘Statement of Robert Caddies’ at [2(c)] to [3], Case Study 42, STAT.1070.001.0001_R at 0002_R.

677 Transcript of R Herft, Case Study 42, 12 August 2016, 17240:38-47; 17245:7-11.

678 Transcript of R Herft, Case Study 42, 12 August 2016, 17241:25-29.

679 Transcript of R Herft, Case Study 42, 12 August 2016, 17236:2-33.

680 Transcript of R Herft, Case Study 42, 12 August 2016, 17237:33-36.

681 Transcript of R Herft, Case Study 42, 12 August 2016, 17257:30-38.

682 Transcript of R Herft, Case Study 42, 12 August 2016, 17245:7-11, 17237:38-41.

683 Transcript of R Herft, Case Study 42, 12 August 2016, 17248:26-30.


685 Transcript of R Herft, Case Study 42, 12 August 2016, 17239:43-47.
had committed any crime, including offences related to child sexual abuse, and conceded that he did not take any steps or put in place any procedures to ensure that this happened.686

447. The Royal Commission should find that the 1993 and 1995 Policies were ill-adapted to, and unsuitable for, handling allegations of child sexual abuse. These policies concentrated on attempting to conciliate complaints, which is plainly inappropriate when responding to allegations of child sexual abuse, which is a crime.

448. Further, no complaint would be proceeded with unless the complainant was prepared to be named. In addition, there was no express requirement in the policies to report allegations of child sexual abuse to the police.

449. Bishop Herft conceded in oral evidence that the complaints management process under those policies was an ‘extremely inadequate and hopeless process’ in terms of dealing with allegations of child sexual abuse.687

Available finding:

AF35 The Diocese’s ‘Principles and Procedures for Dealing with Sexual Harassment by Ministers in the Diocese of Newcastle’ introduced in 1993, and amended in 1995, was an inadequate and unsuitable framework in which to manage allegations that clergy and those associated with the Diocese had perpetrated child sexual abuse, including because those policies focused on conciliating complaints and required the complainant to identify themselves to their alleged abuser before their complaint could progress.

Guidelines for Care in Working with Children and Youth in the Anglican Diocese in Newcastle 1995

450. In 1995, the Diocese also introduced a policy entitled ‘Guidelines for Care in Working with Children and Youth in the Anglican Diocese of Newcastle’ (1995 Guidelines), which was a manual for those involved in running children and youth activities or programs in the Diocese. The 1995 Guidelines contained a section on reporting suspected or alleged sexual abuse.688

451. That section of the 1995 Guidelines required the person with the suspicion or receiving the disclosure to report the matter to the relevant body responsible for the activity or program. In some cases this would be the parish priest, otherwise a Diocesan organisation.689 After receiving the report, the responsible body was to then contact the appropriate government department or agency. In circumstances where the abuse had just occurred or where the responsible body could not be contacted, the person was to report the matter directly to the relevant government authority.690

686 Transcript of R Herft, Case Study 42, 12 August 2016, 17248:26-30.
688 Exhibit 42-0046, ‘Guidelines for Care in Working with Children and Youth in the Anglican Diocese of Newcastle’, Case Study 42, IND.0482.001.0026 at 0054.
689 Exhibit 42-0046, ‘Guidelines for Care in Working with Children and Youth in the Anglican Diocese of Newcastle’, Case Study 42, IND.0482.001.0026 at 0032.
690 Exhibit 42-0046, ‘Guidelines for Care in Working with Children and Youth in the Anglican Diocese of Newcastle’, Case Study 42, IND.0482.001.0026 at 0054.
The 1995 Guidelines was the first Diocesan policy that expressly imposed a requirement to notify a government agency of allegations of child sexual abuse.  

The 1995 Guidelines stated that ‘[e]xperts in child abuse agree that children very rarely lie about abuse’. It also stated that in the event ‘there is some suspicion of abuse’, a decision needed to be made about making an official report.

Attached to the 1995 Guidelines was a ‘Child Sexual Abuse Report Form’. Mr Peter Mitchell, who was the Diocesan Registrar during part of Bishop Roger Herft’s tenure as Bishop of Newcastle, agreed in oral evidence that the purpose of this document was for anyone who had information concerning suspected or alleged sexual abuse of a child to report it to the responsible body within the Diocese. Bishop Herft also gave evidence that he expected that he would be made aware of any reports, although he did not put any procedure in place to be made aware of such allegations.

Also attached to the 1995 Guidelines was a ‘Summary of Reporting Requirements At September 1993’. That summary identified ‘Others’ as mandated reporters with respect to ‘Sexual abuse only’ under the Children (Care and Protection) Act 1987 (NSW), which is discussed below.

1999 Ethics in Ministry Code

In August 1999, the ‘Ethics in Ministry’ code was introduced (1999 Ethics in Ministry Code). This code applied to all clergy, lay employees and lay volunteers serving in the Diocese.

The 1999 Ethics in Ministry Code prescribed certain guidelines for different aspects of life including maintaining proper relationships, sexual behaviour and working with children and youth. Bishop Herft’s view was that the 1999 Ethics in Ministry Code operated like a code of conduct for clergy.

The 1999 Ethics in Ministry Code provided that ‘[c]ertain sexual behaviour with children constitutes a criminal offence’. The code also provided that when sexual misconduct was suspected, the 1995 Policy should be consulted.

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691 Exhibit 42-0046, ‘Guidelines for Care in Working with Children and Youth in the Anglican Diocese of Newcastle’, Case Study 42, IND.0482.001.0026 at 0054 and 0057.

692 Exhibit 42-0046, ‘Guidelines for Care in Working with Children and Youth in the Anglican Diocese of Newcastle’, Case Study 42, IND.0482.001.0026 at 0054.

693 Exhibit 42-0046, ‘Guidelines for Care in Working with Children and Youth in the Anglican Diocese of Newcastle’, Case Study 42, IND.0482.001.0026 at 0064.

694 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16965:17-23.

695 Transcript of R Herft, Case Study 42, 12 August 2016, 17248:9-30.

696 Exhibit 42-0046, ‘Guidelines for Care in Working with Children and Youth in the Anglican Diocese of Newcastle’, Case Study 42, IND.0482.001.0026 at 0057.

697 Exhibit 42-0046, ‘Guidelines for Care in Working with Children and Youth in the Anglican Diocese of Newcastle’, Case Study 42, IND.0482.001.0026 at 0057.

698 Exhibit 42-0001, ‘Ethics in Ministry’, ANG.0048.001.1507 (Tab 439 of Tender Bundle).

699 Transcript of R Herft, Case Study 42, 12 August 2016, 17243:25-27.

700 Exhibit 42-0001, ‘Ethics in Ministry’, ANG.0048.001.1507 at 1511, cl 6.4 and 1512, cl 6.8 (Tab 439 of Tender Bundle).
459. The 1999 Ethics in Ministry Code also provided that ‘[a]ny physical activity which is or may be construed as sexually stimulating for the adult or child is inappropriate and must be avoided.’

460. The 1999 Ethics in Ministry Code provided that the need for confidentiality could not override the duty of care for members of the Church and wider community and stated that ‘like all types of secrecy, confidentiality can cover up as well as protect’. Clause 4.5 provided:

There may be situations where there is no legal obligation to disclose, but where disclosure in view of the clergy or church worker, is necessary in order to avoid the risk of physical, financial or emotional harm or hardship to the parishioner or other person. In light of community expectations that clergy and church workers maintain confidentiality ... clergy and church workers should consider obtaining advice from the Diocesan Registrar in such situations.

461. The 1999 Ethics in Ministry Code also made specific reference to section 316 of the Crimes Act 1900 (NSW), which is discussed in further detail below.

462. Bishop Herft agreed that as the 1999 Ethics in Ministry Code contained a reference to section 316 of the Crimes Act, he was aware of the legal obligations under that section in 1999.

Principles and Procedures for Dealing with Allegations of Sexual Misconduct 2002

463. By September 2002, the Diocese more squarely focused on the issue of child sexual abuse. In September 2002, the Diocese published the 'Principles and Procedures for Dealing with Allegations of Sexual Misconduct'. This policy defined ‘sexual misconduct’ as including ‘sexual harassment or sexual abuse or any other behaviour of a sexual nature that is inconsistent with ethical pastoral care’.

464. The 2002 Policy stated:

Any form of sexual behaviour with a minor (that is, under the age of 16 years) ... is regarded as sexual abuse and is illegal and will not be dealt with by the procedures outlined in this document. Such allegations must be referred to the Department of Community Services.

465. It was consistent with section 27(2) Children and Young Persons (Care and Protection) Act 1998 (NSW), which imposed mandatory reporting to be made to the Department of Community Services.

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701 Exhibit 42-0001, 'Ethics in Ministry', ANG.0048.001.1507 at 1514 (Tab 439 of Tender Bundle).
702 Exhibit 42-0001, 'Ethics in Ministry', ANG.0048.001.1507 at 1510 (Tab 439 of Tender Bundle).
703 Transcript of R Herft, Case Study 42, 12 August 2016, 17244:35-39.
704 Exhibit 42-0001, Principles and Procedures for Dealing with Allegations of Sexual Misconduct, Case Study 42, STAT.0073.001.0117 (Tab 441 of Tender Bundle).
705 Exhibit 42-0001, Principles and Procedures for Dealing with Allegations of Sexual Misconduct, Case Study 42, STAT.0073.001.0117 at 0118 (Tab 441 of Tender Bundle).
Obligations for notifying the authorities of child sexual abuse allegations

Obligation to report a felony under common law and statute

466. Until 1997, a common law offence existed in New South Wales known as ‘misprision of a felony’. This offence consisted of knowing that a felony had been committed and failing to disclose that knowledge to the authorities within a reasonable time, having had a reasonable opportunity to do so. This offence was abolished in 1997 as it was effectively replaced by section 316 of the Crimes Act 1900 (NSW) (Crimes Act), which was inserted in 1990.

467. Under section 316 of the Crimes Act, it is an offence for any person who ‘knows or believes’ that a ‘serious indictable offence’ has been committed and has information which might be of material assistance in apprehending or prosecuting the offender, to fail to bring that information to the attention of the police or appropriate authority. A ‘serious indictable offence’ was identified in the legislation as an indictable offence that is punishable by imprisonment for life or for five or more years.

Mandatory reporting obligations under statute


469. In December 2000, the Children and Young Persons (Care and Protection) Act 1998 (NSW) (1998 Act) commenced. This statute extended mandatory reporting obligations to people who, in the course of their professional work or paid employment, delivered health care, welfare, education, children’s services, residential services, or law enforcement, wholly or partly to children. This included people holding management positions in organisations that provided such services.

470. Under the 1998 Act, if the mandated reporter ‘has reasonable grounds to suspect that a child is at risk of significant harm; and those grounds arise during the course of or from the person’s work’, the person must report it. A child ‘is at risk of significant harm’ if the child or young person has been, or is at risk of being, sexually abused or ill-treated.

471. The 1998 Act does not expressly include religious workers and volunteers as mandatory reporters. Only those people engaged in professional work or other paid employment, and those who hold management positions in an organisation providing the listed services

707 Crimes Act 1900 (NSW), s 316(1).
708 Crimes Act 1900 (NSW), s 4(1).
709 Children (Care and Protection—General) Regulation 1988 r 10(1); Children (Care and Protection) Act 1987 (NSW) ss 3(1) and 22.
710 Children and Young Persons (Care and Protection) Act 1998 (NSW), s 27.
711 Children and Young Persons (Care and Protection) Act 1998 (NSW), s 23(1)(c).
712 Children’s Protection Act 1993 (SA), ss 11(2)(ga) and 11(2)(gb).
713 Children and Young Persons (Care and Protection) Act 1998 (NSW), s 27(1)(a).
(which would include managers employed by Church welfare agencies and Church agencies or bodies providing children’s services) are mandated reporters under the 1998 Act.\footnote{Children and Young Persons (Care and Protection) Act 1998 (NSW), s 27(1)(b).}

**Bishop Herft’s understanding of the obligations for notifying the authorities of child sexual abuse allegations**

472. Notwithstanding any ambiguity in the 1998 Act, Bishop Herft gave evidence that from 1993, he understood ‘that any matters of child abuse should be reported to the police.’\footnote{Transcript of R Herft, Case Study 42, 12 August 2016, 17221:25-28.} This was consistent with the 1995 Guidelines specification of mandatory reporting requirements in response to allegations of child sexual abuse.

473. Bishop Herft said that he understood his obligation to report child sexual abuse allegations only arose when he had received a ‘complaint of some substance’.\footnote{Transcript of R Herft, Case Study 42, 12 August 2016, 17222:1-5.} He said that while he was Bishop of Newcastle, he did not consider he owed an obligation to report allegations of child sexual abuse to the police unless he knew the name of the complainant.\footnote{Transcript of R Herft, Case Study 42, 12 August 2016, 17222:46-17223:3.}

474. Bishop Herft also gave evidence that prior to 2002, if someone making an allegation of child sexual abuse would not put the allegation in writing, no further action would be taken by the Diocese.\footnote{Transcript of R Herft, Case Study 42, 12 August 2016, 17252:47-17253:3; 17255:27-31.}

475. He accepted that this left children at risk and was ‘totally unacceptable’.\footnote{Transcript of R Herft, Case Study 42, 12 August 2016, 17255:33-38.} He also accepted that during his tenure as Bishop, he did not discharge his responsibility to manage the risk that his clergy might present if allegations were made against them.\footnote{Transcript of R Herft, Case Study 42, 12 August 2016, 17222:46-17223:3.}

476. Bishop Herft also said that while he was Bishop of Newcastle, he did not consider he owed an obligation to report allegations of child sexual abuse to the police unless he knew the name of the complainant.\footnote{Transcript of R Herft, Case Study 42, 12 August 2016, 17222:46-17223:3.}

**Available findings:**

**AF36** Prior to the introduction of the ‘Guidelines for Care in Working with Children and Youth in the Anglican Diocese of Newcastle’ in 1995, the Diocese did not have a written policy in place for reporting allegations of child sexual abuse to the police or child protection authorities.

**AF37** During his tenure as Bishop of Newcastle, Bishop Herft understood that he was responsible for managing the risk posed to children by clergy if there were allegations of child sexual abuse made against them.

**AF38** Bishop Herft’s informal policy of not progressing a complaint of child sexual abuse unless it was recorded in writing and unless the complainant’s name was known left children at risk.

\footnote{Transcript of R Herft, Case Study 42, 12 August 2016, 17221:25-28.}
\footnote{Transcript of R Herft, Case Study 42, 12 August 2016, 17222:1-5.}
\footnote{Transcript of R Herft, Case Study 42, 12 August 2016, 17222:46-17223:3.}
\footnote{Transcript of R Herft, Case Study 42, 12 August 2016, 17252:47-17253:3; 17255:27-31.}
\footnote{Transcript of R Herft, Case Study 42, 12 August 2016, 17255:33-38.}
\footnote{Transcript of R Herft, Case Study 42, 12 August 2016, 17253:26-34.}
\footnote{Transcript of R Herft, Case Study 42, 12 August 2016, 17222:46-17223:3.}
4.3 Deputy Chancellor’s 1998 advice to the Bishop regarding the response to sexual harassment complaints

477. In evidence is a filenote prepared by Mr Mitchell, then the Diocesan Registrar, of a meeting he had with Bishop Herft, Deputy Chancellor Mr Paul Rosser QC and the then Chair of CASM, Ms Anderson, on 13 May 1998.722

478. According to the filenote, the purpose of the meeting was to discuss the appropriate response when an individual made allegations of sexual harassment but did not wish to take the matter any further.

479. Mr Rosser QC gave evidence that Bishop Herft was ‘well and truly aware’ of his obligation to report information about serious indictable offences as at May 1998 as this obligation was the basis upon which Bishop Herft sought and received legal advice from Mr Rosser QC at that time.723 Mr Caddies also told the Royal Commission that he advised Bishop Herft of the legal obligation under section 316 of the Crimes Act ‘at various times’ from around 1995.724

480. According to the filenote, Mr Rosser QC advised the Bishop that:725

a. Wherever pastorally possible, he ought to decline to accept information or to read any reports of sexual harassment complaints.

b. In declining, Bishop Herft should advise the person making the complaint that –

i. if the matter is one of a criminal offence, then he may be obliged to do something under criminal law, and

ii. equally if the matter is one of a serious breach of the professional standards expected of clergy, then he may have to weigh up the pastoral implications of leaving a priest in a position where he may do further harm as opposed to the pastoral considerations of the person making the allegations.

481. Bishop Herft accepted that Mr Mitchell’s filenote was an accurate representation of what was discussed at the meeting in May 1998.726 At the time of receiving Mr Rosser QC’s advice, he understood that Mr Rosser QC was encouraging him to avoid coming into possession of information about complaints of sexual harassment if possession of such information would require him to respond.727

482. Bishop Herft also accepted that the practice adopted in the Diocese as at May 1998 of taking no action in response to allegations of child sexual abuse unless the complaint was first reduced to writing was an ineffective risk management strategy.1

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722 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16936:7-9; Exhibit 42-0001, ‘Notes from a meeting on ‘13 May 1998’, Case Study 42, ANG.0054.001.0405 (Tab 33 of Tender Bundle).

723 Transcript of P Rosser, Case Study 42, 30 August 2016, 17472:32-46.

724 Transcript of R Caddies, Case Study 42, 16 November 2016, 23122:2-19.

725 Exhibit 42-0001, ‘Notes from a meeting on ‘13 May 1998’, Case Study 42, ANG.0054.001.0405 (Tab 33 of Tender Bundle).

726 Transcript of R Herft, Case Study 42, 12 August 2016, 17252:24-27.

727 Transcript of R Herft, Case Study 42, 12 August 2016, 17256:33-17257:1.
Bishop Herft considered that there was a moral and ethical issue in Mr Rosser QC’s advice to him. He also accepted that, while factually the procedure was set up to exclude the bishop from receiving information disclosed to sexual harassment contact persons, such contact persons were agents of the bishop and, consequently, complaints and information received by them was deemed at law to be information disclosed to him as bishop.

Bishop Herft stated that this was an ‘extremely inadequate and hopeless process’ and Mr Rosser QC’s advice to him to avoid hearing complaints was not appropriate.

Mr Rosser QC also accepted that he gave Bishop Herft advice essentially as set out in Mr Mitchell’s filenote but said that the emphasis of that advice was missed in the document. The emphasis of his advice, Mr Rosser QC stated, was that Bishop Herft ought to make it clear to complainants at the outset that he may not be able to comply with their wishes to keep a matter confidential.

Mr Rosser QC said that this was not ‘serious advice’ and it was not given in the context of child sexual abuse, though he conceded that he understood at the time that he was providing advice on what the Bishop should do where there were allegations of sexual abuse were raised. It is difficult to see how legal advice given by a professional, in his professional capacity, to a senior member of the clergy, about matters associated with allegations of sexual abuse, could be anything but serious advice.

Mr Rosser QC did not accept that the effect of his advice was to encourage the Bishop to remain wilfully blind to persons who posed potential risks in the dioceses and he did not believe his advice was understood that way.

Mr Rosser QC stated that the point of deflecting a disclosure from the Bishop to one of the specialist counsellors was so that a complainant may be empowered to go on.

The basis or rationale for that answer is entirely unclear. From the complainant’s perspective, being heard by the Bishop of the Diocese who had the power to revoke licences and take disciplinary action, as opposed to a conciliation counsellor whose only power was mediation, may have very different perceived consequences in terms of the ‘empowerment’ that was supposedly the source of Mr Rosser QC’s apparent concern. The Royal Commission ought to regard Mr Rosser QC’s clarification of his opinion, given years after the event and with the benefit of hindsight, as a possible attempt to resile from the actual advice that he gave.

Mr Rosser QC told the Royal Commission that it was not his intention to tell Bishop Herft to close his eyes to a situation where he may be possibly leaving a priest in place where he could do further harm and he did not believe his advice was understood that way.

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728 Transcript of R Herft, Case Study 42, 12 August 2016, 17257:3-9.
729 Transcript of R Herft, Case Study 42, 12 August 2016, 1717257:36-38.
731 Transcript of R Herft, Case Study 42, 12 August 2016, 1717258:23-24; 1717258:35-36.
732 Transcript of P Rosser, Case Study 42, 30 August 2016, 1717468:27-29.
733 Transcript of P Rosser, Case Study 42, 30 August 2016, 1717468:37-1717469:8.
735 Transcript of P Rosser, Case Study 42, 30 August 2016, 17470:2-11.
737 Transcript of P Rosser, Case Study 42, 30 August 2016, 17472:16-21.
738 Transcript of P Rosser, Case Study 42, 30 August 2016, 17472:11-21.
The Royal Commission should prefer the account of Mr Rosser QC’s advice to the Bishop in 1998 as recorded in the contemporaneous file note. The effect of the advice was to devise a strategy to avoid the obligation under, and compliance with, the 1995 Guidelines by ensuring that the Bishop did not come to know of the allegation in the first place.

Available finding:

AF39 In 1998, Mr Rosser QC in his capacity as Deputy Chancellor advised Bishop Roger Herft to avoid receiving disclosures of child sexual abuse in order to avoid putting himself in a situation where he was obliged to report the alleged conduct to the police.

AF40 The effect of this advice was that Bishop Herft should remain wilfully blind to allegations of child sexual abuse.

4.4 Complaints management and record-keeping

Record-keeping prior to 2002

Bishop Roger Herft said that in May 1993, when he commenced his tenure as Bishop of Newcastle, there were ‘very little records of any form or shape’ maintained by the Diocese in relation to complaints of sexual misconduct.\footnote{Transcript of R Herft, Case Study 42, 12 August 2016, 1717221: 22-24.}

When he became Bishop he did not receive a handover of any sexual misconduct complaints and was never made aware by the preceding Bishop, Commissary or any other senior members of clergy whether there were allegations made against priests within the Diocese, or laypeople associated with the Diocese.

Mr Tim Mawson worked in the Diocese from 1968 until 2008, initially as an Administrative Assistant and later as Diocesan Secretary and Acting Registrar. He gave evidence that record keeping practices in the Diocese were ‘lax’, and that ‘people within the Diocese did not understand the importance of keeping proper records’. He also said that documents were sometimes missing from files.\footnote{Exhibit 42-0029, ‘Statement of Tim Mawson’, Case Study 42, STAT.1110.001.0001_R at [10]-[11].}

There is limited evidence before the Royal Commission as to record-keeping in relation to child sexual abuse allegations in the period 1993 to around October 2001.

The 13 May 1998 filenote of the meeting between Bishop Herft, Ms Anderson, Mr Mitchell and Mr Rosser QC, discussed in section 4.3 above, recorded a discussion about potential gaps in record keeping.\footnote{Exhibit 42-0001, ‘Notes from a meeting on ‘13 May 1998’, Case Study 42, ANG.0054.001.0405 at 0406 (Tab 33 of Tender Bundle).} It was suggested that:

a. The contact person prepare a filenote of each visit or contact relating to sexual harassment and complete a notification for, and send them to, the Chair of CASM each month;

b. The Chair and Registrar should be the only people with access to the codes and reports, which should be sealed in a safe in the Registry;

\textsuperscript{739} Transcript of R Herft, Case Study 42, 12 August 2016, 1717221: 22-24.

\textsuperscript{740} Exhibit 42-0029, ‘Statement of Tim Mawson’, Case Study 42, STAT.1110.001.0001_R at [10]-[11].

\textsuperscript{741} Exhibit 42-0001, ‘Notes from a meeting on ‘13 May 1998’, Case Study 42, ANG.0054.001.0405 at 0406 (Tab 33 of Tender Bundle).
c. The Chair and Registrar should liaise at regular intervals to determine whether there were ‘any patterns of behaviour’ emerging which required further investigation.

497. In addition, Mrs Sanders gave evidence that when she became Chair of CASM in 2001 she found some records of complaints managed by the Committee were loosely stored in an unlocked filing cabinet in the office of the Diocesan Registrar, who at that time was Mr Mitchell.742

498. Mrs Sanders told the Royal Commission that after the introduction in September 2002 of ‘Principles and Procedures for Dealing with Allegations of Sexual Misconduct’ policy, CASM implemented a complaint handling procedure specifically in relation to allegations of child sexual abuse. Under this procedure, all complaints relating to child sexual abuse were to be directed in the first instance to the Chair of CASM (that is, Mrs Sanders). The Chair would then notify the Bishop and the complaint was then to be immediately reported to DOCS.743

499. Mrs Sanders said that where she determined that it was appropriate to do so, as well as notifying Bishop Herft of a complaint she would also seek legal advice from Mr Caddies. Mrs Sanders also stated that, following advice about a complaint, Bishop Herft would determine whether it was necessary to notify DOCS or the police about the complaint.744

500. Bishop Herft agreed with Mrs Sanders’ account that during her term as Chair she kept him informed of any complaints received by CASM and also sought advice from Mr Caddies, the legal representative of CASM at the time.745 He also accepted Mrs Sanders’ evidence of the reporting procedure in that, if she thought it was necessary, Bishop Herft had the role of reporting the complaint to police or DOCS.746

501. Mrs Sanders gave evidence that during her time as Chair, which was from October 2001 to late 2004, CASM received approximately 30 complaints involving child sexual abuse. It only received one complaint of harassment.747

502. Mrs Sanders says that in around August 2003, the Diocesan Council resolved that CASM would only deal with harassment complaints and that all allegations of criminal conduct would be directed to Mr Bruce Hockman, the then Diocesan Business Manager.748 Mrs Sanders felt this was a ‘retrograde step’ which ‘flew in the face’ of the work she had done during her Chairmanship.749

503. Mrs Sanders resigned as Chair with effect from late 2004. She gave evidence that by the time she ceased involvement in CASM, she had lost faith in the Church and had no trust in the Church hierarchy.750

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742 Exhibit 42-0042, Case Study 42, ‘Statement of Jean Sanders’, STAT.1104.001.0001_R at [21].
743 Exhibit 42-0042, Case Study 42, ‘Statement of Jean Sanders’, STAT.1104.001.0001_R at [21]
744 Exhibit 42-0042, Case Study 42, ‘Statement of Jean Sanders’, STAT.1104.001.0001_R at [21]
745 Exhibit 42-0001, ‘Protocol for Storage or Records managed by CASM’, Case Study 42, ANG.0054.001.0250_R (Tab 443 of Tender Bundle). Transcript of R Herft, Case Study 42, 12 August 2016 at 1717265:4-7.
746 Exhibit 42-0042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0001_R at [21].
747 Exhibit 42-0042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0001_R at [41].
748 Exhibit 42-0042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0001_R at [41].
749 Exhibit 42-0042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0001_R at [42].
750 Exhibit 42-0042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0001_R at [48].
Mr Hockman, who was the Diocesan Business Manager from September 2002 until November 2004, said in a statement that he had no direct role in managing complaints about sexual misconduct. He said that records of such matters were stored in brown envelopes that were stored in the Bishop’s office.

The yellow envelope system

The Diocese’s record-keeping procedures changed when Mrs Sanders was appointed Chair of CASM in October 2001. Following this appointment, Mrs Sanders rewrote the procedures and manuals for handling complaints. In June 2002, Mrs Sanders implemented the ‘Protocol for Storage of Records managed by CASM’. This protocol gave rise to the yellow envelope system. Witnesses have variously referred to documents being stored in ‘yellow’ or ‘brown’ envelopes.

Under the yellow envelope system, records of complaints before CASM were placed in separate sealed yellow envelopes and stored in a locked cabinet in the Diocesan offices. Access to the records was restricted to the Chair of CASM, the Bishop, the Commissary or the Bishop’s representative.

Mrs Sanders gave evidence that there were only two keys to the locked cabinet containing the CASM records. One key was held by Mrs Sanders as Chair or her nominated representative, and the second was held by the Bishop’s secretary on behalf of the Bishop. Any access to an envelope was required to be recorded on the envelope. Mrs Sanders monitored access to the envelopes by reviewing the records approximately bi-monthly. Mrs Sanders said that Bishop Roger Herft asked to make a second set of records which he kept in his office.

Bishop Herft agreed that he had access to all the CASM records but he could not recollect if he had a duplicate set of the records.

Mr Michael Elliott said that within a short period following his commencement as the Director of Professional Standards in 2009, Bishop Brian Farran handed him 36 envelopes.

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751 Exhibit 42-0084, ‘Statement of Bruce Hockman’, Case Study 42, STAT.1060.001.0001 at p.2.
752 Exhibit 42-0084, ‘Statement of Bruce Hockman’, Case Study 42, STAT.1060.001.0001 at p.3.
753 Exhibit 42-0042, Case Study 42, ‘Statement of Jean Sanders’, STAT.1104.001.0001_R at [12]
754 Exhibit 42-0042, Case Study 42, ‘Statement of Jean Sanders’, STAT.1104.001.0001_R at [14]
757 Exhibit 42-0042, Case Study 42, ‘Statement of Jean Sanders’, STAT.1104.001.0001_R at [22].
758 Exhibit 42-0042, Case Study 42, ‘Statement of Jean Sanders’, STAT.1104.001.0001_R at [22].
759 Exhibit 42-0042, Case Study 42, ‘Statement of Jean Sanders’, STAT.1104.001.0001_R at [22].
760 Exhibit 42-0042, Case Study 42, ‘Statement of Jean Sanders’, STAT.1104.001.0001_R at [24].
761 Transcript of R Herft, Case Study 42, 12 August 2016, 17269:40 – 17261:4.
762 Transcript of Michael Elliott, Case Study 42, 11 August 2016, 17058:3-27.
510. In 2015, Mr Michael Elliott prepared a report on the yellow envelopes at the request of Bishop Thompson (Yellow Envelopes Report). In the report, Mr Michael Elliott created a schedule summarising some of the details of the 36 complaints stored in envelopes and setting out his opinions. The dates of the alleged incidents ranged from 1950 to 2003.

511. There may have been earlier iterations of the yellow envelope system, but there is insufficient evidence before the Royal Commission to make any findings about a previous system. In response to questions about how and where the records of CASM were stored prior to the yellow envelope system, Bishop Herft told the Royal Commission that he thought they were kept somewhere safe but could not specify where or how.

Contents of the yellow envelope documents

512. On 12 August 2016, Mr Michael Elliott produced to the Royal Commission two compact archive boxes containing yellow envelope material:

a. The first archive box contained three red A4 cardboard folders and one A4 manila folder, each of which contained documents relating to the complaint by CKU against Barrack. The material had exceeded the storage capacity of a yellow envelope. At the time of producing the documents, Mr Elliott told staff of the Royal Commission that these documents comprised Yellow Envelope 12.

b. The second archive box contained 29 A4 yellow envelopes which comprised 27 separate yellow envelopes matters numbered variously between 1 and 35, as well as copies of documents comprising Mr Elliott’s reconstruction of Yellow Envelope 9, including copies of the front and back of the labelled envelope.

513. Mr Michael Elliott gave evidence that over the years he had integrated the yellow envelopes and their contents into his own professional standards filing system. However, he was confident that he had faithfully reconstructed the contents of the yellow envelopes.

514. The documents comprising Yellow Envelope 11, as reconstructed by Mr Elliott, were scanned and produced to the Royal Commission in electronic copy on or about 15 August 2016 and subsequently produced in hard copy on 29 August 2016.

515. In total, 30 yellow envelope files were produced to the Royal Commission.

516. Bishop Herft was given the opportunity to view what was produced by Mr Michael Elliott to the Royal Commission. Bishop Herft confirmed to the Royal Commission that the yellow

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764 Transcript of R Herft, Case Study 42, 11 August 2016, 17059:21-29.

765 Transcript of M Elliott, Case Study 42, 12 August 2016, 17624:10-28.

766 Exhibit 42-0079, ‘Supplementary Statement of Michael Elliot’, Case Study 42, STAT.1142.001.0001_R at [5].


768 Transcript of M Elliott, Case Study 42, 12 August 2016, 17164:37 – 17165:3, 17165:20-22; Exhibit 42-0079, ‘Supplementary Statement of Michael Elliot’, Case Study 42, STAT.1142.001.0001_R at [7]-[13], [25].

769 Exhibit 42-0079, ‘Supplementary Statement of Michael Elliot’, Case Study 42, STAT.1142.001.0001_R at [23].

770 Transcript of R Herft, Case Study 42, 29 August 2016, 17323:2-15.
envelopes produced by Mr Elliott were the yellow envelopes stored pursuant to the yellow envelope system.\textsuperscript{771}

517. Mr Elliott told the Royal Commission that he produced all yellow envelope records within his filing cabinet which related to child sexual abuse.\textsuperscript{772} However, it appears that the documents produced by Mr Elliott on 12 August 2016 were not a complete record of the Yellow Envelopes as provided to Mr Elliott by Bishop Farran. Yellow Envelopes 3, 17, 18, 21, 28 or 36, each of which were referred to in the Yellow Envelopes Report, were not included in the documents produced to the Royal Commission by Mr Elliott.\textsuperscript{773}

518. Mr Elliott did not provide specific reasons as to why he did not produce documents comprising Yellow Envelopes 3, 17, 18, 21, 28 or 36. However, it may be inferred from his evidence that he did not consider that these particular yellow envelopes had contents relating to child sexual abuse allegations. Mr Elliott’s characterisation of the complaints contained in Yellow Envelopes 17, 18, 21, 28 and 36, as recorded in the Yellow Envelope Report, are consistent with this inference. However, the Yellow Envelope Report states that Yellow Envelope No 3 contained records concerning a complaint against Mr Duncan about ‘sexual abuse – Riverina Dio’.\textsuperscript{774} It is not clear on the basis of the Yellow Envelope Report whether this Yellow Envelope relates to the allegation of CKH against Mr Duncan discussed below or another complaint, and whether the complaint concerns allegations child sexual abuse. CKH did not make his complaint about Mr Duncan until 2009, and this Yellow Envelope is mentioned in the ‘S11’ form attached to Mr Elliott’s Yellow Envelopes Report which itself appears to have been created during Bishop Herft’s episcopate.

519. Lodgement dates recorded on white sticker labels on the yellow envelopes ranged from 1993 to 2005. This suggests that at least some records were kept in relation to complaints made in the period 1993 to June 2002, and were transferred into the yellow envelopes following the institution of the June 2002 ‘Protocol for Storage of Records managed by CASM’.

\textsuperscript{771} Transcript of R Herft, Case Study 42, 29 August 2016, 17416:39-17417:40; Transcript of R Herft, Case Study 42, 30 August 2016, 17430:38-40.

\textsuperscript{772} Transcript of M Elliott, Case Study 42, 12 August 2016, 17164:46- 17165:3.

\textsuperscript{773} Exhibit 42-0001, ‘The “Yellow Envelopes” report’, Case Study 42, ANG.0207.001.2371 at 2376 (Tab 399 of Tender Bundle).

\textsuperscript{774} Exhibit 42-0001, ‘The “Yellow Envelopes” report’, Case Study 42, ANG.0207.001.2371 at 2375-2376_R (Tab 399 of Tender Bundle).
Correspondence and/or notations within the yellow envelopes themselves indicate that Bishop Herft was put on notice of at least 24 matters relating to child sexual abuse. The documents suggest that Bishop Herft caused the police to be notified in 3 of those cases.

521. Of the remaining 21 cases, the documents show that:

a. Bishop Herft was notified after the police had already been notified in five cases;

b. One case concerned a matter between parties who were both underage at the time of the alleged abuse. The records show that Mrs Sanders notified DOCS in relation to the matter shortly after receiving notice of the complaint;

c. One case concerned a matter where the perpetrator was not identified by the victim. In this matter it does not appear that the matter was referred to the authorities;

d. Two matters showed no clear allegations of reportable conduct in relation to child sexual abuse, which it is submitted, should have been reported to the police;

e. Eight envelopes concerned complaints about conduct which, on the face of the documents, may have constituted reportable conduct. There is no record that these matters were reported;

f. One matter involved allegations of child sexual abuse against a person recorded to be a Catholic Priest. In that matter, the Diocesan Manager was directed to notify the

\[775\] Exhibit 42-0093, 'Yellow Envelope No. 1', Case Study 42, ANG.0354.001.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 2', Case Study 42, ANG.0354.002.0163_R; Exhibit 42-0093, 'Yellow Envelope No. 4', Case Study 42, ANG.0354.004.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 6', Case Study 42, ANG.0354.006.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 8', Case Study 42, ANG.0354.008.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 9', Case Study 42, ANG.0354.009.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 10', Case Study 42, ANG.0354.010.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 11', Case Study 42, ANG.0354.011.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 13', Case Study 42, ANG.0354.013.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 14', Case Study 42, ANG.0354.014.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 15', Case Study 42, ANG.0354.015.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 19', Case Study 42, ANG.0354.019.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 20', Case Study 42, ANG.0354.020.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 22', Case Study 42, ANG.0354.022.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 23', Case Study 42, ANG.0354.023.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 25', Case Study 42, ANG.0354.025.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 26', Case Study 42, ANG.0354.026.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 27', Case Study 42, ANG.0354.027.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 29', Case Study 42, ANG.0354.029.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 30', Case Study 42, ANG.0354.030.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 31', Case Study 42, ANG.0354.031.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 32', Case Study 42, ANG.0354.032.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 33', Case Study 42, ANG.0354.033.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 36', Case Study 42, ANG.0354.036.0001_R;

\[776\] Exhibits 42-0093, 'Yellow Envelope No. 2', Case Study 42, ANG.0354.002.0163_R; Exhibit 42-0093, 'Yellow Envelope No. 13', Case Study 42, ANG.0354.013.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 15', Case Study 42, ANG.0354.015.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 19', Case Study 42, ANG.0354.019.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 20', Case Study 42, ANG.0354.020.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 22', Case Study 42, ANG.0354.022.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 23', Case Study 42, ANG.0354.023.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 25', Case Study 42, ANG.0354.025.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 26', Case Study 42, ANG.0354.026.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 27', Case Study 42, ANG.0354.027.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 29', Case Study 42, ANG.0354.029.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 30', Case Study 42, ANG.0354.030.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 31', Case Study 42, ANG.0354.031.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 32', Case Study 42, ANG.0354.032.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 33', Case Study 42, ANG.0354.033.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 36', Case Study 42, ANG.0354.036.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 13', Case Study 42, ANG.0354.013.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 15', Case Study 42, ANG.0354.015.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 19', Case Study 42, ANG.0354.019.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 20', Case Study 42, ANG.0354.020.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 22', Case Study 42, ANG.0354.022.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 23', Case Study 42, ANG.0354.023.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 25', Case Study 42, ANG.0354.025.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 26', Case Study 42, ANG.0354.026.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 27', Case Study 42, ANG.0354.027.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 29', Case Study 42, ANG.0354.029.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 30', Case Study 42, ANG.0354.030.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 31', Case Study 42, ANG.0354.031.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 32', Case Study 42, ANG.0354.032.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 33', Case Study 42, ANG.0354.033.0001_R; Exhibit 42-0093, 'Yellow Envelope No. 36', Case Study 42, ANG.0354.036.0001_R;
Catholic Church of this file. It is unclear whether this was done on the face of the documents.\textsuperscript{782}

\begin{itemize}
\item[g.] The documents indicate that steps were taken to transfer and or refer three of the matters to other dioceses for investigation.\textsuperscript{783}
\end{itemize}

522. Three of the yellow envelopes, being Yellow Envelopes 20, 27 and 29 contained information relating to Rushton. These yellow envelopes are discussed in further detail below in the context of consideration of how the Diocese responded to allegations against Rushton.

523. None of the complaints recorded in the yellow envelope documents related to Mr Lawrence.

\begin{table}[h]
\centering
\begin{tabular}{|l|p{0.8\textwidth}|}
\hline
\textbf{Available findings:} & \\
\hline
AF41 & The record keeping system in relation to allegations of sexual abuse over the period of Bishop Herft’s episcopate was inadequate as it failed to accurately, consistently and centrally record all complaints of child sexual abuse made to the Diocese, and the Diocesan response. \\
AF42 & The effect of this inadequate system, while not necessarily deliberate, was detrimental to the quality and quantity of available evidence in relation to allegations of sexual abuse to assist in the investigation of complaints. \\
\hline
\end{tabular}
\end{table}

\section*{4.5 Screening}

\subsection*{Black Book and Safe to Receive Protocol}

524. There were no formal screening mechanisms in place in the Diocese of Newcastle until 1999. Prior to this time, it appears there was a loose and informal consultation process between the Bishops of dioceses in which problematic clergy might be identified.

525. Bishop Richard Appleby told the Royal Commission that up until 1985, there was a ‘caveat list’ which was discussed at the annual bishops’ conference.\textsuperscript{784} The ‘caveat list’ was a list of names of clergy that all bishops should be warned about as they had convictions or serious charges against them.\textsuperscript{785} The list was distributed to all bishops so they could reference it whenever they were approached by clergy seeking a job within their diocese.\textsuperscript{786}

526. Bishop Appleby said that in 1985, the then Primate, Archbishop Sir John Grinrod, informed the bishops that on the basis of legal advice, they should abandon the list.\textsuperscript{787} Bishop Appleby told the Royal Commission that from 1985 until about 2005, the bishops had no ‘caveat list’ of clergy and that exposed the church to ‘significant risks’.\textsuperscript{788} Bishop Appleby said that it was up

\textsuperscript{782} Exhibit 42-0093, ‘Yellow Envelope No. 10’, Case Study 42, ANG.0354.010.0001_R.

\textsuperscript{783} Exhibit 42-0093, ‘Yellow Envelope No. 19’, Case Study 42, ANG.0354.019.0001_R; Exhibit 42-0093, ‘Yellow Envelope No. 23’, Case Study 42, ANG.0354.023.0001_R; Exhibit 42-0093, ‘Yellow Envelope No. 33’, Case Study 42, ANG.0354.033.0001_R.

\textsuperscript{784} Transcript of R Appleby, Case Study 42, 4 August 2016, 16518:24-26.

\textsuperscript{785} Transcript of R Appleby, Case Study 42, 4 August 2016, 16518:39-46.

\textsuperscript{786} Transcript of R Appleby, Case Study 42, 4 August 2016, 16518:46 – 16519:2.

\textsuperscript{787} Transcript of R Appleby, Case Study 42, 4 August 2016, 16519:2-5.

\textsuperscript{788} Transcript of R Appleby, Case Study 42, 4 August 2016, 16519:7-11.
to each bishop to determine if a name should be added to the list. His recollection was that there was generally 25 to 30 names on the list.

527. Bishop Appleby could not recall if bishops discussed how to respond or manage the risk of priests abusing children at their national conference but he accepted that as there was effectively a register of clergy to be wary of, they were conscious of the risk.

528. The Royal Commission heard evidence from Bishop Herft that until about the late 1990s bishops used a ‘black book’ system to screen potential clergy candidates. A ‘black book’ was a book in which a bishop recorded the names of people whom bishops found difficult to deal with, who were obstructionist in terms of the way that they engaged with bishops et cetera, and bishops would usually inform another bishop, if they were going to proceed with an appointment, that in fact this person could prove to be quite a difficult customer.

529. Bishop Herft told the Royal Commission that he was aware of the ‘black books’ but, to the best of his recollection, early in his tenure at Newcastle the Bishops were told they could no longer maintain ‘black books’ following concerns raised in relation to a lack of fair and natural processes in the procedure.

530. Bishop Herft said that during his tenure as Bishop of Newcastle, there was a general (in the sense of informal) protocol within the Church whereby, prior to making an appointment, Bishops would check with each other as to whether a candidate was ‘safe to receive’. Bishops would then inform each other if they were aware that the person had ‘offended or was the subject of a court case’.

531. Mr Michael Elliott told the Royal Commission that, despite extensive searches conducted since his appointment in 2009, to date he has been unable to locate any black book within the records of the Diocese.

532. However, included in the Yellow Envelopes compiled by Michael Elliott and produced as part of his Yellow Envelopes Report, was a document containing an alphabetic list of names titled ‘S11 – SEXUAL HARRASSMENT – SENSITIVE INFORMATION’. A sub-heading under that title states: ‘IN SMALL ENVELOPES IN FRONT OF THIS BLACK BOOK’. While the provenance of this document is not known, this sub-heading suggests that the names listed beneath that sub-heading comprised the contents of a ‘black book’, insofar as it names individuals of concern.

533. Further, given that throughout the list of names there are notes referencing the location of specific files in Bishop Roger Herft’s office (for example, there is a note that reads ‘see his personal file in R/H drawer of Brown Filing’), it is likely that that this list, or black book, belonged to Bishop Roger Herft specifically. The presence of a file in that list for Kitchingman

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790 Transcript of R Appleby, Case Study 42, 4 August 2016, 16519:41-42.
791 Transcript of R Appleby, Case Study 42, 4 August 2016, 16519:26-36.
792 Transcript of R Herft, Case Study 42, 12 August 2016, 172230:34-40.
793 Transcript of R Herft, Case Study 42, 12 August 2016, 172230:40-47.
794 Exhibit 42-0076, ‘Statement of Archbishop Roger Herft’, Case Study 42, STAT.0073.001.0001 at [12].
796 Exhibit 42-0001, ‘The Yellow envelopes Report by Michael Elliott’, Case Study 42, ANG.0207.001.2371_R at 2418_R-2421_R (Tab 399 of Tender Bundle).
1999 Ethics in Ministry Code screening procedures

534. As noted above, the Diocese introduced the Ethics in Ministry Code in August 1999, which applied as a code of conduct for clergy, lay employees and lay volunteers serving within the Diocese.798

535. In relation to screening potential candidates for ministry, the 1999 Ethics in Ministry Code provided generally that ‘anyone who exercises any form of ministry in the church should be chosen with care’. More specifically, the guidelines regarding sexual behaviour mandated a thorough interview process for any person considered for a position of ministry who had been convicted of an offence, and prohibits any appointment which ‘may be seen to provide an opportunity for reoffending’.799

536. Pursuant to clause 6.6 of the 1999 Ethics in Ministry Code, where a court, church or other disciplinary procedure has upheld allegations of child abuse against a person, that person was prohibited from any ministry appointment to do with children or adolescents.800

537. Ethics in Ministry remained the applicable Code for clergy, laypersons and volunteers serving in the Newcastle Dioceses until 2005, when the Diocesan Council and the Synod of the Diocese of Newcastle adopted ‘Faithfulness in Service’ as the applicable code of conduct. This new code is discussed in more detail later in these submissions.

Post July 2000 - mandatory screening obligations

538. Commencing from July 2000, the Child Protection (Prohibited Employment) Act 1998 NSW and the Commission for Children and Young People Act 1998 (NSW) (the Acts) established mandatory screening obligations upon the Diocese when acting in its capacity as an employer.801

539. On or about 2 July 2002, the Diocese obtained legal advice from Mr Caddies of Rankin and Nathan Solicitors which set out the obligations of the Diocese under the Acts.802 Mr Caddies advised that ministers and volunteers in a religious organisation were specifically deemed as employees for the purposes of the obligations imposed.803

540. The Diocese had a duty to ensure all employees, including paid workers and volunteers, made a declaration they were not a ‘prohibited person’ in relation to their employment. It also had

797 Exhibit 42-0001, ‘The Yellow envelopes Report by Michael Elliott’, Case Study 42, ANG.0207.001.2371_R at 2418_R-2421_R (Tab 399 of Tender Bundle).

798 Transcript of R Herft, Case Study 42, 12 August 2016, 17243: 25-27; Exhibit 42-0001, ‘Ethics in Ministry’, Case Study 42, ANG.0048.001.1507 at cl 6.7 (Tab 439 of Tender Bundle).

799 Exhibit 42-0001, ‘Ethics in Ministry’, Case Study 42, ANG.0048.001.1507 at cl 6.5 and 6.7 (Tab 439 of Tender Bundle).

800 Child Protection (Prohibited Employment) Act 1998 (NSW), ss 7 and 8; Commission for Children and Young People Act 1998 (NSW), s X.

801 Exhibit 42-0001, ‘Letter from Robert Caddies to Bishop Herft’, Case Study 42, ANG.0327.001.0024_R (Tab 112 of Tender Bundle).

802 Exhibit 42-0001, ‘Letter from Robert Caddies to Bishop Herft’, Case Study 42, ANG.0327.001.0024_R at 0025_R (Tab 112 of Tender Bundle).

803 Exhibit 42-0001, ‘Letter from Robert Caddies to Bishop Herft’, Case Study 42, ANG.0327.001.0024_R at 0025_R (Tab 112 of Tender Bundle).
a duty for all employees to undergo a police check and to notify the Commission of Children and Young People of any ‘relevant disciplinary proceeding’ in the last five years and in the future. 804

541. All paid employees whose employment primarily involved direct contact with children where that contact was not directly supervised, including fostering of children and ministers of religion, were to undertake a Working with Children Check. The Commission for Children and Young People was to be notified of any person whose application for child-related employment had been rejected because of risk assessment during employment screening. 805

542. Mr Bruce Hockman said in a statement to the Royal Commission that in his role as Diocesan Manager from September 2002 until November 2004, he was responsible for implementing a Working with Children Check (WWCC) procedure as required under NSW legislation. 806

543. Mr Hockman gave evidence that during the period of his appointment, all clergy, including those already working for the Diocese, were subjected to a WWCC and required to sign a declaration that they were not a prohibited person in child-related employment. 807 While the Diocese did not undertake a WWCC for volunteers, all volunteers were required to complete a prohibited person declaration and authorise a WWCC. 808

4.6 Awareness and management of child sexual abuse allegations

544. This section of the submissions reviews the evidence of certain allegations of child sexual abuse made known to the Diocese during the tenure of Bishop Herft.

Allegations against Mr Lawrence

545. As set out below, on three separate occasions, allegations were made to Bishop Herft that then Dean Lawrence had sexually abused children.

Disclosure of allegations against Mr Lawrence by Mr Robert Wall in 1995

546. Mr Robert Wall provided a statement to the Royal Commission. Mr Wall and his wife were leaders of a Diocesan youth camp during the period that Bishop Herft was the Bishop of Newcastle.

547. Mr Wall stated that in around 1994 or 1995, he and his wife were approached by two boys on separate occasions about a month apart. 809 They told Mr Wall and his wife (the Walls) that they had been sexually abused by Mr Lawrence, who was the then Dean. 810 The boys did not

804 Exhibit 42-0001, ‘Letter from Robert Caddies to Bishop Herft’, Case Study 42, ANG.0327.001.0024_R at 0025_R (Tab 112 of Tender Bundle).
805 Exhibit 42-0001, ‘Letter from Robert Caddies to Bishop Herft’, Case Study 42, ANG.0327.001.0024_R at 0026_R (Tab 112 of Tender Bundle).
806 Exhibit 42-0084, Case Study 42, ‘Statement of Bruce Hockman’, STAT.1060.001.0001_R at 0002_R.
807 Exhibit 42-0084, Case Study 42, ‘Statement of Bruce Hockman’, STAT.1060.001.0001_R at 0003_R.
808 Exhibit 42-0084, Case Study 42, ‘Statement of Bruce Hockman’, STAT.1060.001.0001_R at 0003_R.
809 Exhibit 42-030, ‘Statement of Robert Wall’, Case Study 42, STAT.1117.001.0001_R at [5].
810 Exhibit 42-030, ‘Statement of Robert Wall’, Case Study 42, STAT.1117.001.0001_R at [5].
detail what had happened to them and they did not want the Walls to tell anyone else.\textsuperscript{811} However, as the Walls were concerned about Mr Lawrence having access to other children, they said they would inform the Bishop but would not disclose their names.\textsuperscript{812}

548. Mr Wall stated that within a week of the boys’ disclosure, he and his wife arranged with Brother James Howey to meet with Bishop Herft at the Bishop’s Registry.\textsuperscript{813}

549. Mr Wall stated that at this meeting, Bishop Herft seemed ‘disinterested’ in what he and his wife were saying and more interested in standing up for Mr Lawrence. He said that Bishop Herft asked for the details and names of the complainants but the Walls said they would not disclose those names to him. Mr Wall said that Bishop Herft responded that if they did not disclose the names and continued to complain about Mr Lawrence, they would face legal action for defamation of character. The Walls told Bishop Herft they would not conduct youth groups if Mr Lawrence continued as spiritual leader. Mr Wall said that he saw Bishop Herft taking notes during this meeting.\textsuperscript{814}

550. In evidence is an unsigned letter dated 13 July 1995 from Bishop Herft to the Walls at their then address.\textsuperscript{815} It may be that the letter is a file copy. The letter stated that Bishop Herft had raised the allegations with ‘the priest’ who had denied them. The letter also stated that in order for the matter to be pursued further, the complainants would need to make a formal complaint.\textsuperscript{816} Mr Wall has no recollection of receiving this letter.\textsuperscript{817}

551. Mr Wall also said that as a result of Bishop Herft’s warning about a potential defamation suit, and the fact that the boys had told them in confidence, he and his wife did not report to the police as they were worried about legal action.\textsuperscript{818}

552. Bishop Herft said he had no recollection of receiving allegations from the Walls or of meeting with them.\textsuperscript{819} However, he accepted that he must have met with the Walls to discuss these allegations as he had a diary entry for that day listing a meeting with the Walls.\textsuperscript{820} While maintaining that he had no recollection of this meeting,\textsuperscript{821} Bishop Herft stated that he would not have spoken to them about defamation.\textsuperscript{822}

553. Bishop Herft also had no recollection of meeting with Mr Lawrence to discuss the Walls’ allegations.\textsuperscript{823} However, in view of the 13 July 1995 letter that was shown to him, he accepted that he must have spoken with Mr Lawrence about these allegations but he could not recall...
any details of this conversation.\textsuperscript{824} The evidence shows that Bishop Herft often made filenotes of his dealings with people about child sexual abuse matters. However, the Royal Commission has not located any filenotes about his conversations with the Walls or any conversation with Mr Lawrence about the accusations.

554. Bishop Herft told the Royal Commission that he did not do anything to follow up his letter to the Walls in July 1995 and could not explain why that was the case.\textsuperscript{825}

555. In oral evidence, Mr Lawrence denied that he ever attended youth camps.\textsuperscript{826} Mr Lawrence said that he had only ever once attended a diocesan gathering where youths were present and stayed overnight in a tent.\textsuperscript{827} He emphatically denied having any discussion with Bishop Herft about allegations that he had sexually abused a child.\textsuperscript{828}

\textbf{Defamation advice}

556. From the inception of CASM in 1993, the Diocesan policies identified defamation as an area of potential legal risk for CASM members and conciliators who heard and communicated allegations of sexual harassment.\textsuperscript{829} In 1995, Mr Caddies gave a presentation to conciliators engaged by CASM in relation to legal implications and risks that arose in relation to their performance as conciliators who heard and responded to allegations of sexual misconduct by clergy and other persons within the Diocese.\textsuperscript{830} One of the key issues dealt with in Mr Caddies’ presentation was defamation.

557. On or about 2 April 1996, Bishop Herft received a fax from Mr Caddies attaching an advice from Mr Stuart Littlemore QC dated 1 April 1996 in relation to potential actions in defamation against persons lodging complaints of sexual harassment.\textsuperscript{831}

558. In his evidence to the Royal Commission, Bishop Herft denied that his desire to obtain advice on defamation law at this time was in any way motivated by dealings he had regarding allegations of child abuse raised against Mr Lawrence.\textsuperscript{832}

\textbf{Disclosure of allegations against Mr Lawrence by Reverend Kelly in around 1996}

559. In evidence before the Royal Commission is a letter from Reverend Brian Kelly, the Rector of Engadine in the Diocese of Sydney, to Bishop Harry Goodhew, then the Archbishop of Sydney. In that letter, Reverend Kelly confirmed that he had discussed with the Archbishop earlier that day allegations of ‘sexual misconduct by a clergyman in the Newcastle diocese’. He said ‘It has been communicated to me by a member of my church that the Reverend Graeme Russell (who

\textsuperscript{824} Transcript of R Herft, Case Study 42, 29 August 2016, 1717299:43-46; 1717300:1-2; 1717299:5-9

\textsuperscript{825} Transcript of R Herft, Case Study 42, 29 August 2016, 1717301:6-10.

\textsuperscript{826} Transcript of G Lawrence, Case Study 42, 18 November 2016, 23443:38-45.

\textsuperscript{827} Transcript of G Lawrence, Case Study 42, 18 November 2016, 23444:1-9.

\textsuperscript{828} Transcript of G Lawrence, Case Study 42, 18 November 2016, 23444:17-41.

\textsuperscript{829} Exhibit 42-0001, ‘Principles & Procedures for dealing with sexual harassment by ministers in the Diocese of Newcastle’, Case Study 42, ANG.0327.001.0059 \textsuperscript{(Tab 435 of Tender Bundle)}.

\textsuperscript{830} Exhibit 42-0001, ‘Presentation by Robert Caddies’, Case Study 42, ANG.0054.001.0742 \textsuperscript{(Tab 15 of Tender Bundle)}.

\textsuperscript{831} Transcript of R Herft, Case Study 42, 29 August 2016 at 1717250:7-25; Exhibit 42-0001, ‘Memorandum of Advice prepared by Stuart Littlemore QC’, Case Study 42, ANG.0048.001.7476 \textsuperscript{(Tab 19 of Tender Bundle)}.

\textsuperscript{832} Transcript of R Herft, Case Study 42, 29 August 2016, 1717301:45-47; 1717302:1.
I gather is the Dean of Newcastle Cathedral) has engaged in sexual activity with young boys.’ He noted that the family was reluctant to press formal allegations.\footnote{833} In the letter, Reverend Kelly said that the reluctance of the family should not preclude ‘us’ from taking action and that ‘we must act out of concern for the children’. He said that at the very least, the priest ‘should be appraised of the allegations and simply asked the question by yourself [that is, the Archbishop] (or the Bishop of Newcastle) as to their substance.’\footnote{834} Reverend Kelly wrote a further letter to then Archbishop Goodhew dated 18 February 1997 noting that he had received no advice as to the outcome of the matter. The letter then stated ‘Consequently I have been asked by this person to let you know that, failing a satisfactory response by yourself, the allegations will be referred to the Wood Royal Commission.’\footnote{835} Appearing on the 18 February 1997 letter is a handwritten filenote signed off ‘RHG’, which are the initials of Bishop Goodhew. The filenote said:

Phoned Brian Kelly 5/3/97

1. I had spoken with Bp Herft.

2. The Bp had indicated that he would like the people concerned to make contact with him.

3. Bp has already talked with the GRL, who had denied any wrong doing in the past. I do not know if the discussion relation to persons other than those now expressing concern.

Reverend Kelly died in 1999.\footnote{836} Bishop Goodhew said in a statement to the Royal Commission that he had no independent recollection of allegations of child abuse against Mr Lawrence, but that he did not dispute the accuracy of Reverend Kelly’s summary of their discussions in his letter.\footnote{837} Bishop Herft told the Royal Commission he had no recollection of speaking with then Archbishop Goodhew about these allegations.\footnote{838} He was shown the above filenote during his oral evidence and accepted that he had spoken with Archbishop Goodhew about these allegations in around 1996.\footnote{839} He also accepted that he must have spoken with Mr Lawrence...
as indicated in the notation on the filenote.\(^\text{840}\) However, Bishop Herft maintained that he had no recollection of this conversation.\(^\text{841}\)

### Allegations against Mr Lawrence disclosed in 1999

566. In a filenote dated 20 July 1999, then Archbishop Goodhew recorded allegations raised against an unnamed priest who had formerly been resident in Griffith and who in 1999 resided in Newcastle.\(^\text{842}\) The filenote recorded that an assistant in the parish of Engadine had grown up in Griffith and, on a visit to the town, had told an assistant priest in Griffith that ‘there had been a number of families in Griffith, members of whom had been sexually harassed by that clergyman’.\(^\text{843}\) Bishop Goodhew gave evidence to the Royal Commission confirming that these allegations concerned Mr Lawrence sexually abusing boys.\(^\text{844}\)

567. In his filenote of 20 July 1999, Bishop Goodhew recorded that he had passed the allegation on to Bishop Bruce Clark of the Riverina, who then phoned him.\(^\text{845}\) According to the filenote, during that conversation, Bishop Goodhew recommended that Bishop Clark contact Bishop Herft, but noted that as the families did not wish to take the matter any further there was nothing more which could be done.\(^\text{846}\)

568. Bishop Clark said in a statement to the Royal Commission that in around the late 1990s, he received an anonymous call in which it was alleged that Mr Lawrence was a ‘sexual abuser’.\(^\text{847}\) The anonymous caller did not specifically mention children and offered no details.\(^\text{848}\) Bishop Clark said that he telephoned Bishop Herft regarding these allegations and that Bishop Herft undertook to follow up these allegations.\(^\text{849}\) Bishop Clark said that Bishop Herft later told him that he had raised the allegations with Mr Lawrence who had denied them.\(^\text{850}\)

569. Bishop Herft accepted that he must have spoken with then Archbishop Goodhew and Bishop Clark about these allegations on the two occasions discussed above.\(^\text{851}\) He also accepted that he must have spoken with Mr Lawrence about the matter.\(^\text{852}\) However, Bishop Herft maintained that he had no recollection of any of these conversations.\(^\text{853}\)

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\(^{840}\) Transcript of R Herft, Case Study 42, 29 August 2016, 1717304:38-1717305:17; 1717308:14-17.

\(^{841}\) Transcript of R Herft, Case Study 42, 29 August 2016, 1717303:40-1717304:1; 1717305:11-17; 29-37; 1717307:37-42; 1717308:6-12.

\(^{842}\) Exhibit 42-0001, ‘Filenote of Archbishop Goodhew dated 20 July 1999’, Case Study 42, STAT.0221.001.0022 (Tab 55 of Tender Bundle).

\(^{843}\) Exhibit 42-0001, ‘Filenote of Archbishop Goodhew dated 20 July 1999’, Case Study 42, STAT.0221.001.0022 (Tab 55 of Tender Bundle).

\(^{844}\) Exhibit 42-0064, ‘Statement of Bishop Bruce Clark’, Case Study 42, STAT.1055.001.0001_R at [4] and [5].

\(^{845}\) Exhibit 42-0001, ‘Filenote of Archbishop Goodhew dated 20 July 1999’, Case Study 42, STAT.0221.001.0022 (Tab 55 of Tender Bundle).

\(^{846}\) Exhibit 42-0001, ‘Filenote of Archbishop Goodhew dated 20 July 1999’, Case Study 42, STAT.0221.001.0022 (Tab 55 of Tender Bundle).

\(^{847}\) Exhibit 42-0064, ‘Statement of Bishop Bruce Clark’, Case Study 42, STAT.1055.001.0001_R at [4].

\(^{848}\) Exhibit 42-0064, ‘Statement of Bishop Bruce Clark’, Case Study 42, STAT.1055.001.0001_R at [4].

\(^{849}\) Exhibit 42-0064, ‘Statement of Bishop Bruce Clark’, Case Study 42, STAT.1055.001.0001_R at [6] and [7].

\(^{850}\) Exhibit 42-0064, ‘Statement of Bishop Bruce Clark’, Case Study 42, STAT.1055.001.0001_R at [7].

\(^{851}\) Transcript of R Herft, Case Study 42, 29 August 2016, 1717303:36 - 1717305:1, 1717307:37-42; 1717308:6-12.

\(^{852}\) Transcript of R Herft, Case Study 42, 29 August 2016, 1717304:38-1717305:17; 1717308:14-17.

\(^{853}\) Transcript of R Herft, Case Study 42, 29 August 2016, 1717303:40-1717304:1; 1717305:11-17, 29-37; 1717307:37-42; 1717308:6-12.
Mr Lawrence’s evidence

570. Mr Lawrence emphatically denied that Bishop Herft ever raised with him any allegations that he had sexually abused children.854

Bishop Herft’s previous accounts

571. In oral evidence before the Royal Commission, Bishop Herft accepted that by late 1999 he was made aware on three separate occasions during his tenure as Bishop of Newcastle of allegations of child sexual abuse perpetrated by Mr Lawrence. He also accepted that he had spoken with Lawrence about these allegations on each of those occasions.855

572. In 2010, Mr Michael Elliott wrote to then Archbishop Roger Herft and enquired as to his knowledge of allegations against Mr Lawrence.856 In a 4 October 2010 letter of reply Bishop Herft said:857

In my careful perusal of my personal diary notes from 1 January 1997 to 31 December 1999 there is no reference to the allegations, advices and conversations or of any response on my part in relation to the matters you raise.

573. Bishop Herft also said:

I am advised that it would be unwise to forward my responses to you solely and unilaterally on my recollection of matters that are alleged to have taken place more than a decade ago.

574. In a further letter to Mr Michael Elliott dated 19 November 2010, Bishop Herft described Mr Michael Elliott’s allegations as ‘misleading’ and ‘fallacious’ and said:858

I have, to the best of my recollection, no knowledge of allegations concerning the abuse of minors by The Reverend Graeme Lawrence.

... I have, to the best of my knowledge, no recollection of any conversation with The Reverend Graeme Lawrence pertaining to the allegation of sexual abuse of minors.

575. Bishop Herft agreed in evidence that he met Mr Michael Elliott’s inquiries with a ‘fair degree of hostility’.859

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855 Transcript of R Herft, Case Study 42, 29 August 2016, 17173:08:19-38.

856 Exhibit 42-0001, ‘Letter from Michael Elliott to Archbishop Roger Herft’, STAT.0221.001.0023 (Tab 225 of Tender Bundle); Exhibit 42-0001, ‘Letter from Michael Elliott to Archbishop Roger Herft dated 29 October 2010’, Case Study 42, STAT.0221.001.0029 (Tab 226 of Tender Bundle).


858 Exhibit 42-0001, ‘Letter from Archbishop Roger Herft to Michael Elliott dated 19 November 2010’, Case Study 42, ANG.5000.001.0505 (Tab 257 of Tender Bundle).

859 Transcript of R Herft, Case Study 42, 29 August 2016, 17316:39-41.
576. In November 2013, Bishop Herft gave sworn oral evidence to the Royal Commission during Case Study 3 that:

When I became Bishop of Newcastle in 1993, through to 2005, no-one ever raised with me either directly or indirectly any matter that would have brought concern to me regarding the behaviour or otherwise of the Dean of Newcastle.  

577. In oral evidence, Bishop Herft agreed that the above statements were incorrect.  

Conclusions

578. When questioned on his inability to recall any conversations about or with Mr Lawrence regarding the allegations, Bishop Herft explained that he did not have the benefit of filenotes to prompt his memory. He said that he expected these records to exist as it was usually his practice to document such conversations and was at a ‘total loss to understand’ why these records could not be located within the Diocese.

579. Bishop Herft agreed that he should have made filenotes of all the conversations referred to above. He denied the proposition that the filenotes of these conversations did not exist. However, no filenotes of any such conversations have been produced to the Royal Commission.

580. Bishop Herft conceded that no yellow envelope had been created in relation to allegations of sexual misconduct against Mr Lawrence despite allegations having been disclosed to him against Mr Lawrence on three occasions between 1995 and late 1999. He agreed that a yellow envelope should have been created in relation to Mr Lawrence.

581. It is submitted that the failure to create a yellow envelope or to take any follow up action with respect to Mr Lawrence is consistent with the conclusion that Bishop Herft made no filenotes at the time.

582. It is inconceivable that the Bishop of a diocese would have no recollection of being advised on three separate occasions that the most senior priest in the diocese had sexually abused children. Although Bishop Herft was prepared to make a number of concessions as to his handling of allegations and as to the errors in his previous accounts, on this point the Royal Commission should not accept Bishop Herft’s evidence that he has no recollection of these disclosures.

583. Bishop Herft denied that he purported to have no recollection of conversations with Mr Lawrence regarding these allegations because he was intimidated by Mr Lawrence or was motivated by a desire to protect his and Mr Lawrence’s positions within the Anglican...

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660 Exhibit 42-0001, ‘Transcript of Royal Commission into Institutional Responses to Child Sexual Abuse – Public Hearing CS3 – Day 23, Case Study 3’, Case Study 42, STAT.0221.001.0004 at 0012 (2416:10-18) (Tab 379C of Tender Bundle).
661 Transcript of R Herft, Case Study 42, 29 August 2016, 17309:41 to 17310:10.
662 Transcript of R Herft, Case Study 42, 29 August 2016, 1717309:4-16.
663 Transcript of R Herft, Case Study 42, 29 August 2016, 1717305:39-47.
664 Transcript of R Herft, Case Study 42, 12 August 2016, 1717306:2-22.
665 Transcript of R Herft, Case Study 42, 29 August 2016, 1717373:1-6
Bishop Herft also denied that he could not recall the conversations because he did not take the allegations seriously at the time. Bishop Herft agreed that Mr Lawrence was the beneficiary of a significant power bloc within the Diocese, which would have caused him to take ‘careful steps’ in pursuing the matter. Bishop Herft said that he felt he needed ‘some form of concrete evidence’, being at least a formal complaint from the persons concerned, in order to bring the matter forward.

Bishop Herft gave evidence that at the time he raised the allegations with Mr Lawrence, he believed Mr Lawrence’s denials. It is difficult to understand how Bishop Herft could give evidence of such a belief when he says he could not recollect such conversations occurring in the first place.

Bishop Herft stated that his view ‘of those who were ordained was of a very high moral and spiritual integrity …’ Bishop Herft stated that he had this ‘very high view’ of Mr Lawrence and saw him demonstrating these qualities in the work he did for the Diocese and in his personal relationship with Mr Goyette. For these reasons, including that he had not received a formal complaint, Bishop Herft said that he had no reason to doubt Mr Lawrence’s trustworthiness and suitability to continue in such a senior position. He also said that it did not occur to him that the police should be notified of these allegations.

Bishop Herft acknowledged that the conclusions he drew at the time were errors in judgment. He said that the revelations in relation to the abuse allegedly committed by Mr Lawrence have ‘shocked [him] deeply’ and have contributed significantly to the way he presently acknowledges and responds to allegations of child sexual abuse.

Bishop Herft agreed in evidence that he had failed ‘at levels of recording, administration and dealing with the problem’ in relation to Mr Lawrence.

**Available findings:**

**AF43** Bishop Herft was made aware on three separate occasions of allegations that Mr Lawrence had sexually abused children. Firstly, he was told by Mr Robert Wall and his wife in 1995 that two boys had separately approached him and alleged that Mr Lawrence had sexually abused them. Secondly, he was told by then Archbishop Goodhew in around 1996 that there were allegations that Mr Lawrence had engaged in sexual activity with young boys.

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866 Transcript of R Herft, Case Study 42, 29 August 2016, 1717306:2-6, 1717308:45 – 1717309:2.
867 Transcript of R Herft, Case Study 42, 12 August 2016, 1717306:2-22.
868 Transcript of R Herft, Case Study 42, 12 August 2016, 1717291:20-38;
869 Transcript of R Herft, Case Study 42, 12 August 2016, 1717291:24-31.
870 Transcript of R Herft, Case Study 42, 29 August 2016, 1717321:26-27.
871 Transcript of R Herft, Case Study 42, 29 August 2016, 1717444:45 – 1717445:14.
872 Transcript of R Herft, Case Study 42, 29 August 2016, 1717444:7-12; 1717444:45 – 1717445:14.
873 Transcript of R Herft, Case Study 42, 29 August 2016, 1717321:3 – 1717322:8.
874 Transcript of R Herft, Case Study 42, 29 August 2016, 1717321:29-38.
875 Transcript of R Herft, Case Study 42, 29 August 2016, 1717444:7-16.
876 Transcript of R Herft, Case Study 42, 30 August 2016, 1717445:42-1717446:1.
877 Transcript of R Herft, Case Study 42, 29 August 2016, 1717306:24-26.
Thirdly, he was told by Bishop Clark in 1999 that there was an allegation that whilst in Griffith, Mr Lawrence had been a perpetrator of child sexual abuse.

AF44 Bishop Herft’s evidence that he has no recollection of any of these disclosures should not be accepted.

AF45 Bishop Herft made no record of the disclosures he received in relation to Mr Lawrence.

AF46 Bishop Herft’s response to the disclosures was unsatisfactory by any standard. Even if he did speak with Mr Lawrence about the allegations of sexual abuse, he did not take any further action in relation to the allegations. He did not report them to the police. He did not conduct any kind of investigation. Nor did he implement any kind of risk management strategy with respect to Mr Lawrence.

Allegations against Jim Brown

589. As discussed in Section 1 above, Brown, was a youth worker and was licensed as a lay preacher in the Newcastle Diocese until approximately 1992. This preceded Bishop Herft’s tenure as Bishop of Newcastle. However, in 1996, Brown was charged with the sexual abuse many years earlier of Mr D’Ammond. Mr D’Ammond’s experiences were recounted in Section 2 above.

590. Committal proceedings took place against Brown in 1997. Mr Rosser QC acted on behalf of Brown in these proceedings. At that time, Mr Rosser QC was the Deputy Chancellor of the Diocese. Brown pleaded not guilty and was discharged following the committal hearing.

591. Bishop Herft told the Royal Commission that prior to reviewing and hearing evidence in Case Study 42, he was not aware of the existence of Brown, nor that Brown had faced committal proceedings in 1997.

592. Bishop Herft also told the Royal Commission that he was not aware at the time that Mr Rosser QC had acted as defence counsel for Brown in 1997. Bishop Herft said that this was something Mr Rosser QC ought to have brought to his attention. He agreed that not being aware of the criminal proceeding made it impossible for him to provide pastoral care to Mr D’Ammond.

593. Mr Rosser QC gave evidence that he did not believe his representation of Brown related in any way to his role at that time as Deputy Chancellor of the Diocese. Mr Rosser QC said that

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879 Transcript of P D’Ammond, Case Study 42, 2 August 2016, 16260:19-21.

880 Exhibit 42-0094, ‘Statement of Paul Rosser’, Case Study 42, STAT.1062.001.0001_R at 0028_R.


882 Transcript of R Herft, Case Study 42, 29 August 2016, 1717370:20-29.

883 Transcript of R Herft, Case Study 42, 29 August 2016, 1717370:31-39.

884 Transcript of R Herft, Case Study 42, 29 August 2016, 1717370:41-46.

885 Transcript of P Rosser, Case Study 42, 30 August 2016, 1717475:19-21.
he did not inform anyone in the Diocese that he was acting for Brown and that it did not cross his mind to do so.887

594. Mr Rosser QC accepted that a perception could have been created in the minds of the public that as an official of the Church, accepting the brief to represent Brown might appear to be putting the Church at odds with those who alleged they had been abused.888 However, Mr Rosser QC said he did not believe he owed any duty to anyone, other than the Bishop, that conflicted with his representation of Brown.889

595. While there was not a conflict in the duties that Mr Rosser QC owed Brown as his client and the duties that he owed the Diocese as Deputy Chancellor, it should have been obvious to Mr Rosser QC that it could readily appear to outsiders that the Diocese, through one of its senior officers, was defending a person accused of sexually assaulting a child in the Diocese.

596. Mr Rosser QC clearly gave no consideration to any perception that the victim may have had that the Diocese was ‘protecting its own’ rather than offering him pastoral support. Mr D’Ammond gave evidence that at the committal proceedings, Mr Rosser QC, who he knew at the time was the Bishop’s former legal adviser, ‘ripped [him] apart’ and had ‘made [him] out to be like the devil’.890

597. This perception was one shared by the Diocesan insurer. Mr Cleary gave oral evidence that, in around 2013, the Diocesan insurer declined to pay out a claim concerning one of Brown’s victims. The insurer reached this determination on the basis that, by virtue of Mr Rosser QC’s representation of Brown in 1997 while Deputy Chancellor, the Church was effectively put on notice of the risk posed by Brown from the mid-1990s and took no steps to mitigate that risk.891 The insurer at least treated Mr Rosser QC as an agent of the Church.

598. Mr Cleary said that many claims for compensation were subsequently made to the Diocese relating to Brown but he did not bother lodging them with the Diocesan insurer.892

599. It is also difficult to understand why Mr Rosser QC, as Deputy Chancellor of the Diocese, did not bring the matter to the Bishop’s attention. It would, clearly enough, have been a matter of considerable concern to the Bishop to learn that a church volunteer had been accused of sexually abusing a child in the Diocese. As the Deputy Chancellor, Mr Rosser QC can be taken to be aware of the Diocese’s 1993 Policy (revised in 1995), which required pastoral support to be provided to complainants.

Available findings:

AF47 In accepting the brief to appear for Brown at the committal in 1997, Mr Rosser QC gave no consideration to the fact that, by virtue of the fact that he held the position of Deputy Chancellor, it could reasonably be perceived by members of the public and the alleged victim that the Diocese was supporting the alleged perpetrator and disbelieving the alleged victim.

887 Transcript of P Rosser, Case Study 42, 30 August 2016, 1717475:10-35.
889 Transcript of P Rosser, Case Study 42, 30 August 2016, 1717476:1-4.
891 Transcript of Mr Cleary, Case Study 42, 24 November 2016, 23626:20-23627:15.
Allegations against Rushton

Introduction

600. There is evidence that in 1998 the Diocese was made aware that Rushton was in possession of child pornography, although this allegation was quickly withdrawn and then Bishop Herft was led to believe that Rushton only possessed quantities of adult homosexual pornography. There is also evidence that then Bishop Herft was made aware of allegations that Rushton had sexually abused boys in 2002 and again in 2003. However, no disciplinary action or other investigations were taken against in respect of these matters.

601. Bishop Herft told the Royal Commission that he had a professional relationship with Rushton but not a close association. As Archdeacon of Maitland, Rushton held a position of leadership within the Diocese. Bishop Herft said there was some tension in their relationship as Rushton was a strong Anglo-Catholic and was opposed to the ordination of women. Bishop Herft had ordained women in New Zealand as priests and bishops. Rushton and other Anglo-Catholic clergy believed Bishop Herft had ‘tainted hands’ as a result. As a consequence, Rushton would not permit Bishop Herft to preside at the Eucharist in his parish.

The November 1998 Rushton pornography incident

602. On about 25 November 1998, Farragher Removals was engaged to pack up and move Rushton’s belongings from the Rectory at Maitland to the Rectory at Hamilton. While packing, the removalists found a quantity of homosexual pornographic magazines, videos and books.

603. Mr Gary Askie gave oral evidence to the Royal Commission. He was one of the removalists who had packed Rushton’s belongings. He said that while packing in Rushton’s bedroom, he had found some videos that depicted males having sex with each other on the covers and one that showed pictures of a naked young boy. He estimated the age of the boy to be approximately 12 years old. Mr Askie was quite certain the image was not that of an adult and said that he felt ‘shocked and horrified’ when he saw it.

604. Reverend Colvin Ford, who was the Archdeacon of the Upper Hunter in the Diocese of Newcastle from 1992 to 1999 (Archdeacon Ford), told the Royal Commission that on 25 November 1998, he received a phone call from Mr Jim Jackson, the HR Manager of Farragher Removals. Mr Jackson reported that his men had called and said they thought they had found child pornography amongst Rushton’s belongings.
605. Mr Jackson told Archdeacon Ford that the removalists were ‘no angels’ but they had been shocked and upset by what they had found. Mr Jackson was concerned about any repercussions for Farragher Removals and the implications of ‘paedophilia’ in a community leader like Rushton.

606. Archdeacon Ford gave evidence that on 26 November 1998, he informed Bishop Herft that the removalists had discovered child pornography amongst Rushton’s possessions and he understood the possession of child pornography was a criminal offence.

607. On 27 November 1998, Bishop Herft consulted the Diocesan solicitor, Mr Caddies. Mr Caddies advised that the possession of child pornography was a criminal offence. It was also a reportable offence which carried a penalty of up to five years’ imprisonment if there was a failure to report. Mr Caddies gave evidence that he advised Bishop Herft to find out more information about the allegations prior to reporting the matter to the police.

608. Later that day, Bishop Herft met with Rushton, Archdeacon Ford and Bishop Beal at the Diocesan offices. Bishop Herft asked Bishop Beal, a retired bishop residing in the diocese, to be present to provide pastoral support for Rushton. Bishop Beal is now deceased.

609. Bishop Herft described the meeting as ‘fractious’ and said that Rushton was insistent that a lawyer be present for him. At the meeting, he asked Rushton for an explanation and asked why he should not remove Rushton’s licence. He told Rushton that in addition to a possible criminal offence, under the Clergy Discipline Ordinance the possession of pornography could be construed as ‘conduct unbecoming of a priest’ and negligence in duty that brought out scandal.

610. According to Bishop Herft, Rushton denied possessing child pornography or any pornographic magazines. He admitted, however, to packing four X-rated homosexual videos himself rather than leaving them for the removalists to pack. Bishop Herft told Rushton to provide the material described by the removalists to Bishop Beal. A person outside the Diocese would be asked to view the material and advise whether it constituted an offence requiring reporting to the police, or if the material constituted an offence under the Clergy Discipline Ordinance requiring it to be taken before a Tribunal.

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901 Exhibit 42-0021, ‘Statement of Colvin Ford’, Case Study 42, STAT.1096.001.0001 at [9].
902 Exhibit 42-0021, ‘Statement of Colvin Ford’, Case Study 42, STAT.1096.001.0001 at [10].
903 Exhibit 42-0021, ‘Statement of Colvin Ford’, Case Study 42, STAT.1096.001.0001 at [12]; Exhibit 42-0001, ‘Letter from Colvin Ford to Bishop Herft re Farragher Removals complaint’, Case Study 42, ANG.0050.001.1894_R (Tab 34 of Tender Bundle).
904 Exhibit 42-0093, ‘Yellow Envelope No. 20’, Case Study 42, ANG.0354.0020.0001_R at 0004_R.
905 Transcript of R Caddies, Case Study 42, 16 November 2016, 23183:8-46.
906 Exhibit 42-0021, ‘Statement of Colvin Ford’, Case Study 42, STAT.1096.001.0001 at [13].
907 Exhibit 42-0074, ‘Supplementary Statement of Archbishop Roger Herft’, Case Study 42, STAT.1094.001.0001_R at [214].
908 Exhibit 42-0001, ‘Diocesan Council Minutes’, Case Study 42, ANG.0006.001.0298_R (Tab 177 of Tender Bundle).
909 Transcript of R Herft, Case Study 42, 28 August 2016, 1717328:12-14.
910 Exhibit 42-0074, ‘Supplementary Statement of Archbishop Roger Herft’, Case Study 42, STAT.1094.001.0001_R at [213].
911 Exhibit 42-0093, ‘Yellow Envelope No. 20’, Case Study 42, ANG.0354.0020.0001_R at 0005_R.
912 Exhibit 42-0093, ‘Yellow Envelope No. 20’, Case Study 42, ANG.0354.0020.0001_R at 0005_R.
913 Exhibit 42-0093, ‘Yellow Envelope No. 20’, Case Study 42, ANG.0354.0020.0001_R at 0006_R – 0007_R.
611. Bishop Herft also asked Archdeacon Ford to obtain statements from the removalists about what they had found.  

612. Archdeacon Ford told the Royal Commission that he spoke with Mr Jackson later that evening and was informed by him that the removalists now said that there was no child pornography but they were disgusted at the material they had seen and did not want to return to finish the job. Archdeacon Ford updated Bishop Herft accordingly. Mr Caddies gave evidence that upon receiving this information from Archdeacon Ford, ‘we breathed a huge sigh of relief because we were poised at that point to go to the police’.  

613. On 30 December 1998, Bishop Herft wrote to Bishop Beal and requested that he meet with Rushton and create a list of the material in Rushton’s possession that could have caused offence to the removalists, including the material Rushton had packed himself. Bishop Beal was to package and seal all the material.  

614. Also on 30 December 1998, Bishop Herft wrote to Rushton to inform him that he had asked Bishop Beal to obtain a list of the material and that the removalists had also been asked to provide a list of material they had seen that had caused offence to them. Bishop Herft would be taking advice from the Diocesan solicitors and meeting with the management of Farragher Removals to ascertain their intentions. Following this, Bishop Herft would inform Rushton of what action he intended to take.  

615. On 1 December 1998, Bishop Beal reported to Bishop Herft that he had visited Rushton that day and viewed a poster, calendar, video catalogues and some books. However, Rushton refused to allow Bishop Beal to view the videos Rushton said he had packed himself.  

616. Also on 1 December 1998, Mr Jackson told Archdeacon Ford that he had taken written statements from the removalists involved. Archdeacon Ford then informed Bishop Herft of this.  

617. On 3 December 1998, Bishop Herft met with Mr Greg Hansen and Mr Mitchell, then the Diocesan Registrar. Mr Hansen was a former solicitor who had been the Diocesan solicitor under Bishop Holland. Mr Hansen advised Bishop Herft that he had not practised law for a decade and that he was present as a friend of Rushton and was an ‘honest broker’ in the matter. Mr Hansen reported that Rushton was now more repentant and prepared to work with Bishop Herft.  

914 Exhibit 42-0021, ‘Statement of Colvin Ford’, Case Study 42, STAT.1096.001.0001 at [14].  
915 Exhibit 42-0001, ‘Letter from Colvin Ford to Bishop Herft re further conversation with Jim Jackson’, Case Study 42, ANG.0050.001.1890_R (Tab 35 of Tender Bundle).  
916 Exhibit 42-0001, ‘Letter from Colvin Ford to Bishop Herft re further conversation with Jim Jackson’, Case Study 42, ANG.0050.001.1890_R (Tab 35 of Tender Bundle).  
917 Transcript of R Caddies, Case Study 42, 16 November 2016, 23183:46 – 23183:3.  
918 Exhibit 42-0093, ‘Yellow Envelope No. 20’, Case Study 42, ANG.0354.0020.0001_R at 0024_R.  
919 Exhibit 42-0093, ‘Yellow Envelope No. 20’, Case Study 42, ANG.0354.0020.0001_R at 0028_R.  
920 Exhibit 42-0093, ‘Yellow Envelope No. 20’, Case Study 42, ANG.0354.0020.0001_R at 0030_R.  
921 Exhibit 42-0021, ‘Statement of Colvin Ford’, Case Study 42, STAT.1096.001.0001 at [16]; Exhibit 42-0001, ‘Letter from Colvin Ford to Bishop Herft re further conversation with Jim Jackson’, Case Study 42, ANG.0050.001.1867_R (Tab 37 of Tender Bundle).  
923 Exhibit 42-0001, ‘Notes of meeting between Bishop Roger Herft, Messrs Greg Hansen and Peter Mitchell’, Case Study 42, ANG.0050.001.1866 (Tab 38A of Tender Bundle).
618. Bishop Herft informed Mr Hansen that there was uncertainty as to whether the material involved children. This was an issue which needed to be resolved before the Church knew whether it was dealing with a legal issue or an ecclesiastical/spiritual issue. Rushton’s refusal to show the videos to Bishop Beal compounded that uncertainty. Mr Hansen undertook to view the pornographic material and advise Bishop Herft on its nature.

619. Mr Hansen provided a statement in which he stated that he did not have any professional relationship with Rushton other than possibly advising Rushton regarding his will at some time. However, both Bishop Herft and Mr Mitchell said in evidence that they believed Mr Hansen was acting as Rushton’s solicitor at the 3 December 1998 meeting.

620. Bishop Herft said he trusted Mr Hansen, ‘as Rushton’s legal representative’, to provide him with advice and that if there was any suggestion that any of the material was child pornography, Mr Hansen would bring it to his attention.

621. Mr Mitchell agreed that it was an extraordinary position that the investigation of the possibility of a serious crime by Rushton had been handed over to Rushton’s solicitor. However, Mr Mitchell said that he believed that he and Bishop Herft both considered a solicitor would be trustworthy to conduct the investigation.

622. On 3 December 1998, Mr Hansen wrote to Bishop Herft that he had examined ‘certain material’ in the possession of Rushton and that while he did not purport to give legal advice, he was of the view that the material was legal to possess or view in private. Mr Hansen stated in evidence to the Royal Commission that the videos he inspected appeared to be commercially available homosexual pornography. He did not view the videos but only looked at the covers.

623. On 4 December 1998, Mr Mitchell received a carton of 19 videos that had been removed from Rushton’s house. Mr Mitchell told the Royal Commission that he believed Bishop Beal had delivered them to the Diocesan office. Mr Mitchell looked at the covers and checked that the labelling on the videos matched the video covers. He did not view their actual contents. Mr Mitchell subsequently made a list of the videos’ titles.

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924 Exhibit 42-0001, ‘Notes of meeting between Bishop Roger Herft, Messrs Greg Hansen and Peter Mitchell’, Case Study 42, ANG.0050.001.1866 (Tab 38A of Tender Bundle).
925 Exhibit 42-0001, ‘Notes of meeting between Bishop Roger Herft, Messrs Greg Hansen and Peter Mitchell’, Case Study 42, ANG.0050.001.1866 (Tab 38A of Tender Bundle).
926 Exhibit 42-0145, ‘Supplementary Statement of Robert Gregory Hansen’, STAT.1068.001.0001 at [Q5(a)].
927 Transcript of P W Mitchell, Case Study 42, 10 August 2016 at 16897:28-34; Transcript of R Herft, Case Study 42, 29 August 2016, 1717325:26-28, 1717328:15-16.
928 Transcript of R Herft, Case Study 42, 29 August 2016, 1717328:24-26, 33-35.
929 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16898:6-20.
930 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16898:23-26;
931 Exhibit 42-0093, ‘Yellow Envelope No. 20’, Case Study 42, ANG.0854.0020.0001_R at 0034_R.
932 Exhibit 42-0145, ‘Supplementary Statement of Robert Gregory Hansen’, Case Study 42, STAT.1068.001.0001 at [Q4(a)].
933 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16898:2-7; Exhibit 42-0045, ‘Supplementary Statement of Peter Mitchell’, Case Study 42, STAT.1114.001.0001_R at [10].
934 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16898:22-35
935 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16898:37-43.
936 Exhibit 42-0001, ‘List of sexually explicit material provided by Peter Rushton’, Case Study 42, ANG.0050.001.1908 (Tab 38B of Tender Bundle).
Mr Mitchell told the Royal Commission that it did not cross his mind that Rushton might not have provided all the videos or materials that the removalists had complained of.  

Mr Mitchell agreed that as the removalists reported they had seen child pornography and that Rushton had refused to show all the material to Bishop Beal, the true position may have been that Rushton did possess child pornography. However, Mr Mitchell said he did not have evidence that was the case.

Bishop Herft gave evidence that it was clear in his mind at the time that he had to be sure that Rushton did not possess any child pornography. He agreed that as of the meeting on 3 December 1998, he still felt uncertain as to whether there was child pornography. Bishop Herft also agreed that the fact that Rushton had refused to allow Bishop Beal to view the material and the quantity of pornography in his possession was a concern.

Bishop Herft said his belief at all relevant times was that Rushton had a ‘serious addiction to pornography’. Bishop Herft also agreed that this called Rushton’s integrity into account.

Bishop Herft said that it had not occurred to him that Rushton had not provided all the material to Mr Mitchell or Mr Hansen nor that Rushton may have withheld material that disclosed he had committed a criminal offence.

The Royal Commission should find that the Diocese never obtained statements from the Farragher removalists. In this regard, on 7 December 1998, Sparke Helmore, lawyers acting for Farragher Removals, wrote to Mr Caddies to advise that upon further investigation, his client withdrew any suggestion that child pornography had been found in Rushton’s belongings and apologised for any distress caused. It was advised that Farragher Removals was only prepared to provide statements that had been obtained from the removalists if the Diocese agreed to indemnify Farragher Removals and its employees against any costs or liabilities arising from any action that might be taken against them by Rushton.

On 8 December 1998, Mr Mitchell wrote to Mr Caddies to advise that Rushton had handed over the relevant material, he had acknowledged that he had possession of explicit sexual material but it was not paedophilic in nature. An inventory had been taken and the material

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937 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16898:45 - 16899:9.
938 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16897:10-16.
940 Transcript of R Herft, Case Study 42, 29 August 2016, 1717327:41-44.
942 Transcript of R Herft, Case Study 42, 29 August 2016, 1717332:20-22; Exhibit 42-0001, ‘Notes of meeting between Bishop Roger Herft, Messrs Greg Hansen and Peter Mitchell’, Case Study 42, ANG.0050.001.1866 (Tab 38A of Tender Bundle).
943 Transcript of R Herft, Case Study 42, 29 August 2016, 1717332:47-1717333:14.
944 Transcript of R Herft, Case Study 42, 29 August 2016, 1717332:19-23, 29-33.
945 Exhibit 42-0001, ‘Letter from Sparke Helmore to Rankin & Nathan in relation to John Farragher Removals’, Case Study 42, ANG.0050.001.1904 (Tab 39 of Tender Bundle).
disposed of. Mr Mitchell confirmed the material did not contain child pornography. He advised that the Diocese would maintain confidentiality of the removalists’ statements but as the material that had given offence had now been seen, it was not reasonable to consent to indemnify Farragher Removals.  

631. On 10 December 1998, Mr Caddies wrote to Sparke Helmore to advise that the Diocese would not provide an indemnity in return for receiving the statements. Mr Caddies gave evidence that it was likely that the statements were not received given that an indemnity was never granted. Bishop Herft did not see the statements. Therefore, it is most likely that at no stage did the Diocese have direct recourse to the evidence of the removalists. Bishop Herft agreed that it would have been a good idea to obtain a copy of the statements from the men that had actually seen the material.  

632. Mr Askie told the Royal Commission that he was asked to sign a statement. He believed the statement described what he had seen although he could not recall if he had written it himself. He was not provided with a copy of the statement. Mr Askie said that he was never asked to retract his statement but once it was signed he was told he was not to talk about it.  

633. In hindsight, Bishop Herft agreed that it was a logical conclusion that Rushton may not have provided all the material to Mr Mitchell or Mr Hansen.  

634. On 17 December 1998, Bishop Herft telephoned Mr Farragher, the Managing Director of Farragher Removals. Bishop Herft expressed regret that offence had been caused to his employees and thanked him for bringing the matter to his notice so that action could be taken.  

635. Bishop Herft recorded in his filenote of the conversation that Mr Farragher reiterated they were put in an embarrassing position as confidentiality was a hallmark of their service but the Church needed to be informed. Mr Farragher had placed that matter in the hands of his lawyers as the company wanted indemnity. Bishop Herft informed Mr Farragher that on advice from his solicitors, this was not advisable and that the priest had informed him of the nature of the material so a list of that material from the men was not required. Bishop Herft expressed his thanks. He recorded that Mr Farragher said he was grateful the matter had been taken seriously and acted upon. Mr Farragher did not wish any further action to be taken.  

636. Mr Farragher provided a statement to the Royal Commission that he was contacted by Bishop Herft although he believed this was only a day or so after his removalists had found the pornography and informed the HR Manager, Mr Jackson. Mr Farragher stated that Bishop Herft seemed to be concentrating on potential reputation damage to the Church rather than...

947 Exhibit 42-0093, ‘Yellow Envelope No. 20’, Case Study 42, ANG.0354.0020.0001_R at 0040_R.  
948 Exhibit 42-0093, ‘Yellow Envelope No. 20’, Case Study 42, ANG.0354.0020.0001_R at 0044_R.  
949 Transcript of R Caddies, Case Study 42, 16 November 2016, 23134:25-35.  
950 Transcript of R Herft, Case Study 42, 29 August 2016, 1717331:17-23.  
951 Transcript of R Herft, Case Study 42, 29 August 2016, 1717330:36-38.  
952 Transcript of G Askie, Case Study 42, 10 August 2016, 16887:36-38.  
953 Transcript of G Askie, Case Study 42, 10 August 2016, 16888:12-13, 28-33.  
954 Transcript of G Askie, Case Study 42, 10 August 2016, 16888:35-37.  
955 Transcript of G Askie, Case Study 42, 10 August 2016, 16892:38-43.  
956 Transcript of R Herft, Case Study 42, 29 August 2016, 1717331:46 – 1717332:2.  
957 Exhibit 42-0093, ‘Yellow Envelope No 20 relating to complaint by Farragher Removals about Rev Peter Rushton’, Case Study 42, ANG.0354.020.0001_R at 0042_R.
the fact Rushton had child pornography in his house or the welfare of Mr Farragher’s employees.

637. Mr Farragher stated that Bishop Herft requested that he not go to the media. Mr Farragher did not recall if he was asked to sign anything. Mr Farragher said he believed that the material discovered was child pornography as his employees were experienced removalists and were not easily offended. Their upset and offended reaction to the material indicated to him that it was more than general pornography.

638. Archdeacon Ford told the Royal Commission that sometime later in 1999, Archdeacon David Simpson who was the rector of Islington/Carrington parish, told him that Rushton asked him to collect hundreds of video tapes from the rectory at Hamilton and destroy them. Archdeacon Simpson told Archdeacon Ford that he burnt them and that some of the video covers depicted men and boys. Archdeacon Ford took this to mean primary school age children. Archdeacon Simpson is now deceased.

639. Bishop Herft told the Royal Commission that he was surprised by the evidence that Archdeacon Simpson had destroyed hundreds of videos for Rushton as he would have expected Archdeacon Simpson to bring this to his attention immediately. Archdeacon Ford gave evidence that he believed Rushton lied to Bishop Herft and Bishop Beal about the number of videos he had.

640. Mr Askie, one of the removalists, provided direct evidence that he had seen child pornography at Rushton’s home during the move. Further, it is most unlikely that the removalist company would risk its reputation and business by making an allegation out of the blue against a paying customer. Rushton’s initial refusal to cooperate is consistent with his guilt. Archdeacon Simpson’s admission to destroying the pornographic material after the fact is consistent with the original allegation of the removalist company.

Available findings:

| AF48 | In 1998, removalists located child pornography at Rushton’s home as they prepared to move him to a new address. |
| AF49 | Bishop Herft did not confirm directly with the removalists who had seen the material at Rushton’s home that there was no child pornography. |
| AF50 | Instead Bishop Herft relied upon Mr Rushton’s own legal adviser to conduct his own investigation and advise the Diocese of the outcome. |
| AF51 | The investigation conducted by the Diocese through Bishop Herft was inadequate as it relied on Rushton to make disclosures that may have been against his interest. |

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958 Exhibit 42-0022, ‘Statement of John Farragher’, Case Study 42, STAT.1113.001.0001 at [8].
959 Exhibit 42-0022, ‘Statement of John Farragher’, Case Study 42, STAT.1113.001.0001 at [9].
961 Exhibit 42-0021, ‘Statement of Colvin Ford’, Case Study 42, STAT.1096.001.0001 at [18].
962 Exhibit 42-0021, ‘Statement of Colvin Ford’, Case Study 42, STAT.1096.001.0001 at [19].
963 Transcript of R Herft, Case Study 42, 29 August 2016, 1717332:4-10.
964 Transcript of C Ford, Case Study 42, 4 August 2016, 16431:47 – 16432:5.
Creation of yellow envelope regarding the Rushton pornography incident

641. A comprehensive record of filenotes and correspondence between individuals involved in the incident, including Bishop Herft, Bishop Beal, Archdeacon Ford, Robert Caddies, Peter Mitchell and Rushton, was stored as part of the Diocese’s complaints handling ‘yellow envelope’ system in yellow envelope 20.965

Management in 1998 of disciplinary process against Rushton

642. Bishop Herft told the Royal Commission that the quantities and possession of (adult) pornography by Rushton suggested a pattern of behaviour of addiction that pointed to a more serious spiritual problem.966 Bishop Herft believed it cast doubt upon whether he should commission Rushton as the rector in his new parish.967

643. On 6 December 1998, Rushton wrote to Bishop Herft agreeing to place himself under the spiritual direction of Bishop Beal and informed Bishop Herft that he had made an appointment to see Dr Howard Johnson, a psychologist. Rushton stated that ‘all materials considered offensive in any way’ had been destroyed. He also apologised to Bishop Herft and those who had been concerned in the matter.968 Bishop Herft told the Royal Commission that he had requested Rushton to take those actions.969

644. On 8 December 1998, Dr Johnson advised Bishop Herft that nothing had come to light during his interview with Rushton the previous day that suggested Rushton’s possession of this quantity of pornographic video material might be associated with behaviours that could put ‘trusting young people’ at risk.970 Bishop Herft agreed that he had taken some comfort from the advice of Dr Johnson and the assurances given by Rushton.971

645. On 14 December 1998, Bishop Herft wrote to Rushton thanking him for the assurances he had given him in his letter of 6 December 1998. Bishop Herft confirmed that the legal representatives for the removalists had made an unequivocal statement revoking any suggestion of child pornography. Bishop Herft suggested that Rushton consider a 30-day retreat with a spiritual director early in 1999.972

646. Bishop Herft told the Royal Commission that after the initial meeting with Rushton, he found that Rushton’s whole demeanour changed. Bishop Herft believed that Rushton had repented and that redemption had come to him as a result of the discovery of the pornography.973

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965 Exhibit 42-0093, ‘Yellow Envelope No 20 relating to complaint by Farragher Removals about Rev Peter Rushton’, Case Study 42, ANG.0354.020.0001_R.
966 Transcript of R Herft, Case Study 42, 28 August 2016, 1717325:47 – 1717326:17
968 Exhibit 42-0001, ‘Letter from Peter Rushton to Bishop Herft re agreement to provide assurances’, Case Study 42, ANG.0050.003.5116 (Tab 38C of Tender Bundle).
969 Transcript of R Herft, Case Study 42, 29 August 2016, 1717333:27-41.
970 Exhibit 42-0001, ‘Letter from Dr Howard Johnson to Bishop Herft re assessment of Peter Rushton’, Case Study 42, Case Study 42, ANG.0050.003.5115_R (Tab 39A of Tender Bundle).
971 Transcript of R Herft, Case Study 42, 29 August 2016, 1717333:27-41.
972 Exhibit 42-0001, ‘Letter from Bishop Herft to Peter Rushton’, Case Study 42, ANG.0050.003.5115_R (Tab 41 of Tender Bundle).
973 Transcript of R Herft, Case Study 42, 29 August 2016, 1717335:39-46.
However, Bishop Herft also agreed in evidence that Rushton threatened the Diocese with legal action if Herft acted against him. Bishop Herft conceded that part of the reason he did not take further steps to discipline Rushton when the pornography issue was raised was that he was concerned Rushton would take the Diocese to court.

Bishop Herft acknowledged that at the time of the pornography incident, he was minded to revoke Rushton’s licence and that he should have done so at that time.

Bishop Herft said that after the pornography incident Rushton’s demeanour changed significantly. However, Bishop Herft admitted he had been ‘deeply fooled’.

Rushton was the Archdeacon of Maitland from 1983 until 1998 when he was appointed Team Rector of Hamilton. Due to reasons of ill health, Rushton resigned as the Team Rector of Hamilton parish in August 2001. Notwithstanding the pornography incident in late 1998, Bishop Herft granted Rushton permission to officiate in the Diocese.

It may be accepted that Bishop Herft was naïve. However he was also in a position of responsibility with mandatory reporting obligations. The effect of Bishop Herft’s evidence is that he hoped Rushton had reformed and was willing to trust that had occurred merely by Rushton telling him so. However, it is apparent that the admission to being ‘deeply fooled’ was a position of his own making due to:

a. The lack of any proper investigation creating a lack of evidence upon which to base any decision as to revoking Rushton’s licence or taking any other action;

b. The lack of any systems in place to supervise or monitor the implementation of any asserted changed behaviour, even on a temporary basis;

c. The allowance of the threat of legal proceedings against the Diocese to weigh decisively in favour of taking no further action, regardless of whether further action or even further investigation was warranted.

Given Bishop Herft’s position of responsibility, his knowledge of the appropriate Diocesan disciplinary standards and reporting obligations under the criminal law, Bishop Herft’s lack of further action against Rushton at the time and then the later granting Rushton permission to officiate in the Diocese reflected very poor judgment on Bishop Herft’s part.

Available findings:

AF52 Bishop Herft did not take action to discipline Rushton in the aftermath of the pornography allegations in part because Rushton threatened to take legal proceedings against the Diocese.

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974 Transcript of R Herft, Case Study 42, 29 August 2016, 1717366:4-6, 26-29, 31-34. See also Exhibit 42-0001, ‘Letter from Archbishop Roger Herft to Bishop Brian Farran’, Case Study 42, ANG.0050.003.5056 (Tab 246 of Tender Bundle).

975 Transcript of R Herft, Case Study 42, 29 August 2016, 1717367:35-40.

976 Transcript of R Herft, Case Study 42, 12 August 2016, 1717273:33-44.

977 Transcript of R Herft, Case Study 42, 12 August 2016, 1717335:37-46.

978 Transcript of R Herft, Case Study 42, 12 August 2016, 1717343:23..


980 Exhibit 42-0074, ‘Supplementary Statement of Archbishop Roger Herft’, Case Study 42, STAT.1094.001.0001_R at [205], [220].

981 Transcript of R Herft, Case Study 42, 12 August 2016, 1717272:12-18.
Allegations against Rushton disclosed in October 2002

653. The Royal Commission received a statement from Reverend Graham Jackson. Reverend Jackson was ordained an Anglican priest in the Diocese of Adelaide in 1970.\textsuperscript{982} He obtained a permission to officiate in the Diocese in 1992.\textsuperscript{983}

654. Reverend Jackson stated that in or about October 2002, he was informed by an acquaintance that his son had been abused by Rushton when he was a child in the 1980s. Reverend Jackson told him that he would speak to Bishop Herft.\textsuperscript{984} Reverend Jackson said that he met with Bishop Herft on 15 October 2002 and informed him of the allegation regarding Rushton. According to Reverend Jackson, Bishop Herft asked him to inquire whether the man’s son would make a formal complaint and said there was little he could do without one.\textsuperscript{985}

655. Bishop Herft said in his statement that he intimated to Reverend Jackson that he wanted the matter progressed as Rushton still held a permission to officiate in the Diocese.\textsuperscript{986} Bishop Herft recorded in a filenote at the time: \textsuperscript{987}

I intimated to the Rev’d Jackson that this information that had been shared left me in an unenviable position. Fr Peter had my licence and if he re-offended I would be held liable as I now had prior knowledge of his alleged behaviour.

656. On 11 December 2002, Reverend Jackson wrote to Bishop Herft that the complainant’s father was still discussing with his son whether he wished to make a formal complaint and he would keep the bishop informed.\textsuperscript{988} Reverend Jackson had no further involvement in the matter.\textsuperscript{989} Bishop Herft told the Royal Commission he had no further records regarding any outcome from this complaint.\textsuperscript{990} There is no evidence that any further action was taken by the Diocese in relation to Rushton at this time.

657. Combined with the 1998 pornography incident, it is extraordinary that Bishop Herft took no further action to investigate the matter or implement any sort of risk management action with respect to Rushton.

658. It should be found that in 2002, Bishop Herft was remiss in failing to take any further action in relation to Rushton at this time.

659. Bishop Herft conceded that he could have revoked Rushton’s permission to officiate at will without requiring any Diocesan Tribunal procedure.\textsuperscript{991}

\begin{footnotes}
\item[982] Exhibit 42-0066, ‘Statement of Graham Jackson’, Case Study 42, STAT.1098.001.0001_R at [5].
\item[983] Exhibit 42-0066, ‘Statement of Graham Jackson’, Case Study 42, STAT.1098.001.0001_R at [6].
\item[984] Exhibit 42-0066, ‘Statement of Graham Jackson’, Case Study 42, STAT.1098.001.0001_R at [95].
\item[985] Exhibit 42-0066, ‘Statement of Graham Jackson’, Case Study 42, STAT.1098.001.0001_R at [10].
\item[986] Exhibit 42-0074, ‘Supplementary Statement of Archbishop Roger Herft’, Case Study 42, STAT.1094.001.0001_R at [221].
\item[987] Exhibit 42-0001, ‘Filenote by Bishop Herft of conversation with Graham Jackson’, Case Study 42, ANG.0050.003.5095_R (Tab114 of Tender Bundle).
\item[988] Exhibit 42-0066, ‘Statement of Graham Jackson’, Case Study 42, STAT.1098.001.0001_R at [14]; Exhibit 42-0001, ‘Letter from Reverend Graham Jackson to Bishop Roger Herft’, Case Study 42, ANG.0050.001.4908_R (Tab 117 of Tender Bundle).
\item[989] Exhibit 42-0066, ‘Statement of Graham Jackson’, Case Study 42, STAT.1098.001.0001_R at [16].
\item[990] Exhibit 42-0074, ‘Supplementary Statement of Archbishop Roger Herft’, Case Study 42, STAT.1094.001.0001_R at [224].
\item[991] Transcript of R Herft, Case Study 42, 12 August 2016, 17273:33-37.
\end{footnotes}
660. He agreed that in hindsight, this would have been a prudent risk management strategy.\footnote{992}{Transcript of R Herft, Case Study 42, 12 August 2016, 17273:39-44.}

**Available findings:**

**AF53** On 15 October 2002, Reverend Jackson informed Bishop Herft of allegations that Rushton had sexually abused a boy in the 1980s. Bishop Herft said there was little he could do if no formal complaint was made by the victim.

**AF54** After receiving this allegation, Bishop Herft took no steps to further investigate the matter or withdraw Rushton’s permission to officiate in the Diocese.

**Multiple allegations against Rushton disclosed in February 2003**

661. Mrs Sanders, then the Chair of CASM, said that in February 2003, she reported to Bishop Herft that an allegation had been received that Rushton had abused the son of a priest and another boy in or about 1979.\footnote{993}{Exhibit 42-0042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0001_R at [25]-[26].}

662. Bishop Herft agreed that at the time these allegations concerning Rushton were reported to him by Mrs Sanders, he already had cause for concern about Rushton because of his possession of pornography.\footnote{994}{Transcript of R Herft, Case Study 42, 12 August 2016, 17272:29-34.}

663. Bishop Herft said that when he was told in 2003 that Rushton had abused a priest’s son, he was on ‘high alert’ but he was prevented from investigating further without a complaint from the person allegedly abused.\footnote{995}{Transcript of R Herft, Case Study 42, 29 August 2016, 17336:7-13.} Bishop Herft accepted he could have pursued the matter by speaking with Rushton\footnote{996}{Transcript of R Herft, Case Study 42, 29 August 2016, 17336:15-19, 32-34.} and in hindsight, it was remiss of him not to have done so.\footnote{997}{Transcript of R Herft, Case Study 42, 29 August 2016, 17336:36-38, 40-46.}

664. Further, in February 2003, a different allegation involving Rushton was made known to Bishop Herft.\footnote{998}{Exhibit 42-0093, ‘Yellow Envelope No. 27’, Case Study 42, ANG.0354.027.0001_R.} This came by way of a complaint forwarded from the Diocese of Sydney. The complaint concerned the behaviour of four clergy associated with the Newcastle Diocese in 1976, one of whom was identified as ‘Father Peter Rushkin’ of Wallsend.\footnote{999}{Exhibit 42-0093, ‘Bundle of Yellow Envelopes’, Case Study 42, ANG.0354.027.0001_R at 0012_R.} Rushton was the priest at Wallsend in 1976.\footnote{1000}{Exhibit 42-0001, ‘Extract from Anglican Directory 1997’, Case Study 42, ANG.0050.004.2894_R (Tab 30 of Tender Bundle).}

665. The complainant was an altar boy in the Newcastle Diocese in 1976. He stated that he had concerns about Rushton’s relationships with young boys at that time. The complainant’s own observations as well as comments by another priest at the time led the complainant to believe that Rushton had ‘his own group of boys’.\footnote{1001}{Exhibit 42-0093, ‘Yellow Envelope No. 20’, Case Study 42, ANG.0354.0020.0001_R at 0024_R.}
On 21 February 2003, Mrs Sanders wrote to Bishop Herft and passed on the file received from the Diocese of Sydney concerning this complaint. She created Yellow Envelope 27.

Bishop Herft also agreed that he had had a meeting with Mrs Sanders and Mr Caddies about this complaint. Bishop Herft said that ‘Mr Caddies and Mrs Sanders were right over the review and they brought certain matters to my attention as to how they were following it up.’

Bishop Herft told the Royal Commission he could not recall being advised of an allegation that Rushton ‘had his own group of boys’. Bishop Herft accepted that the allegation that Rushton had ‘his own group of boys’ was an allegation of sexual impropriety.

Bishop Herft said that Mrs Sanders always acted in a diligent manner in bringing allegations to his attention and that it was likely that she told him one of the allegations concerned Rushton.

It should be found that this allegation was brought to Bishop Herft’s attention. There is no evidence that Bishop Herft took any steps after being made aware of this allegation, notwithstanding that it came on top of the child pornography allegations and the 2002 allegations.

Bishop Herft said he had ‘no idea’ was the 2003 allegations about Rushton were not reported to the police and accepted responsibility for not doing so.

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Available findings:

AF55 In February 2003, Bishop Herft was made aware of an allegation that Rushton had abused the son of a priest and another boy in or about 1979.

AF56 In February 2003, Bishop Herft was also made aware that a complaint had been made against four clergy from the Diocese, one of whom was Rushton. He was made aware that the complaint against Rushton was that he had ‘his own group of boys’ and was aware that this was an allegation of sexual impropriety.

AF57 After receiving these allegations, Bishop Herft took no steps to further investigate the allegations, implement any risk management procedures or withdraw Rushton’s permission to officiate in the Diocese.

AF58 Bishop Herft’s continued licensing of Rushton, notwithstanding his knowledge of the various allegations made against Rushton by 2002, demonstrated poor judgment by Bishop Herft.

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1002 Exhibit 42-0093, ‘Yellow Envelope No. 20’, Case Study 42, ANG.0354.0020.0001_R at 0024_R; Transcript of R Herft, Case Study 42, 29 August 2016, 17338:8-20.

1003 Transcript of R Herft, Case Study 42, 29 August 2016, 17339:20-31.

1004 Transcript of R Herft, Case Study 42, 29 August 2016, 17340:14-16.

1005 Transcript of R Herft, Case Study 42, 29 August 2016, 17341:22-27.

1006 Transcript of R Herft, Case Study 42, 29 August 2016, 17342:4-7.

1007 Transcript of R Herft, Case Study 42, 29 August 2016, 17340:23-25.


1009 Transcript of R Herft, Case Study 42, 29 August 2016, 17343:32-40.
Conclusions on Herft’s response to allegations concerning Rushton

672. Bishop Herft’s evidence on his response to the history of allegations concerning Rushton was:

  a. He has asked himself a number of times why he was not more alert. He should have acted more effectively when he received allegations against Rushton.\(^{1010}\)

  b. He could not account for why he missed that there was a serious problem of child sexual abuse within the Diocese, but said that no-one had come to him or other senior staff to make them more attentive to what was occurring.\(^{1011}\)

  c. Even though he was made aware of allegations that Rushton had sexually abused children and there were other allegations of child sexual abuse being reported to CASM, he did not attempt to investigate these matters.\(^{1012}\)

  d. It was now known that Rushton was a prolific paedophile who abused a large number of boys over many years, and he should have acted more effectively in 1998 but failed to do so.\(^{1013}\)

673. Bishop Herft said that in 2003 there would have been ‘not only alerts but alarm bells ringing’ that Rushton should have been brought to the attention of the police and also taken before a disciplinary tribunal or had his permission to officiate removed.\(^{1014}\)

674. Although (as set out above) he had been ‘deeply fooled’ into believing that Rushton had changed his life, Bishop Herft accepted that this did not preclude him from looking seriously at Rushton’s past record and dealing with it, which he had failed to do.\(^{1015}\)

675. Bishop Herft told the Royal Commission that he could not recall the details of the complaints about Rushton brought to him by Mrs Sanders.

676. In contrast, Bishop Herft had a very clear memory, including the exact date he was advised, of allegations that the Diocesan Registrar Peter Mitchell had defrauded the Diocese.\(^{1016}\) Bishop Herft gave evidence that very soon after receiving those allegations, he reported the fraud matter to police.\(^{1017}\)

Available findings:

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<tr>
<td>AF59</td>
<td>By the end of February 2003, Bishop Herft could have been in no doubt that there was a history of behaviour with regard to Rushton that required further investigation.</td>
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<tr>
<td>AF60</td>
<td>Bishop Herft did not report the 2002 and 2003 allegations against Rushton to the NSW police and he should have done so.</td>
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\(^{1010}\) Transcript of R Herft, Case Study 42, 12 August 2016, 17274:20-26.

\(^{1011}\) Transcript of R Herft, Case Study 42, 12 August 2016, 1717279:3-16.

\(^{1012}\) Transcript of R Herft, Case Study 42, 12 August 2016, 1717277:18-37.

\(^{1013}\) Transcript of R Herft, Case Study 42, 12 August 2016, 1717274:14-26.

\(^{1014}\) Transcript of R Herft, Case Study 42, 29 August 2016, 1717343:9-19

\(^{1015}\) Transcript of R Herft, Case Study 42, 29 August 2016, 1717343:21-30.

\(^{1016}\) Transcript of R Herft, Case Study 42, 12 August 2016, 1717267:7-36.

\(^{1017}\) Transcript of R Herft, Case Study 42, 12 August 2016, 1717267:38-47.
Allegations against CKC

Introduction

677. The experiences of survivors CKA and CKB were recounted in Section 3 above. They allege that they were sexually abused by CKC in while they served as altar boys in the mid-1970s. At that time, CKC was a priest in the Diocese.

678. As discussed in Section 3 above, it should be found that CKA disclosed his abuse at the hands of CKC to then Assistant Bishop Appleby in 1984. No steps were taken with respect to CKC following that disclosure.

679. In February 1996, CKC transferred from the Diocese of Newcastle to the Diocese of Ballarat.1018 There is evidence, discussed below, that CKA contacted the Diocese in 1996 and again in 1999 to report the abuse by CKC. In each case, CKA spoke with then Dean Lawrence.

680. Ultimately, CKA and CKB reported the alleged abuse to the police in 2000 and CKC was charged with child sex offences. He was committed to stand trial and he was represented by Mr Allen and Mr Rosser QC (then the Deputy Chancellor of the Diocese). However, during the course of the prosecution the matter was ‘no billed’ and the prosecution was withdrawn. These events are described in more detail below.

681. The conduct of various Diocesan officials during the course of and in the aftermath of the criminal proceedings is explored in detail as it provides a useful study of the culture of conflicts of interest within the Diocese; the inability of officers to recognise those conflicts; the closing of ranks behind CKC by the Diocese; and the lack of compassion and pastoral care shown to CKA and CKB.

CKA’s disclosure to the Diocese in 1996

682. According to a contemporaneous filenote of Mr Lawrence, CKA telephoned him on 24 April 1996, and disclosed his identity and that he was sexually abused by ‘an Anglican Priest’ in 1970.1019 At the time of the call Mr Lawrence was the Commissary of the Diocese as Bishop Herft was absent from the Diocese.1020

683. CKA says that he telephoned the Church’s ‘confidential helpline’ for victims of sexual abuse.1021 Mr Lawrence says that CKA telephoned him on his personal line.1022 Bishop Herft gave evidence that there was no helpline at the time.1023 He said that the call was likely

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1018 Transcript of R A Herft, Case Study 42, 29 August 2016, 1717351:14-37 and 1717400:31-32.
1019 Exhibit 42-0001 at Tab 22, ‘Report for the Sexual Harassment File by Dean Graeme Lawrence’, Case Study 42, ANG.0050.002.2960_R (Tab 22 of Tender Bundle).
1020 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23414:37-38.
1021 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [34].
1022 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23415:35..
directed to Mr Lawrence as the Commissary in Bishop Herft’s absence. No other evidence supports the proposition that there was a confidential helpline in 1996. It is most likely that Mr Lawrence was contacted at that point because he was the Commissary of the Diocese.

**Available finding:**

AF63 CKA contacted Mr Lawrence and made a disclosure of sexual abuse in 1996 because at the time Mr Lawrence was the Commissary of the Diocese.

684. In response to CKA’s call, Mr Lawrence scheduled a meeting with CKA on 27 April 1996. Mr Lawrence noted that CKA was dubious about attending this meeting because he felt it might be ‘like an inquisition’. CKA gave evidence that he did not attend the scheduled meeting because he did not trust Mr Lawrence. CKA said that the Church did not conduct any follow-up.

685. During his oral evidence on 18 November 2016 Mr Lawrence gave inconsistent accounts as to his knowledge of the identity of CKC at around the time of CKA’s initial disclosure in 1996.

686. Initially, Mr Lawrence told the Royal Commission that CKA did not disclose CKC’s identity during their telephone conversation and, while receiving an allegation of sexual abuse against a priest was a matter of great concern to him, he said he was unable to ascertain whether the subject priest was still working within the Diocese because he had ‘no idea who he was’.

687. Later, Mr Lawrence accepted that it had been readily and easily open to him to work out the identity of CKC on the basis of the information provided to him by CKA and that, in fact, he had worked out CKC’s identity within a short period of time after receiving CKA’s disclosure by reviewing the old year books of the Diocese.

688. While at one point in subsequent testimony Mr Lawrence conceded that CKA had named CKC in his 1996 disclosure, Mr Lawrence’s final position on his knowledge of CKC’s identity as stated in his oral evidence was that CKA had not named CKC during the 1996 disclosure but that he, Mr Lawrence, had worked out CKC’s identity within a few days of his phone conversation with CKA.

689. On 17 May 1996, the Dean Lawrence forwarded Bishop Herft the filenote of his conversation with CKA regarding his allegations of sexual abuse.

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1024 Transcript of R A Herft, Case Study 42, 29 August 2016, 1717352:5-22.
1025 Exhibit 42-0001, ‘Report for the Sexual Harassment File by Dean Graeme Lawrence’, Case Study 42, ANG.0050.002.2960_R (Tab 22 of Tender Bundle).
1026 Exhibit 42-0001, ‘Report for the Sexual Harassment File by Dean Graeme Lawrence’, Case Study 42, ANG.0050.002.2960_R (Tab 22 of Tender Bundle).
1027 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [36].
1028 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23417:12-24.
1029 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23420:19-20, 30-32; 23421:3-4.
1030 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23421:36-38, 44-46
1031 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23422:33, 40-46.
1032 Exhibit 42-0001, ‘Letter from Dean Graeme Lawrence to Bishop Herft enclosing ‘Report for the Sexual Harassment File’ dated 29 April 1996’, Case Study 42, ANG.0050.002.2959 (Tab 23 of Tender Bundle).
Bishop Herft agreed that this letter made him aware of allegations of sexual abuse against one of his clergy, but said he did not know who the allegations were against. While the relevant parish was named, Bishop Herft did not try to find out who the particular priest was and accepted that he ought to have done so.

This is consistent with Mr Lawrence’s oral evidence to the effect that, although he had worked out the identity of CKC within a short time of receiving CKA’s disclosure, he decided not to name CKC in his letter to Bishop Herft because he was trying to exercise ‘proper behaviour’ in regards to CKC.

Bishop Herft gave evidence that, as of 1993, there was a clear policy in the Diocese that matters of child abuse should be reported to the police. Despite agreeing that he received sufficient detail from CKA’s initial complaint to report to the police, Bishop Herft told the Royal Commission that he neither contacted the police, nor did he conduct any follow-up investigation. Bishop Herft accepted that he did nothing.

At this time, CKC remained licenced as a priest in the Diocese of Ballarat. No steps were taken to make the Diocese of Ballarat aware of the allegations.

Available findings:

AF64 Following CKA’s telephone call to then Dean Lawrence in April 1996, then Dean Lawrence was aware that it was alleged that CKC had sexually abused two boys in 1970.

AF65 In around May 1996, then Dean Lawrence informed Bishop Herft of the allegation that a priest had sexually abused two boys in 1970 but he did not name that priest.

AF66 Neither Bishop Herft nor then Dean Lawrence informed the police of the allegations or took any other steps in relation to the allegations. In failing to inform the police, Bishop Herft and then Dean Lawrence did not act in accordance with the Diocesan policy that allegations of child sexual abuse be reported to the police.

AF67 Neither Bishop Herft nor then Dean Lawrence informed the Diocese of Ballarat of the allegations against CKC despite the fact that CKC was licensed as a priest in the Diocese of Ballarat in 1996.
CKA’s disclosure to the Diocese in 1999

688. On 8 January 1999, CKA called the Diocese again to allege that he had been sexually abused by CKC when he was a boy. He again spoke to then Dean Lawrence who made a filenote of the conversation on 12 January 1999.

689. Consistent with this filenote, during his oral evidence Mr Lawrence agreed that on this occasion CKA disclosed that CKC was the alleged perpetrator, asserted that CKC had sexually abused him when he was 14 years old and also asserted that CKC had also sexually abused other boys.

690. Mr Lawrence also confirmed that he had been told by CKA that his mother had brought the matter to the attention of Bishop Shevill, in accordance with Mr Lawrence’s filenote which stated said:

CKA said that his Mother had brought this to the attention of Bishop Shevill and that he had spoken to Bishop Appleby but that “the matter had been swept under the carpet”.

691. The filenote records that CKA enquired about the nature of Mr Lawrence’s relationship with CKC and that Mr Lawrence advised that he knew CKC but that they were not close friends. Mr Lawrence recognised that he had spoken with CKA previously and explained that he was unable to contact CKA after he failed to keep his appointment because CKA did not provide any contact details.

692. Mr Lawrence forwarded his filenote to Bishop Herft on 12 January 1999 and noted that ‘these conversations were verbally reported to you on Monday January 11th 1999.’

693. A filenote of Bishop Herft prepared on 12 January 1999 indicates that he had spoken with Mr Lawrence on 9 and 11 January 1999 about CKA’s allegations. The filenote also indicated that CKA alleged that he had reported the matter to Bishop Appleby and that Bishop Herft had telephoned Bishop Appleby who made it ‘absolutely clear’ that no-one had contacted him about the complaint.

694. On 11 January 1999, then Dean Lawrence made further contact with CKA. CKA told Mr Lawrence that he did not want to see anyone but the Bishop and a meeting was scheduled for

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1042 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [37]; Exhibit 42-0001, ‘Filenote of Dean Graeme Lawrence about Diocesan response to CKA from 8-12 January 1999, Case Study 42, NSW.0037.001.0442_R (Tab 42 of Tender Bundle).

1043 Exhibit 42-0001, ‘Filenote of Dean Graeme Lawrence about Diocesan response to CKA from 8-12 January 1999, Case Study 42, NSW.0037.001.0442_R (Tab 42 of Tender Bundle).

1044 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23425:24-31.

1045 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23425:38-39; Exhibit 42-0001, ‘Filenote of Dean Graeme Lawrence about Diocesan response to CKA from 8-12 January 1999, Case Study 42, NSW.0037.001.0442_R (Tab 42 of Tender Bundle).

1046 Exhibit 42-0001, ‘Filenote of Dean Graeme Lawrence about Diocesan response to CKA from 8-12 January 1999, Case Study 42, NSW.0037.001.0442_R (Tab 42 of Tender Bundle).

1047 Exhibit 42-0001, ‘Filenote of Dean Graeme Lawrence about Diocesan response to CKA from 8-12 January 1999, Case Study 42, NSW.0037.001.0442_R (Tab 42 of Tender Bundle).

1048 Exhibit 42-0001, ‘Filenote of Dean Graeme Lawrence about Diocesan response to CKA from 8-12 January 1999, Case Study 42, NSW.0037.001.0442_R (Tab 42 of Tender Bundle).

1049 Exhibit 42-0001, ‘12 January 1999 letter from Dean Lawrence to Bishop Herft’, Case Study 42, ANG.0050.002.2555 (Tab 43 of Tender Bundle).

1050 Exhibit 42-0001, ‘Filenote by Bishop Herft about Diocesan response to CKA from 9-12 January 1999, Case Study 42, ANG.0050.002.2740_R (Tab 45 of Tender Bundle).
14 January 1999. CKA gave evidence that he asked to speak with someone independent of the Church but Mr Lawrence said the Church had a procedure and would take care of it.

695. CKA did not attend the meeting that had been scheduled for 14 January 1999. CKA said that he did not attend the proposed meeting because he did not trust the Church.

Mr Rosser QC’s advice to the Diocese regarding its response to CKA’s complaint

696. Following CKA’s non-attendance at the proposed meeting, Bishop Herft consulted Mr Rosser QC, then the Deputy Chancellor, at a meeting on 20 January 1999.

697. According to Bishop Herft’s filenote of the meeting, Mr Rosser QC advised Bishop Herft that the matter needed to be ‘firmed up by the Dean writing to [CKA] outlining his options’. Mr Rosser QC told the Royal Commission that he considered it important for the Diocese to record that it was willing to talk to CKA, but at the same time to acknowledge CKA’s right to report to the police. The filenote recorded that Mr Rosser QC would meet with Mr Lawrence on 21 January 1999 to ‘discuss the matter in detail’.

698. Following the meeting with Rosser QC, then Dean Lawrence wrote a letter to CKA dated 22 January 1999. Mr Lawrence advised Bishop Herft that Mr Rosser QC had ‘looked at’ the letter and ‘approved’ it. It is clear that Rosser QC provided advice to the Diocese about how to deal with CKA’s allegations.

699. In the 22 January 1999 letter, then Dean Lawrence stated that the Church would offer CKA as much help as required and had no intention to hide from CKA’s allegations. In addition, Mr Lawrence acknowledged CKA’s right to report to the police but encouraged him to consider ‘counselling and advice from some source’ before taking such course.

Let me once again affirm to you that the Church has no intention to run away from or hide from the matters which you raise. We are prepared to offer as much help as the circumstances require.

700. Mr Rosser QC accepted that, in his capacity as Deputy Chancellor, he was content for the Diocese to represent, by way of this letter, that the Church would not sweep CKA’s matter

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1050 Exhibit 42-0001, ‘Filenote of Dean Graeme Lawrence about Diocesan response to CKA from 8-12 January 1999, Case Study 42, NSW.0037.001.0442_R (Tab 42 of Tender Bundle); Exhibit 42-0001, ‘Filenote by Bishop Herft about Diocesan response to CKA from 9-12 January 1999, Case Study 42, ANG.0050.002.2740_R (Tab 45 of Tender Bundle).

1051 Exhibit 42-0001, ‘Letter from Lawrence to Bishop Herft dated 14 January 1999’, Case Study 42, ANG.0050.002.2558 (Tab 46 of Tender Bundle).

1052 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [37].

1053 Exhibit 42-0001, ‘Filenote by Bishop Herft dated 14 January 1999’, Case Study 42, ANG.0050.002.2560 (Tab 48 of Tender Bundle).

1054 Transcript of R Herft, Case Study 42, 29 August 2016, 17395:14-17 and 17354:9-22.

1055 Exhibit 42-0001, ‘Filenote by Archbishop Herft re meeting with Rosser dated 20 January 1999’, Case Study 42, ANG.0050.001.6979_R (Tab 47 of Tender Bundle); Transcript of R A Herft, Case Study 42, 29 August 2016 at 17354:9 – 17355:3.

1056 Transcript of P Rosser, Case Study 42, 30 August 2016, 17477:36-46.

1057 Exhibit 42-0001, ‘Letter from Lawrence to Bishop Herft dated 22 January 1999’, Case Study 42, NSW.0037.001.0077_R (Tab 49 of Tender Bundle).

1058 Exhibit 42-0001, ‘Letter from Lawrence to Bishop Herft dated 22 January 1991’, Case Study 42, ANG.0050.002.2560 (Tab 48 of Tender Bundle).

1059 Exhibit 42-0001, ‘Letter from Lawrence to CKA dated 22 January 1999’, NSW.0037.001.0077_R (Tab 49 of Tender Bundle).
under the carpet, and that the Church would offer as much help as the circumstances required.1060

701. While the letter acknowledged CKA’s right to report the matter to the police,1061 CKA said that he felt the Church was encouraging him to resolve the matter through the Church’s processes.1062 Bishop Herft agreed that this letter was very legalistic in tone, lacked compassion and failed to address the concerns raised in CKA’s complaint to then Dean Lawrence.1063

702. On 22 January 1999, then Dean Lawrence forwarded Bishop Herft a copy of his letter to CKA for the Bishop’s ‘sexual harassment file’.1064 Bishop Herft agreed that upon receiving Mr Lawrence’s filenote of CKA’s second complaint, he was aware that CKA alleged that CKC had sexually abused him and others as boys.1065 He accepted that this was more than enough detail to go to the police but that, once again, he decided not to follow the Diocese’s ‘clear policy’ to report matters of child abuse to the police.1066

703. Bishop Herft told the Royal Commission that he did not report the allegations against CKC to the police following CKA’s complaints in 1996 and 1999, because he did not wish to abrogate an adult survivor’s right to control their story.1067 However, Bishop Herft said that he now believes that police should always be informed of allegations of child sexual abuse, regardless of whether adult or child survivors are involved.1068

Available findings:

AF68 Following the 1999 disclosures of CKA, neither Bishop Herft nor then Dean Lawrence informed the police of the allegations or took any other steps in relation to the allegations.

AF69 By not informing the police, Bishop Herft and then Dean Lawrence failed to act in accordance with the Diocesan policy that allegations of child sexual abuse be reported to the police.

AF70 Following the 1999 disclosures by CKA, neither Bishop Herft nor then Dean Lawrence informed the Diocese of Ballarat of the allegations against CKC despite the fact that CKC was licensed as a priest in the Diocese of Ballarat in 1999 and may have had access to children.

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1060 Transcript of P Rosser, Case Study 42, 30 August 2016, 17478:43 – 17479:36.
1061 Transcript of R Herft, Case Study 42, 29 August 2016, 17355:39 – 17356:2; Transcript of P Rosser, Case Study 42, 30 August 2016, 17479:12-16.
1062 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [38]; Exhibit 42-0001, ‘Letter from Lawrence to CKA dated 22 January 1999’, NSW.0037.001.0077_R (Tab 49 of Tender Bundle).
1063 Transcript of R Herft, Case Study 42, 29 August 2016, 17396:27-44; Exhibit 42-0001, ‘Letter from Lawrence to CKA dated 22 January 1999’, NSW.0037.001.0077_R (Tab 49 of Tender Bundle).
1064 Exhibit 42-0001, ‘Letter from Dean Lawrence to Bishop Herft enclosing copy of a letter from Lawrence to CKA’, Case Study 42, ANG.0050.002.2560_R (Tab 48 of Tender Bundle).
1065 Transcript of R Herft, Case Study 42, 29 August 2016, 17353:23-32.
1066 Transcript of R Herft, Case Study 42, 29 August 2016, 17394:10-24.
1068 Transcript of R Appleby, Case Study 42, 30 August 2016, 17447:5-32.
CKA and CKB report to the police in February 2000

704. In February 2000, both CKA and CKB reported CKC’s alleged abuse to the police. CKA said he reported the matter to the police due to his frustration at the Diocese’s inaction.

705. On 18 August 2000, CKC was charged with child sexual abuse offences against CKA and CKB in 1974.

706. At this time, CKA did not disclose to police the full extent of abuse he allegedly suffered at the hands of CKC. He gave evidence that at the time he felt unable to cope emotionally with the full extent of CKC’s abuse and so limited his disclosure.

707. CKA only disclosed to the police the sexual abuse that had allegedly occurred over one weekend when he and his brother stayed at CKC’s rectory. CKA identified this weekend as being one week after CKC was transferred to a new parish. CKB says he was also abused this weekend. CKB says they stayed at CKC’s new rectory that weekend so that they could act as altar boys for CKC. As he was new to the parish he did not yet have his own altar boys.

708. There was some initial confusion over the year that the alleged offences were perpetrated with both CKA and CKB reporting that the incident occurred in 1974. As will be seen, they latter corrected their account and specified that the offending had occurred in 1975. A key issue in the criminal proceedings was identifying the first week that CKC served in the new parish.

The Diocese’s dealings with the police about CKC

709. Shortly after CKA reported the allegations to the police, on 7 February 2000, the police contacted ‘W Brown’, the receptionist at the Diocesan Registrar’s office to ascertain the whereabouts of CKC. When the detective explained that his inquiry was in relation to allegations of assault, Mr Brown referred the detective to the chairperson of CASM, Ms Lyn...
Douglas. Mr Brown made a filenote of this conversation, which was received by Mr Mitchell, the Diocesan Registrar, on 14 February 2000.  

On 9 February 2000, the police contacted the Dean’s office but was advised by the Dean’s Secretary, Ms Theresa Kerr, that the Dean was unavailable. According to Ms Kerr’s filenote, she advised the detective that CKC was no longer in the Diocese and then directed the detective to contact the Registry who would be able to assist.

Mr Lawrence agreed in oral evidence that he was made aware of this telephone call at the time. However, he claimed that because the detective did not leave his name, he believed this call to be a ‘hoax’. This explanation is not credible, particularly in view of the fact that in then Dean Lawrence’s 22 January 1999 letter to CKA he expressly referred to CKA’s option to report the matter to the police. It could hardly have come as a surprise that CKA did report the matter to the police and the police were conducting an investigation into the allegations.

Mr Lawrence’s secretary did not obtain the detective’s name but was told of the police station at which the detective was located and recorded this in her filenote. It would have been easy enough for Mr Lawrence to contact that station and provide correct information about CKC’s current whereabouts.

On 15 February 2000, Mr Lawrence and Mr Mitchell had a telephone conversation regarding the allegations of sexual abuse against CKC. Following this conversation, Mr Lawrence forwarded to Mr Mitchell his secretary’s filenote.

Mr Mitchell told the Royal Commission that Mr Lawrence was sharing this information because it was a serious matter and Mr Lawrence wanted Mr Mitchell to know that the Dean’s office had been contacted. Mr Mitchell agreed that, as at mid-February 2000, he was in no doubt that CKC was the subject of allegations of child sexual abuse and that the police were seeking information regarding CKC.

Mr Mitchell gave evidence that he was close friends with CKC at the time of his criminal prosecution, and that CKC was godfather to his only daughter. However, Mr Mitchell denied being aware of the allegations against CKC until he received the above filenotes in
February 2000.\textsuperscript{1087} This is notwithstanding that Mr Mitchell worked closely with Mr Lawrence, Bishop Herft and Mr Rosser QC, all of whom had knowledge of the allegations against CKC by 1999 at the latest.\textsuperscript{1088} Mr Mitchell’s claim should not be accepted.

716. Mr Mitchell told the Royal Commission that as Registrar of the Diocese he considered he had an obligation to assist the police in their investigations into a priest formerly licensed in the Diocese.\textsuperscript{1089} He said that it was out of the ordinary for the Registrar’s office to be contacted by police regarding a priest who formerly served in the Diocese.\textsuperscript{1090}

717. Mr Mitchell gave evidence that he knew CKC’s whereabouts at this time, but made no attempt to inform the police because he understood that the police had been referred to the Chair of CASM.\textsuperscript{1091} Initially, Mr Mitchell denied having contact details for the police in order to inform them of CKC’s whereabouts. He subsequently accepted that he did, in fact, have the relevant police officer’s name and location.\textsuperscript{1092}

718. Mr Mitchell well knew the whereabouts of CKC since he was close friends with CKC. It would have been easy enough for Mr Mitchell to contact the police and inform them of CKC’s whereabouts. However, he failed to do this.

719. Despite failing to make available to the police information known to be held by the Diocese in relation to CKC,\textsuperscript{1093} Mr Mitchell denied adopting a deliberately obstructive attitude, or an approach lacking candour, towards police inquiries.\textsuperscript{1094}

### Available findings:

- **AF72** Mr Mitchell was aware by at least the end of 1999 that CKA had alleged that he had been sexually abused by CKC as a child.

- **AF73** Mr Mitchell adopted a deliberately obstructive approach when police enquired of the Diocesan Registry as to CKC’s current whereabouts.

- **AF74** Then Dean Lawrence adopted a deliberately obstructive approach when police enquired of the Deanery as to CKC’s current whereabouts.

- **AF75** Then Dean Lawrence failed to honour the assurance he provided to CKA in his 22 January 1999 letter that the Church was ‘prepared to offer as much help as the circumstances require’.

- **AF76** Mr Mitchell and then Dean Lawrence kept each other informed of police enquiries relating to CKC.

\textsuperscript{1087} Transcript of P Mitchell, Case Study 42, 10 August 2016, 16903:26 – 16904:3.

\textsuperscript{1088} Transcript of P Mitchell, Case Study 42, 10 August 2016, 16967:13 – 16969:22.

\textsuperscript{1089} Transcript of P Mitchell, Case Study 42, 10 August 2016, 16904:30-38

\textsuperscript{1090} Transcript of P Mitchell, Case Study 42, 10 August 2016, 16904:20-28.

\textsuperscript{1091} Transcript of P Mitchell, Case Study 42, 10 August 2016, 16909:5-11.

\textsuperscript{1092} Transcript of P Mitchell, Case Study 42, 10 August 2016, 16909:17-39; Exhibit 42-0001, ‘Filenote by W. Brown in relation to [CKC] on 7 February 2000, received by Peter Mitchell on 14 February 2000’, Case Study 42, ANG.0050.003.9059_R (Tab 58 of Tender Bundle).

\textsuperscript{1093} Transcript of P Mitchell, Case Study 42, 10 August 2016, 16931:20-24.

\textsuperscript{1094} Transcript of P Mitchell, Case Study 42, 10 August 2016, 16912:20-22.

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**Submissions of Counsel Assisting in Case Study No. 42**

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Representation of CKC by Mr Allen and Mr Rosser QC

720. Mr Allen acted as CKC’s solicitor during the criminal proceedings against CKC. Mr Allen said that prior to this time he had a friendship with CKC and used to see CKC at Synod and Diocesan Council meetings and socially as well.\textsuperscript{1095}

721. Mr Allen told the Royal Commission that CKC asked him to act as his solicitor after he was charged,\textsuperscript{1096} which was in August 2000. However, from correspondence between Mr Allen and Mr Mitchell in February 2000 when Mr Mitchell informed Mr Allen of the times at which CKC held various priest licences,\textsuperscript{1097} it appears that Mr Allen was assisting CKC prior to him being charged.

722. Mr Allen’s long-standing involvement in the governance of the Diocese was described in Section 1 above.

723. Mr Rosser QC said that he was not on the role of barristers at the time and instead worked as a solicitor with Many Rivers Aboriginal Legal Service.\textsuperscript{1098} Nevertheless, he agreed to represent CKC in the criminal proceedings. In other words, it appears that Mr Rosser QC’s representation of CKC was out of the ordinary rather than an application of the ‘cab rank’ rule.

724. At the time, Mr Rosser QC was also the Deputy Chancellor of the Diocese.\textsuperscript{1099} By this time, he had also been a member of the Diocesan Synod, a lay member of the Diocese’s Board of Enquiry, and a Diocesan representative of the Anglican Church’s General Synod.\textsuperscript{1100}

725. CKA gave evidence that he found it ‘unconscionable’ that Mr Allen and Mr Rosser QC could defend an alleged perpetrator of child sexual abuse while holding positions in the Church.\textsuperscript{1101}

726. Mr Allen said that when CKC asked for legal assistance, Mr Allen did not give any consideration to the appropriateness of him acting for CKC in a criminal prosecution given the various governance roles he held in the Diocese at the time.\textsuperscript{1102} Mr Allen told the Royal Commission that he gave absolutely no consideration to whether he had any conflict in his obligations to the Diocese vis-à-vis his obligations to CKC as his legal representative.\textsuperscript{1103}

727. As a person with longstanding involvement in the Diocese, Mr Allen agreed that he owed the Diocese a duty to protect its interests and to care for the Diocese.\textsuperscript{1104} He agreed that, at all times, he has tried to act in a manner to discharge the obligations of the Diocese.\textsuperscript{1105}

\textsuperscript{1095} Transcript of K Allen, Case Study 42, 8 August 2016, 16677:38 – 16678:11.

\textsuperscript{1096} Transcript of K Allen, Case Study 42, 8 August 2016, 16678:24-16679:2.

\textsuperscript{1097} Exhibit 42-0001, ‘Letter from Registrar Mitchell to Allen’, NSW.0037.001.0305_R (Tab 60 of Tender Bundle).

\textsuperscript{1098} Transcript of P Rosser, Case Study 42, 30 August 2016, 17534:9-15.

\textsuperscript{1099} Exhibit 42-0001, ‘Diocesan Council Minutes’, Case Study 42, ANG.0058.001.0001 (Tab 16 of Tender Bundle).

\textsuperscript{1100} Transcript of P Rosser, Case Study 42, 30 August 2016, 17463:45 – 17464:25.

\textsuperscript{1101} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [45].

\textsuperscript{1102} Transcript of K Allen, Case Study 42, 8 August 2016, 16630:39 – 16631:10.

\textsuperscript{1103} Transcript of K Allen, Case Study 42, 5 August 2016, 16631:26-29.
that he had a duty to act consistently with the duties that the Diocese owed to other people.\textsuperscript{1106}

728. Mr Allen agreed that as a member of the Diocesan Council at this time, his obligation was to assist the Bishop to bring about the fundamental charter of the Church which is to provide pastoral and emotional support for vulnerable people.\textsuperscript{1107} He accepted that survivors who come forward after many years are in a position of vulnerability.\textsuperscript{1108}

729. Mr Allen agreed that in circumstances where CKC had denied CKA and CKB’s allegations, in order for Mr Allen to discharge his ethical obligations to CKC as his client, it was inevitable that Mr Allen would have to take the position that CKA and CKB were not telling the truth.\textsuperscript{1109}

730. Mr Allen accepted that instead of sending a message that the Church would support and believe survivors of abuse, the image that he sent out, as leading figure in the Church, was that survivors would not be believed by the Church.\textsuperscript{1110}

731. Mr Allen accepted that perceptions are important and by acting for CKC, he may have given CKA and CKB the impression that the Church was supporting CKC over them.\textsuperscript{1111} He also accepted that there may have been a perception that the defence team had an advantage because of the documents and information they could access due to the connections he had with the Diocese.\textsuperscript{1112}

732. Mr Allen accepted that, in hindsight, his representation of CKC was a ‘bad look’ given his governance roles within the Church.\textsuperscript{1113} He said that he only came to this view upon receipt of the Royal Commission summons just before the commencement of the public hearing in this Case Study.\textsuperscript{1114}

733. Mr Allen said that he would support a recommendation by the Royal Commission that members of the Diocesan Council and other senior officials, particularly those involved in Professional Standards matters, not be allowed to act for accused priests in child sexual abuse matters.\textsuperscript{1115}

734. However, Mr Allen told the Royal Commission that he did not consider it inappropriate to retain Mr Rosser QC as CKC’s defence counsel, despite knowing that Mr Rosser QC was Deputy Chancellor in the Diocese at the time.\textsuperscript{1116}

735. Prior to being retained, Mr Allen said that Mr Rosser QC did not disclose to him that he had previously advised the Diocese on handling CKA’s complaint against CKC.\textsuperscript{1117} Mr Allen told the

\textsuperscript{1106} Transcript of K Allen, Case Study 42, 5 August 2016, 16631:17-20.
\textsuperscript{1107} Transcript of K Allen, Case Study 42, 8 August 2016, 16757:44 – 16758:2.
\textsuperscript{1108} Transcript of K Allen, Case Study 42, 9 August 2016, 16765:27-31.
\textsuperscript{1109} Transcript of K Allen, Case Study 42, 8 August 2016, 16756:43 – 16757:8.
\textsuperscript{1110} Transcript of K Allen, Case Study 42, 8 August 2016, 16758:18-41.
\textsuperscript{1111} Transcript of K Allen, Case Study 42, 9 August 2016, 16765:1-6.
\textsuperscript{1112} Transcript of K Allen, Case Study 42, 9 August 2016, 16765:33-41.
\textsuperscript{1113} Transcript of K Allen, Case Study 42, 9 August 2016, 16804:19-29.
\textsuperscript{1114} Transcript of K Allen, Case Study 42, 9 August 2016, 16804:31-40.
\textsuperscript{1115} Transcript of K Allen, Case Study 42, 9 August 2016, 16765:26-32.
\textsuperscript{1116} Transcript of K Allen, Case Study 42, 8 August 2016, 16680:40 – 16681:21 and 16682:8-14.
\textsuperscript{1117} Transcript of K Allen, Case Study 42, 8 August 2016, 16681:23-43.
Royal Commission that he ‘probably [would] not’ have retained Mr Rosser QC had he known this because he would have considered it inappropriate for Mr Rosser QC to act.1118

736. Ms Rosser QC told the Royal Commission that at the time he was retained by Mr Allen to act on CKC’s behalf, he did not give any thought to the appearance that may have been created by the Deputy Chancellor of the Diocese acting for an alleged perpetrator of child sexual abuse.1119

737. Mr Rosser QC also eventually conceded that there was a manifest contradiction in him representing CKC after the Diocese had represented to CKA, in a letter that he settled, that the Diocese was prepared to offer CKA ‘as much help as the circumstances require’.1120

738. Mr Rosser QC accepted the perception that, as the Bishop’s advisor, his settling of the Diocese’s offer to assist CKA conflicted with him later challenging CKA’s account of the abuse in cross-examination.1121 However, Mr Rosser QC maintained that he did not see a problem with acting for CKC in circumstances where CKA had not availed himself of the Diocese’s offer to help, and instead chose the alternative option of reporting to the police.1122 While denying a conflict of interest in a legal sense, Mr Rosser QC accepted the basis for criticising his judgment and appeared to acknowledge a perceived conflict of interest.1123

739. Bishop Appleby gave evidence that while the Diocese did not develop any formal conflict of interest policies while he served as Assistant Bishop of Newcastle from 1983 to 1992, he was always ‘very conscious’ of the need to avoid conflicts of interest.1124

740. Bishop Appleby, who had left the Diocese by the time of the criminal proceedings, told the Royal Commission that he was unaware that Mr Rosser QC was retained to act as CKC’s barrister until the Royal Commission’s public hearing.1125 Bishop Appleby said that the Chancellor is responsible for advising the Bishop principally on Canon law. He said that insofar as Mr Rosser QC’s role in acting for CKC impinged on his obligations to the Bishop, he considered there would be a potential conflict.1126

741. Based on the assumption that Mr Rosser QC advised the Bishop on handling CKA’s allegations of abuse prior to acting as CKC’s defence counsel, Bishop Appleby said that Mr Rosser should have stood down from his role as (Deputy) Chancellor at least during this period. Bishop Appleby said that to continue with both roles was, in his view, at least a potential conflict of interest.1127

742. Bishop Appleby told the Royal Commission that he was aware at the time that Mr Allen was acting as CKC’s solicitor in criminal proceedings.1128 Bishop Appleby agreed that he was

1119 Transcript of P Rosser, Case Study 42, 30 August 2016, 17479:38-47.
1120 Exhibit 42-0001, ‘Letter from Lawrence to CKA dated 22 January 1999’, ANG.0050.002.2560_R (Tab 48 of Tender Bundle); Transcript of P Rosser, Case Study 42, 30 August 2016, 17480:12-30.
1121 Transcript of P Rosser, Case Study 42, 30 August 2016, 17482:10-22.
1122 Transcript of P Rosser, Case Study 42, 30 August 2016, 17482:5-19.
1123 Transcript of P Rosser, Case Study 42, 30 August 2016, 17483:24-31.
1124 Exhibit 42-0025, ‘Statement of Bishop Appleby’, Case Study 42, STAT.1085.001.0001_R at [82].
1125 Transcript of R Appleby, Case Study 42, 4 August 2016, 16526:31-38.
1126 Transcript of R Appleby, Case Study 42, 4 August 2016, 16527:3-13.
1127 Transcript of R F Appleby, Case Study 42, 4 August 2016, 16527:34-47.
familiar with Mr Allen by this time and that he was aware that Mr Allen had been significantly involved in the Diocesan affairs.1129

743. When asked to assume that Mr Allen was a member of Diocesan Council while acting for CKC, Bishop Appleby said it would have been appropriate for Mr Allen to declare a conflict of interest and not participate in any discussion which touched upon the matter.1130 Bishop Appleby said the appropriate course for a member of the Diocesan Council who acts as the solicitor for a member of clergy charged with a sex abuse offence is to declare the possibility of a conflict of interest and to stand down from their role on the Diocesan Council.1131

Available findings:

AF77 Mr Allen did not consider whether it was appropriate to act for CKC in a criminal prosecution given the various governance roles he held in the Diocese at the time. Mr Allen accepted that by acting for CKC, he may have given CKA and CKB the impression that the Church was supporting CKC over them. Mr Allen’s decision to act for CKC represented poor judgment on his part.

AF78 Mr Rosser QC was not a barrister at the time he accepted instructions from CKC and the ‘cab rank’ rule did not apply. Mr Rosser QC was in fact an employed solicitor at the time. His decision to accept instructions from CKC was outside the course of his ordinary work at that time.

AF79 Mr Rosser QC had provided advice to the Diocese on how to handle allegations made by CKA against CKC and settled a letter to CKA in which the Diocese offered him ‘as much help as the circumstances require’. Mr Rosser QC subsequently accepted instructions to appear for CKC at the criminal prosecution for offences against CKA and his brother. This was a clear conflict of interest. In his capacity of Deputy Chancellor, he was involved in sending a message to CKA that the Church would help him. In his capacity as CKC’s legal representation, he was involved in undermining CKA’s allegations.

AF80 Mr Rosser QC did not consider whether it was appropriate to act for CKC in a criminal prosecution despite the fact that he was the Deputy Chancellor of the Diocese at the time. By acting for CKC at the time he was Deputy Chancellor, a reasonably open perception of CKA and CKB and the public generally was that the Church was supporting CKC and disbelieving CKA and CKB. Mr Rosser QC’s decision to act for CKC represented poor judgment on his part.

Bishop Herft’s knowledge that Mr Allen and Mr Rosser QC were acting for CKC

744. The Royal Commission should find that at all relevant times Bishop Herft was aware that Mr Allen and Mr Rosser QC were acting for CKC.

1129 Transcript of R F Appleby, Case Study 42, 5 August 2016, 16553:34-41.

1130 Transcript of R F Appleby, Case Study 42, 4 August 2016, 16528:21-39.

1131 Transcript of R F Appleby, Case Study 42, 4 August 2016, 16529:17-32.
On 18 September 2000, Mr Allen wrote to Mr Rosser QC regarding the brief for CKC’s criminal prosecution and advised that the Diocese was ‘aware’ of the proceedings.\footnote{1132} Based on this correspondence, Mr Rosser QC said he believed that the Diocese was aware of CKC’s proceedings and that he presumed this included knowledge that Mr Rosser QC and Mr Allen were acting in those proceedings.\footnote{1133}

Mr Allen gave evidence that he ‘had the ear’ of Bishop Herft and that he was one of Bishop Herft’s confidants on certain matters.\footnote{1134} However, Bishop Herft told the Royal Commission that he was unaware that Mr Allen was acting for CKC until Mr Allen wrote to Bishop Herft on 30 May 2001.\footnote{1135}

Mr Rosser QC said he never spoke directly with Bishop Herft regarding his legal representation of CKC or about the progress of the CKC matter.\footnote{1136} However, Mr Rosser QC said that he assumed that Bishop Herft was aware that he was acting for CKC based on Mr Allen’s role within the Diocese.\footnote{1137}

Mr Rosser QC told the Royal Commission that when he accepted the brief to act for CKC, he understood Mr Allen to be at the centre of the Church’s counsels, with the Bishop’s knowledge.\footnote{1138} Mr Rosser QC said he believed that Mr Allen was keeping Bishop Herft informed of the proceedings.\footnote{1139}

On 25 August 2000, then Dean Lawrence wrote to Bishop Herft and advised that CKA’s complaint had been reported to police.\footnote{1140} Bishop Herft accepted that he was kept aware of the developments in CKC’s matter.\footnote{1141}

The Royal Commission heard that the Diocese retained a media adviser to deal with CKC’s prosecution and that the media advisor kept Bishop Herft informed of the developments in the media in relation to CKC’s proceedings.\footnote{1142}

Bishop Herft told the Royal Commission that he does not recall Mr Rosser QC informing him that he was acting as CKC’s defence counsel and believes he only became aware of this through the media.\footnote{1143} Bishop Herft maintained this position despite accepting that he was kept informed of CKC’s matter by way of weekly meetings with Mr Mitchell and the public relations company that was engaged by the Diocese to manage the information stream.\footnote{1144} Given Mr Allen’s involvement in the Diocese and relationship with Bishop Herft, Mr Mitchell’s

\footnotesize
\begin{itemize}
\item \footnote{1132} Exhibit 42-0001, ‘Letter from Allen to Rosser re CKC matter’, Case Study 42, IND.0519.001.1311_R (Tab 64A of Tender Bundle).
\item \footnote{1133} Transcript of P Rosser, Case Study 42, 30 August 2016, 17480:37-41.
\item \footnote{1134} Transcript of K Allen, Case Study 42, 5 August 2016, 16629:25-31.
\item \footnote{1135} Transcript of R Herft, Case Study 42, 29 August 2016, 17356:16-31.
\item \footnote{1136} Transcript of P Rosser, Case Study 42, 30 August 2016, 17488:15-36.
\item \footnote{1137} Transcript of P Rosser, Case Study 42, 30 August 2016, 17488:1-20.
\item \footnote{1138} Transcript of P Rosser, Case Study 42, 30 August 2016, 17482:11-19.
\item \footnote{1139} Transcript of P Rosser, Case Study 42, 30 August 2016, 17489:2-7.
\item \footnote{1140} Exhibit 42-0001, ‘Letter from Dean Lawrence to Bishop Herft in relation to CKA’, Case Study 42, ANG.0050.002.2566_R (Tab 62 of Tender Bundle); Transcript of R Herft, Case Study 42, 29 August 2016, 17362:8-14.
\item \footnote{1141} Transcript of R Herft, Case Study 42, 29 August 2016, 17362:22.
\item \footnote{1142} Transcript of R Herft, Case Study 42, 29 August 2016, 17357:18-31 and 17358:35-46; Exhibit 42-0001, ‘Email from Tracy McKelligott to Peter Mitchell re NBN Transcript’, Case Study 42, IND.0486.001.0386_R (Tab 84 of Tender Bundle).
\item \footnote{1143} Transcript of R Herft, Case Study 42, 29 August 2016, 17356:10-14.
\item \footnote{1144} Transcript of R Herft, Case Study 42, 30 August 2016, 17448:8 – 17452:29; Transcript of P Mitchell, Case Study 42, 10 August 2016, 16932:7-20 and 16963:7-14.
\end{itemize}
knowledge that Mr Allen and Mr Rosser QC were acting and weekly meetings between Mr Mitchell and Bishop Herft about the CKC matter, it is inconceivable that Bishop Herft was not aware that Mr Allen and Mr Rosser QC were acting for CKC.

752. Mr Rosser QC gave evidence that he believed that Bishop Herft was aware at all times that he was representing CKC and that at no stage did Bishop Herft raise a conflict of interest,\textsuperscript{1145} nor any concerns about the inappropriateness of Mr Rosser QC appearing on CKC's behalf.\textsuperscript{1146}

753. Bishop Herft accepted that he never raised any conflict of interest concerns with Mr Rosser QC.\textsuperscript{1147} Despite this, he agreed that it was 'completely and utterly unacceptable' for Mr Rosser QC to be acting as CKC's defence counsel,\textsuperscript{1148} particularly in circumstances where he was involved in the Diocese's initial response to CKA’s complaint.\textsuperscript{1149} Bishop Herft accepted that he failed to discharge his responsibility to ensure that officers within the Diocese were not acting inappropriately in CKC’s matter.\textsuperscript{1150} He said he was ‘deeply distressed’ that he was unable to stop people within the Diocese from taking the roles that they did in CKC’s proceedings.\textsuperscript{1151}

Available findings:

<table>
<thead>
<tr>
<th>AF81</th>
<th>At all material times, Bishop Herft was aware that Mr Allen and Mr Rosser QC were acting for CKC in his criminal prosecution.</th>
</tr>
</thead>
<tbody>
<tr>
<td>AF82</td>
<td>At no time did Bishop Herft raise with either Mr Allen or Mr Rosser QC the propriety of them acting for CKC in view of the positions they held within the Diocese.</td>
</tr>
<tr>
<td>AF83</td>
<td>In not raising any objection with Mr Allen or Mr Rosser QC about their representation of CKC in criminal proceedings, Bishop Herft signalled to CKA and CKB that the Church did not support them or believe their allegations.</td>
</tr>
</tbody>
</table>

Registrar Mitchell's assistance to CKC's defence team

754. As Registrar of the Diocese, Mr Mitchell was responsible for managing the documents held by the Diocese, which included details of when priests were licenced.\textsuperscript{1152} On 17 February 2000, in response to Mr Allen’s enquiries, Mr Mitchell wrote to Mr Allen about the licences issued to CKC by the Diocese in from 1970 to 1980.\textsuperscript{1153}

\textsuperscript{1145} Exhibit 42-0094, ‘Statement of Paul Rosser dated 18 July 2016’, Case Study 42, STAT.1062.001.0001_R at [97].

\textsuperscript{1146} Transcript of P Rosser, Case Study 42, 30 August 2016, 17488:138-44; Transcript of P Rosser, Case Study 42, 30 August 2016, 17543:14-16.

\textsuperscript{1147} Transcript of R Herft, Case Study 42, 29 August 2016, 17361:32-34.

\textsuperscript{1148} Transcript of R Herft, Case Study 42, 29 August 2016, 173358:3-4.

\textsuperscript{1149} Transcript of R Herft, Case Study 42, 29 August 2016, 173358:6-9.

\textsuperscript{1150} Transcript of R Herft, Case Study 42, 29 August 2016, 173358:18-25.

\textsuperscript{1151} Transcript of R Herft, Case Study 42, 29 August 2016, 173358:13-16.

\textsuperscript{1152} Transcript of P Mitchell, Case Study 42, 10 August 2016, 16896:1-14.

\textsuperscript{1153} Exhibit 42-0001, ‘Letter from Registrar Mitchell to Allen’, NSW.0037.001.0305_R [Tab 60 of Tender Bundle]; Transcript of P Rosser, Case Study 42, 30 August 2016, 17547:12-21; Transcript of P Mitchell, Case Study 42, 10 August 2016, 16911:45 – 16912:5 and 16917:36-39.
755. Mr Mitchell told the Royal Commission that he was writing to Mr Allen by reason of the allegations against CKC and that this information was readily available to him in the Registry’s office. Mr Rosser QC told the Royal Commission that this letter provided an ‘alibi’ for CKC because it showed that CKC was not in the relevant parish at the time of the alleged offences, which at that stage were alleged to have occurred in 1974.

756. Mr Allen said he could not recall why he was making inquiries with Mr Mitchell about the dates that CKC was licensed at various parishes. He agreed that Mr Mitchell had ready access to the Diocesan records which enabled Mr Mitchell to provide Mr Allen the advice contained in the letter.

757. Mr Allen said that upon receiving Mr Mitchell’s letter on 17 February 2000, he was well aware of the precise dates that CKC was licensed at particularly parishes in the Diocese.

Further police inquiries with the Dean’s office prior to CKC being charged

758. Documentary evidence before the Royal Commission shows that on 11 August 2000, shortly before CKC was charged, the police again contacted the Dean’s office. This time, the police requested dates that CKC may have been appointed to the relevant parish where the offences were alleged to have been perpetrated. The police recorded that the Dean’s office was ‘unable to assist. May be 1974’.

759. Mr Mitchell conceded that it was surprising that the Dean’s office was unable to assist the police with their query about the time at which CKC was appointed to the parish in circumstances where the Dean’s office held copies of the Diocesan yearbooks. The yearbooks indicate when priests are licensed at various parishes. Mr Allen also gave evidence that the Diocesan yearbooks show when priests move between parishes.

760. On 18 August 2000, CKC was charged with child sexual abuse offences against CKA and CKB in 1974.

761. A filenote of the detective investigating the matter indicate that the police formulated the charges against CKC to specify 1974 as the year of the offence following the police’s unsuccessful attempts to obtain information from the Diocese. The filenote records that

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1154 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16918:34-40.
1155 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16912:16-23.
1157 Transcript of K Allen, Case Study 42, 8 August 2016, 16685:12-29.
1158 Transcript of K Allen, Case Study 42, 5 August 2016, 16631-35.
1159 Transcript of K Allen, Case Study 42, 8 August 2016, 16685:3-40.
1160 Exhibit 42-0001, ‘Letter from the Director of Public Prosecutions to Registrar Mitchell, Case Study 42, NSW.0037.001.0425_R (Tab 102 of Tender Bundle); Exhibit 42-0001, ‘Letter from NSW Police to DPP regarding CKC’, Case Study 42, NSW.0037.001.0882_R (Tab 79 of Tender Bundle).
1161 Exhibit 42-0001, ‘NSW Police Duty Book’, Case Study 42, NSW.0037.001.0334_R (Tab 61 of Tender Bundle).
1164 Exhibit 42-0035, ‘Summons as against [CKC] in respect of the complaint made by [CKB]’, Case Study 42, NSW.0037.001.0495_R; Exhibit 42-0036, ‘Summons as against [CKC] in respect of the complaint made by [CKA]’, Case Study 42, NSW.0037.001.0496_R; Transcript of K Allen, Case Study 42, 8 August 2016, 16683:24-44.
1165 Exhibit 42-0001, ‘Hand-written notes of Detective re his knowledge of dates’, Case Study 42, NSW.0037.001.0372_R (Tab 77 of Tender Bundle).
the Diocese advised the police that they could not find records to confirm when CKC was at
the relevant parish but that it could have been 1974.\textsuperscript{1166}

\textbf{Available finding:}

\begin{itemize}
  \item AF84 The Deanery adopted a deliberately obstructive attitude towards police enquiries regarding
        the date that CKC was licensed at the relevant parish by
        not providing information that (a) was readily available to the Diocese and the Deanery and (b) had been already provided to
        CKC’s defence team.
\end{itemize}

\textbf{The 2001 committal and events leading up to it}

\begin{itemize}
  \item 762. As noted above, the Crown’s case was initially based on CKA’s and CKB’s allegations that the
          offences took place while CKC was at a particular parish in 1974.\textsuperscript{1167}
  \item 763. In April 2001, Mr Allen served a subpoena on the Diocesan Registry in relation to the criminal
          proceedings against CKC.\textsuperscript{1168} The subpoena relevantly sought production of:\textsuperscript{1169}
          
          Any notes, letters, correspondence or copy in possession of the Bishop or Diocese
          relating to any complaint of sexual misconduct by any person against CKA and CKB.
  \item 764. Mr Mitchell accepted that upon receipt of this subpoena, it was incumbent upon him, as the
          Registrar, to find all material that was producible under the terms of the subpoena.\textsuperscript{1170} He
          gave evidence that he is ‘quite sure’ that he obtained legal advice from the solicitor firm
          Rankin and Nathan at this time as to what could be produced under subpoena and whether
          he needed to withhold any material for reasons of confidentiality or privilege.\textsuperscript{1171} The Royal
          Commission has not located and written correspondence evidencing such consultation.
  \item 765. On 26 April 2001, Mr Mitchell wrote to Mr Allen enclosing copies of documents produced in
          response to the subpoena.\textsuperscript{1172} Amongst the enclosures, Mr Mitchell included a schedule of all
          documents held by the Diocese in relation to a complaint by CKA against CKC.\textsuperscript{1173} This schedule
          showed that Mr Mitchell produced the 1996 and 1999 filenotes made by
          Mr Lawrence and correspondence between Mr Lawrence and Bishop Herft about CKA’s contact with him in 1996
\end{itemize}

\textsuperscript{1166} Exhibit 42-0001, ‘Hand-written notes of Detective re his knowledge of dates’, Case Study 42, NSW.0037.001.0372_R (Tab 77
          of Tender Bundle).
\textsuperscript{1167} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [44]; Exhibit 42-0092, ‘Statement of CKB’, Case
          Study 42, STAT.1109.001.0001_R at [23]; Exhibit 42-0001, ‘Indictment of CKC’, Case Study 42, NSW.0037.001.0027_R (Tab
          430H of Tender Bundle).
\textsuperscript{1168} Exhibit 42-0001, ‘Letter from Keith Allen to Registrar Peter Mitchell enclosing Subpoena for Production’, Case Study 42,
          ANG.0050.003.9054_R (Tab 65 of Tender Bundle); Transcript of P Mitchell, Case Study 42, 10 August 2016, 16915:25-47;
          Transcript of K Allen, Case Study 42, 8 August 2016, 16686:23-41.
\textsuperscript{1169} Exhibit 42-0001, ‘Subpoena for Production’, Case Study 42, ANG.0050.001.6128_R (Tab 66 of Tender Bundle).
\textsuperscript{1170} Transcript of P Mitchell, Case Study 42, 10 August 2016, 16977:24-28.
\textsuperscript{1171} Transcript of P Mitchell, Case Study 42, 10 August 2016, 16973:9-10 and 16976:1-5.
\textsuperscript{1172} Transcript of P Mitchell, Case Study 42, 10 August 2016, 16920:6-19; Exhibit 42-0001, ‘Letter from Peter Mitchell to Keith
          Allen’, Case Study 42, INO.0486.001.0348_R (Tab 67 of Tender Bundle).
\textsuperscript{1173} Exhibit 42-0001, ‘Schedule A: “Documents from the files of the Anglican Diocese of Newcastle”’, Case Study 42,
          ANG.0050.002.2553_R (Tab 426 of Tender Bundle).
and 1999. Mr Mitchell gave evidence that he must have obtained Mr Lawrence’s filenotes of conversations with CKA from CKC’s yellow envelope. Mr Mitchell conceded that his previous evidence that he had not inspected any yellow envelopes was incorrect.

Mr Allen denied that he had had discussions with anyone in the Diocese about whether such records existed prior to issuing the subpoena. Mr Mitchell also denied having conversations with Mr Allen about documents were held by the Registry.

In response to the subpoena, Mr Mitchell did not produce his letter to Mr Allen dated 17 February 2000 which confirmed the dates of licenses held by CKC in the Diocese. This letter established that CKC was not at the relevant parish in 1974.

Mr Mitchell agreed during oral evidence that he knew this letter was brought into existence by reason of the allegations against CKC. However, he could not recall whether he formed the view that this letter did not fall within the terms of the subpoena or whether he did not give any consideration to this issue. Mr Allen conceded that this letter should have been produced under the subpoena.

Available finding:

AF85 In answering an April 2001 subpoena to the Registry seeking ‘any notes, letters, correspondence or copy in possession of the Bishop or Diocese relating to any complaint of sexual misconduct by any person against CKA and CKB’, Mr Mitchell failed to produce a letter that he had written to Mr Allen in February 2000 which set out the dates upon which CKC held licences to at various parishes. The letter properly fell within the scope of the subpoena and ought to have been produced.

During the committal hearing in May 2001, both CKA and CKB gave evidence confirming their belief that the offences occurred in 1974. Mr Rosser QC informed the Court that the purpose of the complainants giving evidence at the committal was ‘to pin down the dates’.

Mr Allen agreed that, at the time of the committal hearing, he was well aware, by virtue of Mr Mitchell’s 17 February 2000 letter to him, that CKC was not licensed at the relevant parish at

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1174 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16919:47 – 16920:41; Exhibit 42-0001, ‘Letter from Registrar Peter Mitchell to Keith Allen’, NSW.0037.001.0305_R (Tab 60 of Tender Bundle); Exhibit 42-0001, ‘Schedule A: “Documents from the files of the Anglican Diocese of Newcastle”’, Case Study 42, ANG.0050.002.2553_R (Tab 426 of Tender Bundle).


1177 Transcript of K Allen, Case Study 42, 8 August 2016, 16688:11-29.

1178 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16916:3-29.

1179 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16919:38-40; Exhibit 42-0001, ‘Letter from Registrar Peter Mitchell to Keith Allen’, NSW.0037.001.0305_R (Tab 60 of Tender Bundle).

1180 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16918:34-40.

1181 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16919:17-20.

1182 Transcript of K Allen, Case Study 42, 8 August 2016, 16687:22-45.

1183 Transcript of CKA, Case Study 42, 4 August 2016, 16475:15-21; Transcript of K Allen, Case Study 42, 8 August 2016, 16689:7-14.

1184 Exhibit 42-0001, ‘Scheduled first day of trial when the Crown presented an amended indictment’, Case Study 42, NSW.0037.001.0455_R (Tab 78 of Tender Bundle)
the time of the alleged offence.\textsuperscript{1185} Despite this knowledge, Mr Allen said that he did not think any attempts were made at the committal hearing to make anyone aware of the dates upon which CKC was licensed at the relevant parish.\textsuperscript{1186}

771. Following the committal hearing, CKA and CKB realised their mistake and reported to the police that the alleged abuse occurred in 1975.\textsuperscript{1187} CKA was able to ascertain information regarding when CKC moved to the relevant parish from an internet search.\textsuperscript{1188}

772. On 31 July 2001, Mr Allen wrote to the DPP and advised that CKC was not appointed to the relevant parish until the year after the alleged offence.\textsuperscript{1189} Mr Allen enclosed Mr Mitchell’s letter dated 17 February 2000 and advised that information regarding CKC’s appointment could be obtained from the Diocesan yearbooks held at the Registry.\textsuperscript{1190} Mr Allen could not explain why this information was not made known to the DPP until this time but agreed that, as a defence lawyer, he was under no obligation to show his hand to the prosecution.\textsuperscript{1191}

The trial judge was Judge Coolahan

773. Judge Coolahan of the District Court presided over CKC’s criminal proceedings. The evidence shows that in 1998, Mr Coolahan (then a barrister) was appointed by the Diocese to act as its advocate in a disciplinary matter before the Panel of Triers.\textsuperscript{1192} He did not recuse himself from sitting in CKC’s matter.

774. Mr Coolahan died in 2011.\textsuperscript{1193}

775. On 12 June 2001, Mr Allen sought Mr Rosser QC’s advice regarding his concern that Judge Coolahan had acted for the Diocese before the Panel of Triers a couple years prior.\textsuperscript{1194} Mr Allen said he did not raise the matter directly with Judge Coolahan because Mr Rosser QC was briefed as counsel.\textsuperscript{1195} Mr Allen could not recall whether Mr Rosser QC ever raised this letter with him.\textsuperscript{1196}

\textsuperscript{1185} Transcript of K Allen, Case Study 42, 8 August 2016, 16689:16-23.
\textsuperscript{1186} Transcript of K Allen, Case Study 42, 8 August 2016, 16689:31-35.
\textsuperscript{1187} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [44]; Exhibit 42-0092, ‘Statement of CKB’, Case Study 42, STAT.1109.001.0001_R at [23]; Transcript of K Allen, Case Study 42, 8 August 2016, 16675:27-35; Transcript of K Allen, Case Study 42, 8 August 2016, 16688:47 – 166895; Exhibit 42-0001, ‘Facsimile from CKA to ODPP’, Case Study 42, NSW.0037.001.0295_R (Tab 68 of Tender Bundle).
\textsuperscript{1188} Transcript of K Allen, Case Study 42, 8 August 2016, 16691:6-13; Exhibit 42-0001, ‘DPP memorandum to the director’, Case Study 42, NSW.0037.001.0329_R (Tab 82 of Tender Bundle).
\textsuperscript{1189} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [44]; Exhibit 42-0092, ‘Statement of CKB’, Case Study 42, STAT.1109.001.0001_R at [23]; Transcript of K Allen, Case Study 42, 8 August 2016, 16475:27-35; Transcript of K Allen, Case Study 42, 8 August 2016, 16675:27-35; Transcript of K Allen, Case Study 42, 8 August 2016, 16688:47 – 166895; Exhibit 42-0001, ‘Facsimile from CKA to ODPP’, Case Study 42, NSW.0037.001.0295_R (Tab 68 of Tender Bundle).
\textsuperscript{1190} Transcript of K Allen, Case Study 42, 8 August 2016, 16691:6-13; Exhibit 42-0001, ‘DPP memorandum to the director’, Case Study 42, NSW.0037.001.0329_R (Tab 82 of Tender Bundle).
\textsuperscript{1191} Exhibit 42-0038, ‘Letter from Keith Allen to Paul Rosser QC’, Case Study 42, IND.0501.001.0034_R
\textsuperscript{1192} Transcript of K Allen, Case Study 42, 8 August 2016, 16675:27-35; Transcript of K Allen, Case Study 42, 8 August 2016, 16675:27-35; Transcript of K Allen, Case Study 42, 8 August 2016, 16688:47 – 166895; Exhibit 42-0001, ‘Facsimile from CKA to ODPP’, Case Study 42, NSW.0037.001.0295_R (Tab 68 of Tender Bundle).
\textsuperscript{1193} Transcript of K Allen, Case Study 42, 8 August 2016, 16689:47 – 16690:7.
\textsuperscript{1194} Transcript of K Allen, Case Study 42, 8 August 2016, 16690:9-16.
\textsuperscript{1195} Transcript of K Allen, Case Study 42, 8 August 2016, 16690:9-16.
\textsuperscript{1196} Exhibit 42-0001, ‘Document titled ‘Clergy Discipline Ordinance 1966 Notes for conduct of a hearing to commence on 23 February 1998”, Case Study 42, ANG.0048.001.2218_R (Tab 32 of Tender Bundle).
\textsuperscript{1197} This information is publicly available.
\textsuperscript{1198} Transcript of K Allen, Case Study 42, 8 August 2016, 16676:44-16763:2.
\textsuperscript{1199} Transcript of K Allen, Case Study 42, 8 August 2016, 16676:38-42.
Mr Rosser QC gave evidence that despite his knowledge that Judge Coolahan previously represented the Diocese, he did not make any applications to him to recuse himself from hearing the matter.  

Reasonable minds may differ about whether it was appropriate for Judge Coolahan to recuse himself on the basis of an appearance of bias. The Royal Commission should not make any finding that he ought to have recused himself on the ground of apparent bias.

Mr Mitchell’s character reference for CKC

On 3 July 2001, Mr Allen wrote to Mr Mitchell enclosing a draft character reference that Mr Allen had written on Mr Mitchell’s behalf for CKC. The final version signed by Mr Mitchell showed that Mr Mitchell and CKC had a relationship spanning 20 years and that CKC was close to Mr Mitchell’s family. It further stated that Mr Mitchell had ‘the care, custody and control of the records of the Diocese of Newcastle and I know of no complaint of a sexual nature ever made against CKC’. 

Mr Allen could not recall any discussion with Mr Rosser QC at the time about whether asking the current Registrar of the Diocese to provide a character reference might present any sort of conflict of interest. However, Mr Allen agreed that as Registrar, Mr Mitchell would be the natural contact person for the DPP or the police in obtaining documents about CKC. With hindsight, Mr Allen said it did ‘raise issues’ but in his mind, Mr Mitchell was a worshipper in CKC’s former parish.

The criminal trial in September 2001

On the day that the trial was listed to commence in August 2001, the Crown presented an amended indictment against CKC changing the year of the offence from 1974 to 1975. It is unclear why the Crown did not take steps to amend the indictment earlier than this given that CKA advised the DPP after the May 2001 committal that the date of the offences was in fact 1975 and Mr Allen had written to the DPP in July 2001 about the date that CKC was licenced in the relevant parish.

The Defence sought an adjournment so that CKC could apply for a permanent stay on the basis that the defence was ‘taken by surprise’ and prejudiced.
782. The transcript of proceedings shows that the trial judge, Judge Coolahan, was highly critical of the Crown's failure to notify the defence of its intention to amend the indictment. Judge Coolahan stated that it was 'a disgrace' that CKC had been brought to trial 26 years after the alleged offences. Judge Coolahan was critical of the complainants stating that it was 'truly ridiculous' that they had waited 20 years since turning 18 years old to bring these proceedings. He described the entire matter as 'a real farce'.

783. Ultimately the criminal trial commenced in September 2001. Both CKA and CKB gave evidence before the jury that:

a. The offences occurred on a Saturday afternoon/night;

b. That on Sunday morning after breakfast they and CKC walked to the adjoining church at the new parish where CKC conducted a service and they acted as altar boys;

c. That after the church service there was a morning tea on the church grounds which CKC attended;

d. The boys’ mother picked them up form that church mid-morning.

784. After that evidence was given, the defence gave the Crown Prosecutor a ledger called the ‘Register of Services’ which covered the period 1 January 1975 until 1982. It recorded the dates and times of all services, the name of the officiant, the number of communion attendees and the location of the services. Mr Allen told the Royal Commission that most Anglican laypeople who have a role in parishes would be aware of the existence of service registers. He assumed that both the Diocesan Registry and the Office of the Dean of the Cathedral would also be aware of its existence.

785. On its face, the Register of Services showed that on the weekend of the first week that CKC was licenced at the new parish, he presided at a first service at one particular church in the parish, then presided at second service at another church, and then presided at third service at a third church. On one possible view, this tended to undermine the account that CKA and CKB had given that CKC had walked with them to the service at the church where he resided and remained after the service till mid-morning for a morning tea. Mr Rosser QC told the Royal Commission that while the Register did not itself provide an alibi for CKC, it contradicted CKA’s and CKB’s evidence of what they say happened the morning after the alleged offences.

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1205 Exhibit 42-0001, ‘Scheduled first day of trial when the Crown presented an amended indictment’, Case Study 42, NSW.0037.001.0455_R (Tab 78 of Tender Bundle).

1206 Exhibit 42-0001, ‘DPP memorandum to the Director’, Case Study 42, NSW.0037.001.0329_R (Tab 82 of Tender Bundle).

1207 Exhibit 42-0001, ‘DPP memorandum to the Director’, Case Study 42, NSW.0037.001.0329_R (Tab 82 of Tender Bundle).


1209 Transcript of K Allen, Case Study 42, 8 August 2016, 16692:33-39.

1210 Exhibit 42-0001, ‘Extract of Register of Services’. NPF.0016.001.2219_E_R at 2221_E_R (Tab 2B of Tender Bundle). This document has been redacted for de-identification purposes and has not been published. The unredacted version of this document, which was shown to the parties and the Royal Commission during the public hearing, clearly shows that there were three church services.

1211 Exhibit 42-0001, ‘DPP memorandum to the Director’, Case Study 42, NSW.0037.001.0329_R (Tab 82 of Tender Bundle).

1212 Transcript of P Rosser, Case Study 42, 30 August 2016, 17530:20-27.
On 12 September 2001, the Crown Prosecutor spoke with the Director of Public Prosecutions about the Register of Services. The Director directed that the matter proceed no further and the charges were withdrawn. Later that day, Judge Coolahan discharged the jury.1213

The parties appeared before the Court the following day. Mr Rosser QC told the Court that Mr Allen was able to obtain a copy of the Register of Services because he ‘has some connection with the church’ and ‘knew precisely what sort of records to look for and where’.1214

Mr Rosser QC further informed the Court that the Register was ‘completely destructive to the Crown case’. Mr Allen told the Royal Commission that the Register of Services assumed some significance in the prosecution and said that he believed the service times were critical.1215

Once again, Judge Coolahan was highly critical of the Crown. He expressed ‘great concern that the Director saw fit on the unsubstantiated allegations of these complainants…. not to make any investigation to try and confirm those dates, but to simply let this matter run to trial’.1217

In response to Judge Coolahan’s suggestion that the Director had engaged in ‘an abusive process’, the Crown informed the Court that both police and the DPP had made inquiries with the Diocesan offices throughout the proceedings regarding relevant dates and records but were told that records did not exist. Having been told that there were no records, the Director took the view that it would be an abusive process to subpoena records that did not exist.1218

The Register of Services

The Register of Services was pivotal to the prosecution being withdrawn.

In subsequent years, allegations have emerged that the Register of Services was falsified. The Register of Services was produced to the Royal Commission.1219

In evidence before the Royal Commission, Mr Allen agreed that the entries in the Register of Services extract were in fairly strict chronological order and that there were very few alterations throughout.1220

Mr Allen accepted that there were a number of irregularities with the relevant page of the Register of Services.1221 Firstly, it is the only page in the Register extract containing deletions or corrections.1222 Secondly, the parish priest’s signatures under the ‘Officiant’ column appear to be different despite recording the same name.1223 Thirdly, the numbers reflecting total...
‘Collections’ have been altered. All ‘collections’, which appears in fact to be a reference to the number of persons attending church, were originally recorded as having been at the same church. However, for the second and third church entries these were crossed out and the numbers were transposed to the second and third churches respectively. Fourthly, there is entry on that page which is out of chronological order. It is the only date within the extract that is out of chronological order.

795. The evidence suggests that both Mr Allen and Mr Mitchell had unsupervised access to the Register of Services before it was provided to the DPP, and therefore had at least the opportunity to alter the document.

796. Mr Allen confirmed in evidence that he attended the relevant parish rectory on about 14 August 2001 and inspected the Register of Services. The parish priest who at that time resided at the rectory, COH, confirmed that Mr Allen inspected the Register of Services that evening. COH said that she went about her own business within the house while Mr Allen inspected the Register in the dining room. Mr Allen denied altering the Register of Services, and was unsure whether COH remained in the room when he inspected it.

797. Mr Rosser QC told the Royal Commission that after the hearing was adjourned in August 2001, the existence of a Register of Services was first mentioned in the course of a conference with Mr Allen and CKC. Mr Rosser QC said he believed Mr Allen went to the parish to inspect the Register of Services and made copies, which Mr Rosser QC believes he received on 17 August 2001. Mr Rosser QC also said that he used a copy of the Register to cross-examine CKA during the trial. It is unclear how Mr Allen could have made copies of the Register unless he removed it from COH’s house. However, neither Mr Allen nor COH gave evidence of Mr Allen removing the Register from COH’s house. It may be that Mr Rosser QC is mistaken in his recollection.

798. It also appears that Mr Mitchell had unsupervised access to the Register of Services. CKA told the Royal Commission that he observed Mr Mitchell walk into the Court and drop a book, being the Register, on the bar table in front of Mr Rosser QC. Mr Rosser QC’s account is consistent with this. He said that following his cross-examination of CKA and CKB, he asked Mr Allen to get the Register to Court that day. There was no evidence of a subpoena. Mr Rosser QC told the Royal Commission that Mr Mitchell brought the Register to him in the foyer of the court, and then Mr Rosser handed it to the Crown Prosecutor.

1228 Exhibit 42-0028, ‘Statement of COH’, Case Study 42, STAT.1116.001.0001_R at [5].
1229 Exhibit 42-0028, ‘Statement of COH’, Case Study 42, STAT.1116.001.0001_R at [6].
1230 Transcript of K Allen, Case Study 42, 8 August 2016, 16693:12–18.
1231 Transcript of P Rosser, Case Study 42, 30 August 2016, 17486:12–28.
1232 Transcript of P Rosser, Case Study 42, 30 August 2016, 17486:30–47.
1233 Transcript of P Rosser, Case Study 42, 30 August 2016, 17487:12–19.
1234 Transcript of CKA, Case Study 42, 4 August 2016, 16473:22–23.
1235 Transcript of P Rosser, Case Study 42, 30 August 2016, 17485:26–17486:3.
799. Mr Allen told the Royal Commission that his memory is that after CKA and CKB gave evidence, COH was called as a witness and gave evidence in the trial. Mr Allen said he issued a subpoena for the Register and that COH came to court, got into the witness box and produced the Register. He believed that Mr Mitchell did not arrive at court until after COH had given evidence, such that it was not possible that COH gave the Register to Mr Mitchell before it was produced to the Court. Mr Allen denied having possession of the Register overnight before it was produced in Court. Mr Rosser QC said that Mr Allen’s recollection that COH produced the Register to the Court is incorrect.  

800. COH gave evidence that she had a telephone call with Mr Allen who asked her to bring the Register of Services to court. COH was clear in her recollection that she delivered the Register of Services to court whilst CKC’s proceedings were in progress. COH said she gave the Register of Services to someone that she knew in the front foyer of the courthouse, but could not recall who that was. She was certain that she did not enter the court room or give any oral evidence in relation to the Register of Services.  

801. The Royal Commission does not hold any copies of the alleged subpoena which Mr Allen says caused the production of the Register. COH gave evidence that she remains completely unaware of any subpoena requiring production of the Register.  

802. Mr Mitchell could not recall how and when the Register came to be available in court.  

Available findings:  

AF86 Mr Allen telephoned COH and asked her to bring the Register of Services to Court. She came to Court and gave the Register of Services to Mr Mitchell. Mr Mitchell in turn provided the Register of Services to Mr Rosser QC who showed it to the Crown. No subpoena was issued requiring the production of the Register.  

803. Mr Allen denied altering the Register of Services. He said he did not know whether the document was a forgery or fraudulent.  

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1237 Transcript of K Allen, Case Study 42, 8 August 2016, 16692:45 – 16693:46.  
1238 Transcript of K Allen, Case Study 42, 8 August 2016, 16694:34-44.  
1239 Transcript of K Allen, Case Study 42, 9 August 2016, 16802:31-37.  
1240 Transcript of P Rosser, Case Study 42, 30 August 2016, 17486:3-6; Transcript of P Rosser, Case Study 42, 30 August 2016, 17487:23-26.  
1241 Exhibit 42-0153, ‘Statement of COH’, Case Study 42, STAT.1125.001.0001_R at [8].  
1242 Exhibit 42-0153, ‘Statement of COH’, Case Study 42, STAT.1125.001.0001_R at [9].  
1243 Exhibit 42-0153, ‘Statement of COH’, Case Study 42, STAT.1125.001.0001_R at [10].  
1245 Exhibit 42-0153, ‘Statement of COH’, Case Study 42, STAT.1125.001.0001_R at [12].  
1246 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16923:45 – 16924:12.  
1247 Transcript of K Allen, Case Study 42, 8 August 2016, 16693:12-18.  
1248 Transcript of K Allen, Case Study 42, 9 August 2016, 16799:10-12.
804. In evidence is a somewhat elliptical letter from Mr Allen to Bishop Herft dated 28 April 2003 in relation to the CKC matter, in which Mr Allen stated that the Diocesan yearbooks ‘provide an exact public record which may produce problems in connection with the documents produced [by the Diocese] under subpoena’. 1249

805. Mr Allen initially told the Royal Commission that from memory, the issue he was concerned about when he wrote this letter was that Mr Lawrence, the then Dean, had been involved in ‘certain matters’ that had been reduced to writing and produced under subpoena. 1250 When challenged that the matter of concern he wanted to raise with Bishop Herft had nothing to do with filenotes made by Mr Lawrence, Mr Allen said he could not remember the nature of this particular letter. 1251 He denied he was concerned that any documents used in the CKC prosecution had been altered in any way. 1252

806. Mr Allen denied that he was seeking to draw the Bishop’s attention to the Diocese having records that were inconsistent. 1253

807. Bishop Herft replied to Mr Allen on 6 May 2003 and proposed a meeting ‘to consider the risk aspects and the channels of information sharing…’ 1254 Bishop Herft told the Royal Commission that he did not understand Allen’s point about the year books. 1255 He was not asked about whether the proposed meeting with Keith Allen ultimately took place.

808. Mr Mitchell told the Royal Commission that he first became aware of the purported irregularities with the Register of Services when he was interviewed by police about two years ago. 1256 He accepted that he was a convicted fraudster who misused his authority to steel money from the Diocese. 1257 He agreed that his offences involved serious dishonesty and an egregious breach of trust. 1258 However, Mr Mitchell denied that he was the type of person who might fraudulently record material in a services register to protect his friend. 1259 Mr Mitchell denied altering, and being involved in any attempt to alter, the Register. 1260

809. Both Mr Rosser QC and Bishop Herft also denied having any awareness of the allegations that the Register may have been altered until the Royal Commission’s public hearing. 1261

810. The irregularities in the Register of Services do not conclusively establish that the relevant entries relating to CKC were altered. While it appears that Mr Allen and Mr Mitchell both had

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1249 Exhibit 42-0001, ‘Letter from Keith Allen to Bishop Herft dated 28 April 2003’, Case Study 42, ANG.0050.003.9150_R (Tab 121A of Tender Bundle); Transcript of R Herft, Case Study 42, 29 August 2016 17362:24-39.

1250 Transcript of K Allen, Case Study 42, 8 August 2016, 16702:2-43.

1251 Transcript of K Allen, Case Study 42, 8 August 2016, 16703:7-21.

1252 Transcript of K Allen, Case Study 42, 8 August 2016, 16703:23-25.


1254 Exhibit 42-0001, ‘Letter from Bishop Herft to Allen dated 6 May 2003’, ANG.0050.001.2584 (Tab 122A of Tender Bundle); Transcript of R Herft, Case Study 42, 29 August 2016, 17362:41-6.

1255 Transcript of R Herft, Case Study 42, 29 August 2016, 17364:1-20.

1256 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16992:26-32 and 17015:18.

1257 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16992:34-16993:16.

1258 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16992:41-20.


1260 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16925:34-40 and 17015:9-16.

1261 Transcript of R Herft, Case Study 42, 29 August 2016, 17361:36-41; Transcript of P Rosser, Case Study 42, 30 August 2016, 17487:38-40.
access to the Register and therefore the opportunity to alter the document, they have firmly
denied doing so. Ultimately, there is insufficient evidence to make a finding that the Register
of Services was altered to assist CKC in the criminal prosecution.

**Allegation that documents went missing during the criminal proceedings against CKC**

811. The Royal Commission received a written statement from Mr Timothy Mawson. Mr Mawson was appointed the Diocesan Secretary in 1981 and reported to Mr Mitchell while he was Registrar until 2002. Mr Mawson gave evidence that on one occasion when he travelled in a vehicle with Mr Allen and Mr Mitchell, he heard Mr Mitchell say, ‘Yeah, it’s funny how those documents went missing’. Mr Mawson said that Mr Allen murmured in agreement and then they sniggered.

812. Mr Mawson could not recall when this car journey took place. While having no idea what they were talking about at the time, Mr Mawson said he later formed the view, based on gossip in the Diocese, that the conversation he overhead between Mr Allen and Mr Mitchell related to CKC’s criminal proceedings.

813. Mr Allen accepted that he travelled in the car with Mr Mawson and Mr Mitchell from time to time. However, both Mr Allen and Mr Mitchell denied that the conversation alleged by Mr Mawson took place. Mr Mitchell denied that he had an arrangement with Mr Allen regarding documents going missing in relation to CKC’s matter. Mr Allen denied that he or Mr Mitchell tampered with the Register, and denied harbouring any suspicions that anybody had tampered with the Register.

814. It is difficult to infer from the conversation that Mr Mawson overheard that Mr Allen and Mr Mitchell deliberately concealed documents during the criminal proceedings against CKC. Mr Allen and Mr Mitchell firmly deny this allegation. There is insufficient evidence to make such a finding.

**Actions of the Diocese following the withdrawal of the prosecution of CKC**

815. CKA gave evidence that when the trial ‘fell over’, he walked out the courthouse to find Mr Rosser QC, Mr Lawrence and CKC laughing at CKA and CKB from the opposite side of the road. Mr Lawrence denied being present at the court. Mr Rosser QC agreed that it is ‘very likely’ that he was standing on the steps of the courthouse with Mr Lawrence and CKC laughing.

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1262 Exhibit 42-0029, ‘Statement of Tim Mawson’, Case Study 42, STAT.1110.001.0001_R
1266 Transcript of K Allen, Case Study 42, 8 August 2016, 16698:46 – 16699:17.
1267 Transcript of K Allen, Case Study 42, 8 August 2016, 16698:46 – 16699:17; Transcript of P Mitchell, Case Study 42, 10 August 2016, 16926:28-34.
1269 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23500:40 – 23501:16.
for a period of time after the trial. However, he denied laughing at CKA and his family at this time, and in all of his professional career.

CKA said that he felt exhausted and hopeless and resigned himself to the fact that he could not beat the Church.

CKB gave evidence that when the criminal proceedings ceased, he was distraught and felt helpless.

On the day that CKC’s proceedings were withdrawn, the Diocese released a media statement which incorrectly stated that CKC had been ‘acquitted’ of all charges. The statement quoted Bishop Herft asking the people of the Diocese to ‘pray for CKC as he travels through this difficult stage of his life’. CKA gave evidence that this upset him greatly because it prompted a common misunderstanding in the community that CKC had been acquitted.

On 17 September 2001, Mr Allen wrote to Mr Mitchell thanking him for the assistance that he had provided to CKC.

Also on 17 September 2001, Mr Lawrence forwarded a draft of a letter he had prepared to NBN Television to Mr Mitchell for his comments. The subject of this draft letter was the NBN’s reporting of the DPP’s statement in Court that the Dean’s office was unable to assist. In the draft letter, Mr Lawrence stated that this comment was ‘patently untrue’ and ‘defamatory’ in circumstances where ‘[n]o request was received by [the Dean’s office] from the DPP for any information regarding CKC’. While it is correct that the DPP made no request of the Dean’s office, the evidence – discussed above – shows that in February and in August 2000, the police made enquiries with the Dean’s office and the Dean’s office did not assist.

On 18 September 2001, Mr Allen wrote to Bishop Herft to confirm that CKC’s charges had been ‘no-billed’ and thanked him for the ‘consideration and care’ that he had shown CKC in the past months. Bishop Herft said he could not recall providing CKC pastoral care during that period. However, Bishop Herft said that he had telephoned CKC and acknowledged the stress that CKC had been under.

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1274 Transcript of P Rosser, Case Study 42, 30 August 2016, 17533:28-33.
1275 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [49].
1276 Exhibit 42-0092, ‘Statement of CKB’, Case Study 42, STAT.1109.001.0001_R at [27]-[28].
1277 Exhibit 42-0001 (Tab 81), ‘A Statement from the Diocese of Newcastle’, Case Study 42, ANG.0207.001.0146_R; Transcript of R Herft, Case Study 42, 29 August 2016, 17408:12 – 45.
1278 Exhibit 42-0001, ‘A Statement from the Diocese of Newcastle’, Case Study 42, ANG.0207.001.0146_R (Tab 81 of Tender Bundle).
1279 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [50].
1280 Exhibit 42-0001, ‘Letter from Keith Allen to Peter Mitchell regarding CKC’, Case Study 42, ANG.0050.002.2954_R (Tab 87 of Tender Bundle).
1281 Exhibit 42-0001, ‘Draft letter from Graeme Lawrence to NBN Television’, Case Study 42, IND.0486.001.0385_R (Tab 86 of Tender Bundle).
1282 Exhibit 42-0023, ‘Draft letter from Graeme Lawrence to NBN Television’, Case Study 42, IND.0486.001.0385_R (Tab 86 of Tender Bundle).
1284 Transcript of R Herft, Case Study 42, 29 August 2016, 17359:35-44.
821. In October 2001, the Diocese’s Anglican Encounter magazine published an article by Mr Mitchell entitled ‘Confusion over false action’. In that article, Mr Mitchell criticised the Crown’s prosecution of CKC and defended CKC and the Church’s actions. CKA gave evidence that he found this article highly offensive because it denigrated him and his family.

822. Mr Mitchell told the Royal Commission that his intention behind this article was to refute the claims that the Church had been uncooperative and to comment on the process and the outcome of the proceedings, including to say something about CASM’s important work and about the manner in which clergy are trained.

823. Mr Mitchell took ultimate responsibility for this article but said he received some assistance from Mr Allen. Mr Mitchell said he circulated the draft version of this article to senior staff inviting their comment but that he could not recall who ultimately had input into the final version apart from Mr Allen. Mr Mitchell told the Royal Commission that he incorporated all of Mr Allen’s suggested amendments to the article. Mr Mitchell also said that he sought Mr Allen’s input at a time when he believed he could, and should, do so given that CKC’s trial had concluded and Mr Allen was ‘best able to explain what had happened’. Mr Mitchell did not consult with CKA or CKB prior to the article’s publication.

824. During his oral evidence, Mr Mitchell conceded that a number of aspects of his article were factually incorrect. First, he conceded that he would not now state that CKC’s matter had been dealt with fairly. Secondly, he conceded that it was incorrect to state that the judge discharged the jury because there were ‘no facts’ for them to consider. Thirdly, he conceded that it was false to state that the Crown did not have evidence to bring any action against CKC. Mr Mitchell conceded that his article was neither legally correct, nor factually correct, and that he misrepresented the situation.

825. It is curious that notwithstanding Mr Allen’s input on the draft article, a number of factually inaccurate assertions, including with respect to the outcome of the proceedings, were made.

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1287 Exhibit 42-0001, ‘Anglican Encounter article entitled “Confusion over false action” by Registrar Peter Mitchell’, Case Study 42, ANG.0207.001.0065_R (Tab 91 of Tender Bundle).

1288 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [51].

1289 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16981:20-30 and 16982:8-16.


1291 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16982:18-22 and 16983:9-10; Exhibit 42-0001, ‘Facsimile from Peter Mitchell to Keith Allen regarding draft article in relation to CKC’, Case Study 42, ANG.0050.003.9304_R (Tab 85 of Tender Bundle).

1292 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16994:4-27; Exhibit 42-0001, ‘Facsimile from Keith Allen to Peter Mitchell in relation to CKC’, Case Study 42, ANG.0050.002.2767_R (Tab 90 of Tender Bundle).


1294 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16983:3-19.

1295 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16983:21-38.

in the published article. Further, Mr Mitchell appears to speak on behalf of CKC in stating that ‘[w]hile [CKC] cannot comprehend the actions of the complainants, he bears them no ill will’.

826. In the article, Mr Mitchell also stated that ‘[i]t was only after the trial had started that the Crown began to ask specific questions of the Registry’. Mr Mitchell gave evidence that this statement was a reference to the Crown’s request for the Register of Services. Such statement was presented in the article as a criticism of the Crown. However, there is no evidence of any Crown request for a Register of Services. The Register of Services was only produced by the defence at the end of the first day of the trial. Though Mr Mitchell gave evidence that the Register of Services was produced in response to a subpoena, there is no documentary evidence before the Royal Commission to show that any such subpoena was issued or that the Crown was aware of the existence of the Register of Services.

827. Further, if Mr Mitchell’s criticism in the article concerned any delays from the Crown in requesting information, such criticism is contrary to documentary evidence before the Royal Commission that the Crown sought information from Mr Mitchell about the Servers’ Guild Meetings about five weeks before the trial commenced, and Mr Mitchell responded to that request the following day. Counsel for Mr Mitchell did not examine Mr Mitchell on the apparent contradiction between this statement in the article and this documentary evidence, notwithstanding that it was open for his counsel to do so.

828. Mr Mitchell agreed that the overall tenor of this article would have very serious resonance for CKC’s alleged victims of child sexual abuse. He said that it was an ‘appalling omission’ to fail to account for the distress and pain that CKA and others had experienced in making allegations against CKC. Mr Mitchell told the Royal Commission that this article was compassionless and he apologised to CKA and his family for not writing the article with more care and grace.

Available findings:

AF87 The article Mr Mitchell published in the October 2001 edition of the Anglican Encounter about the prosecution of CKC was defensive and critical of CKA and CKB, and contained a number of factually inaccurate assertions, including that CKC had no case to answer.

AF88 Mr Mitchell accepted that his article was compassionless.

AF89 In writing this article, Mr Mitchell gave no consideration to the fact that it could reasonably be perceived by members of the public and the alleged victims that the Diocese, represented by its Registrar, was ‘closing ranks’ in support of CKC.

1299 Exhibit 42-0001, ‘Anglican Encounter article entitled “Confusion over false action” by Registrar Peter Mitchell’, Case Study 42, ANG.0207.001.0065_R (Tab 91 of Tender Bundle).


1301 Transcript of P Mitchell, Case Study 42, 10 August 2016, 17003:16-20; Exhibit 42-0001, ‘Letter from Office of the Director of Public Prosecutions to Peter Mitchell in relation to [CKC]’, Case Study 42, NSW.0037.001.0907_R (Tab 74 of Tender Bundle); Exhibit 42-0001, ‘Letter from Registrar Peter Mitchell to Office of the Director of Public Prosecutions in relation to [CKC]’, Case Study 42, NSW.0037.001.0311_R (Tab 75 of Tender Bundle).

1302 Transcript of P Mitchell, Case Study 42, 10 August 2016, 1703:9-20; Transcript of P Mitchell, Case Study 42, 10 August 2016, 17015:3 – 17025:19.

1303 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16988:24-27.

1304 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16988:31-39.

Registrar Mitchell’s complaints to the NSW Director of Public Prosecutions

On 3 October 2001, Mr Mitchell wrote to the NSW DPP to complain about the manner of CKC’s prosecution.\(^{1306}\) In that letter, Mr Mitchell took issue with the DPP’s statement in Court that ‘the Dean’s office was unwilling to assist’ and stated that ‘[t]his comment is quite untrue, as the Dean’s office was not contacted’.\(^{1307}\) Mr Mitchell conceded that this was an untrue assertion because the Dean’s office was in fact contacted during CKC’s prosecution.\(^{1308}\)

CKA’s complaint to the Diocese about his treatment

On 3 October 2001, CKA wrote to Bishop Herft and complained about his treatment by the Diocese during CKC’s trial.\(^{1309}\) CKA gave evidence that he was dismayed at the Church’s attitude towards him in CKC’s criminal proceedings and outraged by the Church’s conduct in giving CKC’s lawyers Mr Lawrence’s records of CKA’s confidential calls to him.\(^{1310}\) CKA said that he could not believe that the Church had chosen to expend its resources on defending CKC instead of supporting CKA’s family, who had contributed so much to the Church.\(^{1311}\)

Bishop Herft asked Mr Mitchell to reply to CKA on his behalf,\(^{1312}\) following which, Mr Mitchell took legal advice from Mr Caddies.\(^{1313}\)

On 16 October 2001, Mr Caddies wrote to Mr Mitchell enclosing a draft reply to CKA.\(^{1314}\) Mr Mitchell told the Royal Commission that he did not change Mr Caddies’ draft.\(^{1315}\) However, Mr Mitchell accepted that legal advice is only as good as the instructions provided to the solicitor and that the responsibility remained entirely on Mr Mitchell to check the factual accuracy of what was asserted.\(^{1316}\)

Later on 16 October 2001, Mr Mitchell replied to CKA using Mr Caddies’ draft letter.\(^{1317}\) In that letter, Mr Mitchell advised CKA that ‘[t]he Church did not in any direct way provide records to the Reverend [CKC]’s defence except through compulsory Court processes’.\(^{1318}\) While this statement was true with respect to Mr Lawrence’s filenotes of his 1996 and 1999

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\(^{1306}\) Exhibit 42-0001, ‘Letter from Peter Mitchell to DPP’, Case Study 42, NSW.0037.001.0313_R (Tab 92 of Tender Bundle); Transcript of P Mitchell, Case Study 42, 10 August 2016, 16969:39 – 16970:7.

\(^{1307}\) Exhibit 42-0001 ‘Letter from Peter Mitchell to DPP’, Case Study 42, NSW.0037.001.0313_R (Tab 92 of Tender Bundle); Transcript of P Mitchell, Case Study 42, 10 August 2016, 16970:32-42.

\(^{1308}\) Transcript of P Mitchell, Case Study 42, 10 August 2016, 16970:47 – 16971:34.

\(^{1309}\) Exhibit 42-0001, ‘Letter from CKA to Bishop Herft dated 3 October 2001’, Case Study 42, STAT.0221.001.0032_R (Tab 93 of Tender Bundle); Transcript of R Herft, Case Study 42, 29 August 2016, 17360:5-17.

\(^{1310}\) Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [46].

\(^{1311}\) Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [52].

\(^{1312}\) Exhibit 42-0001, ‘Memo from Bishop Herft to Peter Mitchell’, Case Study 42, ANG.0207.001.0550_R (Tab 95 of Tender Bundle).

\(^{1313}\) Transcript of P Mitchell, Case Study 42, 10 August 2016, 16929:20-36.

\(^{1314}\) Exhibit 42-0001, ‘Letter from Robert Caddies to Registrar Peter Mitchell enclosing draft response to [CKA]’, Case Study 42, ANG.0050.003.9084_R (Tab 97 of Tender Bundle); Exhibit 42-0001, ‘Draft response to [CKA]’, Case Study 42, ANG.0050.003.9215_R (Tab 98 of Tender Bundle).

\(^{1315}\) Transcript of P Mitchell, Case Study 42, 10 August 2016, at 16928:1-4.


\(^{1317}\) Exhibit 42-0001, ‘Letter from Registrar Mitchell to CKA dated 16 October 2001’, STAT.0221.001.0033_R (Tab 99 of Tender Bundle); Transcript of P Mitchell, Case Study 42, 10 August 2016, 16974:17-22.

\(^{1318}\) Exhibit 42-0001, ‘Letter from Registrar Mitchell to CKA dated 16 October 2001’, STAT.0221.001.0033 (Tab 99 of Tender Bundle).
conversations with CKA (which were produced on subpoena), it was, as Mr Mitchell conceded, untrue to the extent that Mr Mitchell provide a letter to Mr Allen on 17 February 2000 which gave precise dates about when CKC was licensed in the Diocese.\textsuperscript{1319} Mr also Allen agreed that this statement was untrue on the same basis.\textsuperscript{1320} The statement was also untrue so far as the Registrar of Services was concerned.

\begin{quote}
\textbf{Available finding:}

\textit{AF90} Mr Mitchell made untruthful statements in his 16 October 2001 letter to CKA in saying that the Church did not provide records to CKC’s legal representatives except under compulsory processes.
\end{quote}

834. Mr Mitchell agreed that instead of taking the opportunity to recognise CKA’s pain, Mr Mitchell sent CKA a ‘legal response, not a compassionate response’.\textsuperscript{1321} He denied that his conduct throughout the course and aftermath of CKC’s proceedings had been aimed at protecting his friend, CKC.\textsuperscript{1322}

\textbf{Lack of support provided by the Diocese to CKA and CKB}

835. Both CKA and CKB said that they and their family received no support from the Diocese during the trial.\textsuperscript{1323} Instead, CKA gave evidence that Mr Lawrence was CKC’s support person despite having handled CKA’s complaints on behalf of the Diocese.\textsuperscript{1324} Mr Lawrence denied that he attended CKC’s trial and said that it was Father Rod Bower that CKA saw at the court house.\textsuperscript{1325}

836. Bishop Herft accepted that at the same time that he was receiving CKA’s complaints about the Diocese’s treatment of him during the criminal proceedings, he was receiving Mr Allen’s compliments for the care and consideration that he had shown CKC during his trial.\textsuperscript{1326}

837. Bishop Herft acknowledged that the Diocese had ‘failed miserably’ in its response to CKA by not providing pastoral care and by allowing key persons in the Diocese to act on CKC’s behalf.\textsuperscript{1327} He acknowledged that CKA’s existing anguish would have been exacerbated by people with significant responsibility in the Diocese acting on CKC’s behalf\textsuperscript{1328}.

\begin{itemize}
\item \textsuperscript{1319} Transcript of P Mitchell, Case Study 42, 10 August 2016, 16927:24-30 and 16930:8-16.
\item \textsuperscript{1320} Transcript of K Allen, Case Study 42, 8 August 2016, 16699:22 – 16700:35.
\item \textsuperscript{1321} Transcript of P Mitchell, Case Study 42, 10 August 2016, 16989:1-18.
\item \textsuperscript{1322} Transcript of P Mitchell, Case Study 42, 10 August 2016, 16993:30-35.
\item \textsuperscript{1323} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [47]; Exhibit 42-0092, ‘Statement of CKB’, Case Study 42, STAT.1109.001.0001_R at [24].
\item \textsuperscript{1324} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [47].
\item \textsuperscript{1325} Transcript of G Lawrence, Case Study 42, 23437:1-12; Transcript of G Lawrence, Case Study 42, 23500:40 – 23501:16.
\item \textsuperscript{1326} Transcript of R Herft, Case Study 42, 29 August 2016, 17360:27-31.
\item \textsuperscript{1327} Transcript of R Herft, Case Study 42, 29 August 2016, 17360:33-39.
\item \textsuperscript{1328} Transcript of R Herft, Case Study 42, 29 August 2016, 17360:41 – 17361:4.
\end{itemize}
Available findings:

AF91 The Diocese, under the leadership of Bishop Herft, showed no compassion towards, and provided no support to, CKA and CKB in relation to their allegations that CKC had sexually abused them as children. Rather, officers in the Diocese, including Mr Mitchell, Mr Allen and Mr Rosser QC actively sought to undermine them. Bishop Herft was aware of this undermining conduct.

AF92 The anguish of CKA and CKB was compounded by the approach taken by the Diocese in CKC's criminal proceedings.

CKA's attempts to seek redress from the Diocese

838. Also in 2000, CKA attempted to seek redress from the Diocese for the abuse he says he suffered at the hands of CKC. CKA retained solicitor Ms Katherine Ross. CKA gave evidence that he was unaware of Ms Ross’ relationship to Mr Lawrence at this time because Ms Ross never disclosed it to CKA. In fact, Ms Ross had a longstanding involvement the Diocese commencing in the 1970s and was close to Mr Lawrence. Mr Lawrence is godfather to her eldest daughter. He conducted her second marriage in 1998, and also conducted funeral services for Ms Ross’ family members over the years.

839. The documentary evidence shows that Ms Ross telephoned Mr Lawrence on 25 August 2000 to advise that she acted for CKA. She proposed a meeting.

840. The same day Mr Lawrence informed Bishop Herft of Ms Ross’s call. Mr Lawrence also noted that CKA had reported the allegations to the police.

841. On 12 September 2000, Bishop Herft wrote to Mr Lawrence stating that the Diocese should avoid any pastoral involvement in circumstances where CKA was taking the matter through the criminal justice system. Bishop Herft told the Royal Commission that he did this because he believed the Church should avoid interfering with criminal justice processes. However, he conceded that it was remiss of him to fail to provide CKA and his family with pastoral support at this time.

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1129 Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [42].
1130 Exhibit 42-0091, ‘Statement of Katherine Ross’, Case Study 42, STAT.1064.001.0001_R at [3]-[5]
1131 Exhibit 42-0091, ‘Statement of Katherine Ross’, Case Study 42, STAT.1064.001.0001_R at [25]
1132 Exhibit 42-0091, ‘Statement of Katherine Ross’, Case Study 42, STAT.1064.001.0001_R at [8], [25]
1133 Exhibit 42-0001, ‘Letter from Dean Lawrence to Bishop Herft in relation to CKA’, Case Study 42, ANG.0050.002.2566_R (Tab 62 of Tender Bundle).
1134 Exhibit 42-0001, ‘Letter from Dean Lawrence to Bishop Herft in relation to CKA’, Case Study 42, ANG.0050.002.2566_R (Tab 62 of Tender Bundle).
1135 Exhibit 42-0001, ‘Letter from Bishop Herft to Dean Lawrence in relation to CKA’, Case Study 42, ANG.0050.002.2567_R (Tab 63 of Tender Bundle).
1136 Transcript of R Herft, Case Study 42, 29 August 2016, 17403:1-5.
1137 Transcript of R Herft, Case Study 42, 29 August 2016, 17403:40-47.
842. For reasons which are unclear in view of the position expressed by Bishop Herft, Ms Ross wrote to CKA on 12 September 2000 and advised that a meeting had been scheduled with Bishop Herft and Mr Lawrence who were ‘happy to’ meet with CKA.\(^{1338}\)

843. CKA gave evidence that, after informing Ms Ross that he had reported CKC’s abuse to the police, he received a letter from Ms Ross cancelling the meeting and cutting all ties.\(^{1339}\) Ms Ross said in a statement that she told CKA she could not continue to act for him due to her long-standing relationship with Mr Lawrence and that she advised him to seek alternate legal advice.\(^{1340}\) It is unclear why Ms Ross originally accepted instructions from CKA if this was her position. However, there is insufficiently precise evidence to make findings about Ms Ross’s conduct in this matter.

**Meeting between CKA, Bishop Herft and Mr Lawrence in June 2003**

844. On Christmas Day 2002, CKA went to the Cathedral before the 10 o’clock mass. Mr Lawrence gave evidence that CKA ‘confronted’ him ‘demanding’ to speak with him. Mr Lawrence said that he told CKA he had no time to speak with him as he was preparing for a service. Mr Lawrence also told CKA that CKA had not availed himself of previous opportunities to meet with him.\(^{1341}\)

845. On 13 June 2003, Bishop Herft and then Dean Lawrence met with CKA at CKA’s request.\(^{1342}\) Bishop Herft’s filenote of this meeting noted that CKA was not interested in compensation but only in an honest acknowledgement by CKC and the Church. According to this filenote, Bishop Herft advised CKA that it was difficult to determine the facts in circumstances where it was one person’s word against another.\(^{1343}\)

846. Bishop Herft told the Royal Commission that the purpose of this meeting was simply to hear CKA because they had not previously met.\(^{1344}\) Bishop Herft said that it ‘dawned on’ him during this meeting that CKA was telling the truth.\(^{1345}\) He said he faced a dilemma of believing CKA’s story and now doubting CKC’s innocence in circumstances where he believed that the criminal justice system had ‘acquitted’ CKC.\(^{1346}\)

847. This appears to be the same meeting that CKA believes took place in 2004.\(^{1347}\) CKA gave evidence that, during this meeting, Bishop Herft assured CKA that CKC’s licence to be a priest

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\(^{1338}\) Exhibit 42-0001, ‘Letter from Kathy Ross to CKA’, Case Study 42, PS.0532.001.0033 (Tab 64 of Tender Bundle).

\(^{1339}\) Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [43].

\(^{1340}\) Exhibit 42-0093, ‘Statement of Katherine Ross’, Case Study 42, STAT.1064.001.0001_R at [13].

\(^{1341}\) Transcript of G Lawrence, Case Study 42, 23 November 2016, 23523:2 – 23524:38; Exhibit 42-0093, ‘Yellow Envelope No 11’, Case Study 42, ANG.0355.002.0001_R at 0075_R.

\(^{1342}\) Exhibit 42-0001, ‘Filenote by Bishop Herft of meeting with CKA and Mr Lawrence’, Case Study 42, IND.0486.001.0402_R (Tab 123 of Tender bundle).

\(^{1343}\) Exhibit 42-0001, ‘Filenote by Bishop Herft of meeting with CKA and Mr Lawrence’, Case Study 42, IND.0486.001.0402_R (Tab 123 of Tender bundle).

\(^{1344}\) Transcript of R A Herft, Case Study 42, 29 August 2016 at 17365:7-27.


\(^{1346}\) Transcript of R Herft, Case Study 42, 29 August 2016, 17413:1-15.

\(^{1347}\) Transcript of CKA, Case Study 42, 4 August 2016, 16468:19-24.
would be revoked\textsuperscript{1348} and that he would never be licensed again. CKA said that he assumed that Bishop Herft would communicate with the relevant diocese.\textsuperscript{1349}

848. Bishop Herft denied that he gave CKA such an undertaking.\textsuperscript{1350} There is no reference in his filenote to offering such an undertaking. Bishop Herft told the Royal Commission that he did not have the authority to revoke CKC’s licence at that time because he did not issue it.\textsuperscript{1351} However, Bishop Herft acknowledged that it was entirely within his power to contact the Bishop of Ballarat Diocese, where CKC was licensed, but that he failed to do so.\textsuperscript{1352} In hindsight, Bishop Herft accepted that he breached the informal ‘Safe to Receive’ protocol by failing to notify the Bishop of Ballarat of his concerns about CKC.\textsuperscript{1353}

849. In view of the absence of any mention of the undertaking in Bishop Herft’s filenote and the fact that a bishop of the Anglican Church cannot withdraw the licence of a priest where that licence is issued in another Diocese, it is not open to file that Bishop Herft gave an undertaking to CKA that he would withdraw CKC’s licence.

850. Bishop Herft gave evidence that, after his meeting with CKA in June 2003, the Registrar notified the Ombudsman of CKA’s allegations against CKC.\textsuperscript{1354} This was despite Mr Caddies’ advice that the Diocese had no obligation to report CKA’s allegations of child abuse under the \textit{Ombudsman Act 1974 (NSW)}.\textsuperscript{1355} In September 2003, Bishop Herft advised Mr Caddies that the Diocese had ’erred on the side of caution’.\textsuperscript{1356}

851. Bishop Herft gave evidence that he sought advice from Mr Caddies regarding how the Diocese could assist CKA, but that Mr Caddies advised it would be inappropriate for the Diocese to provide legal advice to CKA.\textsuperscript{1357}

852. It is a matter of public record that CKC retired in 2004. However, he retained a permission to officiate in the Diocese of Ballarat until 2016.\textsuperscript{1358} In a letter to the Royal Commission dated 22 July 2016, Bishop Garry Weatherill told the Royal Commission about the circumstances in which CKC was no longer licenced in Ballarat. Bishop Weatherill said that in early 2016, he recalled all permissions to officiate and general licences in the Diocese, in order to ensure that everyone had a proper police clearance, child safety card, and safe ministry check. According

\textsuperscript{1348} Transcript of CKA, Case Study 42, 4 August 2016, 16468:35-38.
\textsuperscript{1349} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [55].
\textsuperscript{1350} Exhibit 42-0075, ‘Further Supplementary Statement of Archbishop Roger Herft’, Case Study 42, STAT.1094.002.0001_R at [8].
\textsuperscript{1351} Exhibit 42-0075, ‘Further Supplementary Statement of Archbishop Roger Herft’, Case Study 42, STAT.1094.002.0001_R at [8].
\textsuperscript{1352} Transcript of R Herft, Case Study 42, 29 August 2016 at 17414:11-16; Exhibit 42-0075, ‘Further Supplementary Statement of Archbishop Roger Herft’, Case Study 42, STAT.1094.002.0001_R at [12].
\textsuperscript{1353} Transcript of R Herft, Case Study 42, 29 August 2016 at 17401:1-20.
\textsuperscript{1354} Transcript of R Herft, Case Study 42, 29 August 2016 at 17365:29-32.
\textsuperscript{1355} Exhibit 42-0001, ‘Letter from Robert Caddies to Bishop Herft in 1996’, Case Study 42, ANG.0050.002.2593_R (\textit{Tab 103A of Tender Bundle}).
\textsuperscript{1356} Exhibit 42-0001 at Tab 131AC, ‘Letter from Bishop Herft to Robert Caddies’, Case Study 42, ANG.0050.003.8965_R
\textsuperscript{1357} Exhibit 42-0075, ‘Further Supplementary Statement of Archbishop Roger Herft’, Case Study 42, STAT.1094.002.0001_R at [24].
\textsuperscript{1358} Exhibit 42-0001, ‘The “Yellow Envelopes” report’, Case Study 42, ANG.0207.001.2371 at 2376 (\textit{Tab 399 of Tender Bundle}); Exhibit 42-0001, ‘Letter from Garry Weatherill to Royal Commission dated 22 July 2016’, Case Study 42, AND.0334.001.0131_R (\textit{Tab 425 of Tender Bundle}).
to Bishop Weatherill, CKC applied for a permission to officiate giving a false date of birth on the police clearance form. He was not granted the permission.\footnote{Exhibit 42-0001, ‘Letter from Garry Weatherill to Royal Commission dated 22 July 2016’, Case Study 42, AND.0334.001.0131\_R (Tab 425 of Tender Bundle).}  

853. CKA gave evidence that over the years his life spiralled downwards and he continued to agitate for a response from the Diocese.\footnote{Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001\_R at [54].} On 12 June 2004, CKA wrote to Bishop Herft to advise that his ‘life is worse than ever’ due to CKC’s actions.\footnote{Exhibit 42-0001, ‘Email from CKA to Bishop Herft re CKC’, Case Study 42, ANG.0050.002.2549\_R (Tab 134A of Tender Bundle).}  

854. One 23 June 2004, Bishop Herft replied to CKA and reiterated that this matter had been dealt with by the Courts and that CKC had been ‘acquitted’.\footnote{Exhibit 42-0001, ‘Letter from Bishop Herft to CKA’, Case Study 42, PS.0532.001.0031\_R (Tab 135 of Tender Bundle).} Bishop Herft informed CKA that he was unable to advise CKA on legal issues and that CKA needed to seek independent advice about compensation.\footnote{Exhibit 42-0001, ‘Letter from Bishop Herft to CKA’, Case Study 42, PS.0532.001.0031\_R (Tab 135 of Tender Bundle).} CKA said that he found Bishop Herft’s response ‘dismissive’.\footnote{Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001\_R at [54].}  

855. During the public hearing, counsel for the State of New South Wales told the Royal Commission that it was likely fresh charges could be laid against CKC and fresh criminal proceedings commenced.\footnote{Transcript, Case Study 42, 2 August 2016, 16205:6-10.}  

856. CKA received no effective acknowledgement, support or redress from the Diocese during Bishop Herft’s tenure. As will be seen in Section 5, he pressed a claim for redress during Bishop Farran’s tenure as Bishop of Newcastle.

### Available findings:

| AF93 | Bishop Herft understood that he had a pastoral responsibility to CKA and CKB. |
| AF94 | CKA and CKB were shown no compassion by Bishop Herft. They received no effective acknowledgement, support or redress from Bishop Herft. Bishop Herft failed to meet his pastoral responsibilities to these two complainants. |

### Allegations against Barrack

#### Introduction

857. These submissions now turn to consider the way in which the Diocese responded to allegations that ordinand Barrack behaved in a sexualised way towards a 14 year old boy, CKU, and with later allegations that Barrack had sexually abused CKU.

#### The experiences of CKU

858. CKU gave oral evidence to the Royal Commission. CKU first met Barrack when CKU moved to St John’s College, Morpeth with his mother in early 1997. At the time, CKU was about 12 years
old and Barrack was about 28 years old. Like CKU’s mother, Barrack was studying to become a priest.1366

859. CKU said that he became increasingly friendly with Barrack and often went to Barrack’s house in order to use his computer.1367 In late 1997, when CKU was about 13 years old, Barrack’s behaviour towards CKU became increasingly ‘touchy’ and included massages.1368 Barrack started buying presents for CKU and spending more time with him.1369

860. CKU’s mother, CKR, also gave evidence to the Royal Commission. She said that CKU would often stay overnight at Barrack’s house on Friday nights. CKR gave evidence that at first she was not concerned about this as it was a Christian community.1370 Barrack was married and she assumed Barrack’s wife was also in the house.1371

861. CKU told the Royal Commission that in June 1998, when he had just turned 14 years old, Barrack first abused him by performing oral sex on him.1372 Over the ensuing months, the sexual abuse continued.1373 Barrack told CKU he loved him.1374 Barrack showed CKU pornography, including child pornography.1375 In around November 1998, they had anal intercourse.1376

First disclosure of Barrack’s conduct to the Diocese

862. CKR said that by June 1998 she had become concerned that CKU was increasingly spending most of his spare time with Barrack.1377 She felt that her son had become reclusive and secretive.1378 She also discovered that Barrack’s wife spent Friday nights at her mother’s house, not at home.1379

863. CKR gave evidence that in about September 1998 she decided to send CKU to boarding school as she was finishing her ordination training at the end of that year and would be required to move to a parish.1380 During September and October 1998, Barrack tried to persuade CKR to allow CKU to live with him.1381

1366 Transcript of CKU, Case Study 42, 5 August 2016, C16571:14–16, 32–34.
1368 Transcript of CKU, Case Study 42, 5 August 2016, 16572:26–32.
1369 Transcript of CKU, Case Study 42, 5 August 2016, 16572:34–46.
1370 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [15].
1371 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [19].
1372 Transcript of CKU, Case Study 42, 5 August 2016, 16573:10–30.
1373 Transcript of CKU, Case Study 42, 5 August 2016, 16574:12–17, 22–25.
1374 Transcript of CKU, Case Study 42, 5 August 2016, 16574:15–16.
1375 Transcript of CKU, Case Study 42, 5 August 2016, 16574:27–43.
1376 Transcript of CKU, Case Study 42, 5 August 2016, 16575:5–12.
1377 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [17]-[18].
1378 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [19].
1379 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [19].
1380 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [21].
1381 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [22].
In October 1998, Barrack gave CKU a wind-up toy of a man having anal sex with a sheep. Later that month, CKU showed the toy to his mother. CR said she was repulsed by the gift and determined to separate CKU from Barrack. CKR also said that in November 1998, her daughter reported to her that she had overheard CKU and a friend talking about pornography they had watched at Barrack’s house.

On 16 November 1998, CKR met with Archdeacon Hoare showed him the sheep sex toy, and, it may be inferred, told him about Barrack showing CKU pornography. At that time, Mr Hoare was the Ministry Development Officer and the supervisor for students at Morpeth College, including Barrack and CKR.

CKR said that Mr Hoare initially laughed but changed his demeanour after she pointed out that this type of gift from an adult to a boy was not a laughing matter. Mr Hoare said he would show the toy to Bishop Herft. CKR expected the Diocese would then take disciplinary action against Barrack.

CKR said that about a week later, Archdeacon Hoare asked to see her. At the meeting, he told her he had shown the toy to Bishop Herft and they had agreed CKR should return the toy to Barrack. He advised CKR to tell Barrack the toy was inappropriate and to express her displeasure. In other words, it was left to CKR to reprimand Barrack.

There is no other evidence that Mr Hoare did tell Bishop Herft of the allegations at this time. Bishop Herft’s evidence was that he was not made aware of this matter until around April 1999. Further, Mr Hoare said in his statement that the first time Bishop Herft was made aware of the matter was in April 1999 when Mr Hoare provided a filenote to him. That Bishop Herft only became aware of the matter in April 1999 is consistent with the filenote he prepared dated 8 April 1999.

Available finding:

AF95 Bishop Herft was not made aware of allegations against Barrack until April 1999.

CKR said that she did meet with Barrack and told him the toy was an inappropriate gift to give CKU and that she had informed Mr Hoare of the matter. She also told him he was to have no

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1382 Exhibit 42-0026, ‘Statement of CKU’, Case Study 42, STAT.1086.001.0001_R at [36].
1383 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [27].
1384 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [28].
1385 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [29].
1386 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [31].
1387 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [34].
1388 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [32].
1389 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [35].
1390 Transcript of R A Herft, Case Study 42, 6 October 2016, 17345:15-18; 17391:5-6, 16-19.
1391 Exhibit 42-0147, ‘Statement of Bruce Hoare’, Case Study 42, STAT.1063.001.0001 at p.4, iv.
1392 Exhibit 42-0001, ‘Filenote of Bishop Herft dated 8 April 1999’, Case Study 42, NSW.0040.003.1063.
further contact with CKU. CKR gave evidence that Barrack was angry and upset. He punched a wall and she asked him to leave.\footnote{1393}

**CKU moves away in late 1998**

871. CKU told the Royal Commission that in December 1998, he stopped having any contact with Barrack as he was sick of the abuse. CKU went overseas for several weeks over Christmas to visit his father but Barrack continued to email him at his father’s email address. CKU did not reply.\footnote{1394}

872. At the end of 1998, CKU’s mother was required to move to take up a position as assistant priest within the Diocese.\footnote{1395} In 1999, CKU went to boarding school.\footnote{1396} Barrack wrote him a number of letters and kept trying to contact CKU.\footnote{1397} CKU said he felt hounded by Barrack and unsafe at school. His last contact from Barrack was a letter that Christmas containing a gift of $50. CKU threw the letter away and spent the money.\footnote{1398}

**CKR’s further contact with the Diocese about Barrack**

873. CKR says that in the period of October 1998 to March 1999 she did not hear further from the Diocese about the complaint she had made against Barrack.\footnote{1399}

874. CKR told the Royal Commission that despite CKR’s complaint about Barrack’s behaviour towards her son and failing his ordination training, Barrack was allowed to remain on campus and continue studying in 1999.\footnote{1400} Bishop Herft told the Royal Commission that Barrack was not at Morpeth College in 1999.\footnote{1401} Documentary evidence before the Royal Commission showed that Barrack had left Morpeth College by the start of the first semester for students in early 1999.\footnote{1402}

875. In February 1999, CKR’s daughter and son-in-law wrote statements about CKU’s disclosure that Barrack had showed him pornography.\footnote{1403} CKR also wrote a statement about her concerns regarding Barrack’s behaviour to her son on 16 March 1999.\footnote{1404}

876. On 16 March 1999, then Archdeacon Hoare met with CKR in her home. He obtained the written statements from CKR.\footnote{1405} His filenote of the meeting shows that CKR discussed with

\footnotesize{\begin{itemize}
\item Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [36].
\item Exhibit 42-0026, ‘Statement of CKU’, Case Study 42, STAT.1086.001.0001_R at [41].
\item Transcript of CKU, Case Study 42, 5 August 2016, C16575:35–37.
\item Transcript of CKU, Case Study 42, 5 August 2016, C16575:17–18.
\item Transcript of CKU, Case Study 42, 5 August 2016, C16575:20–24, 40–44.
\item Exhibit 42-0026, ‘Statement of CKU’, Case Study 42, STAT.1086.001.0001_R at [42]-[43].
\item Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [40].
\item Exhibit 42-0027, ‘Statement of CKR’, STAT.1073.001.0001_R at [34].
\item Transcript of R A Herft, Case Study 42, 29 August 2016 at 17335:2-7.
\item Exhibit 42-0001, ‘Letter from Ian Barrack to Bishop Roger Herft’, Case Study 42, ANG.0050.004.4668 (Tab 51A of Tender Bundle).
\item Exhibit 42-0001, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [40].
\item Exhibit 42-0001, ‘Statement of CKR dated 16 March 1999’, ANG.0050.004.4650_R (Tab 49A of Tender Bundle).
\item Exhibit 42-0147, ‘Statement of Bruce John Hoare’, Case Study 42, STAT.1063.001.0001_R at [14]; Exhibit 42-0001, ‘Filenote by Bruce Hoare (Archdeacon of Newcastle & Ministry Development Officer) to Bishop Roger Herft’, Case Study 42, ANG.0050.004.4660_R (Tab 50 of Tender Bundle); Exhibit 42-0001, ‘First Statement from CKR’, Case Study 42, ANG.0050.004.4650 (Tab 49A of Tender Bundle).
\end{itemize}}
him the fact that Barrack had provided the ‘blatantly sexual’ toy to CKU and had also shown him pornographic videos and magazines.  

877. According to an 8 April 1999 filenote prepared by then Bishop Herft, on 7 April 1999, Bishop Herft met with the Diocese’s solicitor, Mr Caddies, Mr Mitchell and the Archdeacon Hoare to discuss CKR’s complaints about Barrack. Mr Caddies advised that Bishop Herft should inform the Australian Diocesan Bishops that no authorisation to ministry should be granted to Barrack without first contacting Bishop Herft. Mr Hoare was to meet with CKR and recommend that CKU obtain some counselling. It was agreed that Barrack would not be informed at this time about CKR’s complaint. It should be emphasised that at this time there was no allegation that Barrack had sexually abused CKU.

878. On 8 April 1999, Bishop Herft wrote to the Diocesan Bishops advising that no authorisation for ministry be granted to Barrack without first contacting Bishop Herft.

879. On 10 May 1999, Bishop Herft was advised by a representative of the NSW Department of Community Services (DOCS) that while inappropriate, she did not believe Barrack’s actions constituted a criminal offence and advised that Barrack not be informed of CKR’s complaint.

880. On 13 May 1999, Bishop Herft wrote to CKR and advised he would be meeting with a representative of DOCS and a police officer on 27 May 1999. Bishop Herft requested that CKR also attend the meeting. He also offered to put CKR in touch with a psychologist and provided contact details.

881. On 27 May 1999, Bishop Herft met with a Child Protection Officer from DOCS, a police officer, Mr Mitchell and CKR. Bishop Herft noted that it was decided that the Church authorities had done as much as possible regarding Barrack’s conduct at this time. Progressing the complaint further would need to be initiated by CKU who was now at boarding school.

Available finding:

AF96  By contacting DOCS, Bishop Herft took appropriate action in responding to the disclosures that were made to him about Barrack in around April 1999.

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1406 Exhibit 42-0001, ‘Filenote by Bruce Hoare (Archdeacon of Newcastle & Ministry Development Officer) to Bishop Roger Herft’, Case Study 42, ANG.0050.004.4660_R (Tab 50 of Tender Bundle).

1407 Exhibit 42-0001, ‘Filenote by Bishop Roger Herft of meeting in relation to Ian Barrack’, Case Study 42, NSW.0040.003.0163_R (Tab 51 of Tender Bundle).


1409 Exhibit 42-0001, ‘Filenote by Bishop Herft in relation to DoCS’, Case Study 42, ANG.0050.004.4670_R (Tab 51 of Tender Bundle).

1410 Exhibit 42-0001, ‘Letter from Bishop Roger Herft in relation to DoCS’, Case Study 42, ANG.0050.004.4671_R (Tab 53 of Tender Bundle).

1411 Exhibit 42-0001, ‘Filenote by Bishop Roger Herft re Ian Barrack’, Case Study 42, ANG.0050.004.4856_R (Tab 54 of Tender Bundle).
CKU discloses that he suffered sexual abuse in May 2002

882. CKU gave evidence that he first disclosed his sexual abuse to his girlfriend in January 2002.\textsuperscript{1412} Then in May 2002, he thought he saw Barrack in Singleton looking for him.\textsuperscript{1413} He received an email from Barrack that same day.\textsuperscript{1414} He became fearful and disclosed the sexual abuse to his mother, but did not go into detail at that time.\textsuperscript{1415}

883. On 29 May 2002, CKU and CKR reported the sexual abuse to police at Singleton and made a statement.\textsuperscript{1416}

884. Shortly thereafter, CKR informed then Archdeacon Hoare that CKU had been sexually abused by Barrack. The Archdeacon told CKR he would inform Bishop Herft.\textsuperscript{1417} CKR was told by the Bishop’s secretary that DoCS had been contacted in May 2002 and provided CKR with a contact number for the DoCS case worker. When CKR contacted the case worker, she was told that as CKU was now 18 years old, it was no longer a DoCS matter but a police matter.\textsuperscript{1418}

885. CKR says she was not contacted by Bishop Herft at this time and believed the Diocese was handling the matter via its complaint handling process which, at that time, was CASM.\textsuperscript{1419}

Criminal prosecution of Barrack

886. There was a significant delay in the police’s response to CKU’s allegations. CKU told the Royal Commission that he reported the abuse to police in May 2002.\textsuperscript{1420} He heard nothing back from the police for three years.\textsuperscript{1421} CKR made a number of calls to Singleton police during 2002 and early 2003 but was told the complaint was not being given any urgency as it was not a current case.\textsuperscript{1422}

887. On 12 August 2003, the Chair of CASM, Mrs Sanders, wrote to Bishop Herft to express CKR’s concerns that the police did not appear to be pursuing the matter.\textsuperscript{1423} Bishop Herft also expressed his concern at the apparent lack of action and offered to speak with the appropriate authorities.\textsuperscript{1424}

888. On 3 September 2003, Mr Caddies advised Bishop Herft that there appeared to be no obligation for the allegation of abuse of CKU by Barrack to be reported under the Ombudsman...
Act 1974 (NSW) since Barrack was not an ‘employee’. Nevertheless, the Diocese did report the allegation and the process that had been followed to the Ombudsman.

889. On 15 December 2003, Bishop Herft wrote to CRK suggesting that a direct approach be made to police regarding CKU’s complaint.

890. It was not until February 2005 that Barrack was charged with offences against CKU. In May 2005, Barrack pleaded guilty to one count of sexual intercourse with a child between 10 and 16 years. In September 2006, Barrack was sentenced to two years’ imprisonment with a non-parole period of 12 months. Further detail about the sentencing hearing, which occurred during Bishop Farran’s episcopate, is set out below in Section 5.4.

Initial lack of pastoral support for CKU and his mother CRK

891. In the period after the Diocese was notified in 2002 that Barrack had in fact sexually abused CKU, the Diocese did not at first extend pastoral support or care to CKU or his mother. CKU’s case was not originally referred to CASM. Bishop Herft gave evidence that after CKU disclosed the abuse, he offered for CRK to contact Dr Johnson in order to obtain counselling for herself and CKU.

892. Mrs Sanders said that in early 2003, she became aware of CKU’s abuse. She was told that CKU and CRK had not been informed of the Diocesan responsibility to provide support and services to them. Mrs Sanders then advised Bishop Herft.

893. In July 2003, CRK met with Mrs Sanders and told her about Barrack’s abuse of CKU. Mrs Sanders offered CKU and CKK some support services to be paid for by the Diocese. Mrs Sanders said that she wrote to Bishop Herft several times regarding her concerns about CRK and CKU. On a number of occasions, she requested that the Diocese provide counselling support.

894. In or around August 2003, Mrs Sanders arranged for some counselling for CRK and CKU with a clinical psychologist which was partly paid for by the Diocese.

895. On 22 August 2003, Bishop Herft wrote to CRK. He said ‘I must take full responsibility for the Chair of CASM and the committee not being notified officially of this matter’ and explained he thought that it was outside the remit of the committee because it was a serious criminal

1425 Exhibit 42-0001, ‘Letter from Robert Caddies to Bishop Herft re CKU’, Case Study 42, ANG.0050.004.4732_R (Tab 130B of Tender Bundle).

1426 Exhibit 42-0001, ‘Letter from Bishop Herft to Robert Caddies’, Case Study 42, ANG.0050.003.8965 (Tab 131C of Tender Bundle).

1427 Transcript of CKU, Case Study 42, 5 August 2016, C16578:44–45.

1428 Transcript of CKU, Case Study 42, 5 August 2016, C16579:39–41.

1429 Transcript of CKU, Case Study 42, 5 August 2016, C16579:44–46.

1430 Transcript of R A Herft, Case Study 42, 29 August 2016, 17348:42–44.

1431 Exhibit 42-0042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0009_R at [37]; Exhibit 42-0001, ‘Letter from Jean Sanders to Bishop Roger Herft’, Case Study 42, ANG.0050.004.4858_R (Tab 118 of Tender Bundle).

1432 Exhibit 42-0027, ‘Statement of CRK’, Case Study 42, STAT.1073.001.0001_R at [59].

1433 Exhibit 42-0027, ‘Statement of CRK’, Case Study 42, STAT.1073.001.0001_R at [59]; Exhibit 42-0042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0001_R at [38];[39].

1434 Exhibit 42-0027, ‘Statement of CRK’, Case Study 42, STAT.1073.001.0001_R at [59]; Exhibit 42-0042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0001_R at [39].
offence and that he thought then Archdeacon Hoare was offering her pastoral support. He accepted in evidence that it was a ‘serious omission’ not to inform Mrs Sanders of the matter.\footnote{1436}

**Available findings:**

**AF97** After being notified that Barrack had sexually abused CKU as a child, Bishop Herft should have taken more active steps to ensure that appropriate pastoral care and support were provided to CKU and his mother, CKR.

**AF98** Bishop Herft did not inform the Chair of CASM of the allegations against Barrack and should have done so. As a result, CASM could not maintain a complete record in relation to complaints about sexual misconduct by Barrack and could not act to see that appropriate pastoral support was provided to CKU and CKR.

**CKU’s claim for redress**

896. CKU also gave evidence about seeking redress from the Diocese. On 15 August 2003, he retained a solicitor to assist him in seeking financial compensation from the Diocese and Morpeth College.\footnote{1437} CKU said he was advised to wait until the outcome of the criminal charges against Barrack before lodging a civil claim. CKU applied for financial assistance from the NSW Victims Compensation Scheme at that time and was awarded $6000.\footnote{1438}

897. In around 2003, the Diocese started paying for some counselling sessions for CKU and his mother.\footnote{1439} CKU’s claim for redress is discussed in more detail in the next section of these submissions.

**4.7 Conclusions on the treatment of child sexual abuse allegations during Bishop Herft’s episcopate**

898. In Bishop Herft’s 2002 charge to the Synod he said:\footnote{1440}

> We have clearly stated that sexual misconduct, abuse and harassment will not be tolerated and that paedophilia is abhorrent.

> We have sought to put in place strategies that would create a culture of positive risk management.

> Risk management is a responsible instrument, which demands that persons who may hurt others should never be placed in a position that exposes them and others to repeating their harmful behaviour.

899. Yet, the evidence before the Royal Commission shows that there was a substantial failure in risk management during Bishop Herft’s episcopate. This left children at risk. The way in which

\footnote{1436}{Transcript of R A Herft, Case Study 42, 29 August 2016, 17348:4-10.}
\footnote{1437}{Exhibit 42-0027, 'Statement of CKR', Case Study 42, STAT.1073.001.0001_R at [60].}
\footnote{1438}{Exhibit 42-0026, 'Statement of CKU', Case Study 42, STAT.1086.001.0001_R at [64], [70].}
\footnote{1439}{Transcript of CKU, Case Study 42, 5 August 2016, C16580:10–17.}
\footnote{1440}{Exhibit 42-0075, 'Statement of Bishop Roger Herft', Case Study 42, STAT.1094.001.0001 at [57].}
the Diocese handled allegations of child sexual abuse shows there was a large gap between the Diocese’s policies and its practices.

Available findings:

AF99  There were significant developments in the policies for handling sexual abuse allegations during Bishop Herft’s tenure in the Diocese. However, in the following respects the Diocese’s practices did not live up to its disciplinary and policy framework expectations and requirements in handling allegations of child sexual abuse:

   a. No member of the clergy in respect of whom allegations of child sexual abuse were made was formally disciplined;
   b. Where the alleged perpetrator had moved to another diocese, that diocese was generally not warned of the allegations;
   c. Survivors were not offered timely or compassionate pastoral care and support; and
   d. Allegations that members of the clergy had sexually abused children were routinely not reported to the NSW police.

AF100  While Bishop Herft gave evidence that it was always the policy of the Diocese to report allegations of child sexual abuse to the police, this policy was fettered in many respects. Bishop Herft considered it was only necessary to report such allegations to the police where the complaints were identified by name, where there was a complaint in writing and where the complaint had some ‘substance’.

AF101  Bishop Herft mishandled the allegations of child sexual abuse made against two of the most senior and domineering priests in the Diocese – the Dean of the Cathedral, Mr Lawrence, and the one time Archdeacon of Maitland, Rushton. His response was weak, ineffectual, and showed no regard for the need to protect children from the risk that they would be preyed upon. It was a failure of leadership.

AF102  During Bishop Herft’s tenure there was a network of long term Diocesan ‘insiders’ – the Dean Lawrence, Mr Mitchell, Mr Allen and Mr Rosser QC – who worked together to frustrate efforts by other leaders, including the Bishop, to deal with the sexual abuse of children by priests and others within the Diocese.
5 Institutional response under Bishop Brian Farran (June 2005 to December 2012)

5.1 Introduction

900. Dr Brian Farran was Bishop of Newcastle from 24 June 2005 to 15 December 2012.\(^{1441}\) He was nominated to that position by Mr Lawrence, then the Dean of the Cathedral,\(^{1442}\) who was his good friend.\(^{1443}\)

901. During Bishop Farran’s episcopate, Bishop Peter Stuart was the Assistant Bishop from February 2009 to present.\(^{1444}\)

902. It was during Bishop Farran’s episcopate that the scale of the problem with child sexual abuse in the Diocese became known. Bishop Farran accepted that there was a ‘very significant problem’ with child sexual abuse in the Diocese.\(^{1445}\) He said he had ‘no idea’ of the problem upon first becoming Bishop of Newcastle and no-one briefed him on it.\(^{1446}\) He said that Bishop Herft did not tell him that he had received complaints about Mr Lawrence’s conduct towards children.\(^{1447}\) Nor was Bishop Farran made aware that allegations had been made against Rushton.\(^{1448}\) Bishop Farran said he learned there was a systemic problem with child sexual abuse in the Diocese as he gradually became aware of allegations against Rushton and when Mr Michael Elliott briefed him.\(^{1449}\)

Available finding:

AF103 It was remiss of Bishop Herft to not make Bishop Farran aware that Mr Lawrence and Rushton, who had been two of the most senior priests in the Diocese, had both been accused of sexually abusing children.

903. In October 2005, the Diocesan Synod adopted the Professional Standards Ordinance 2005,\(^{1450}\) which was in large measure based upon the General Synod’s Model Ordinance 2004.\(^{1451}\) This

\(^{1441}\) Exhibit 42-0107, 'Statement of Bishop Brian Farran', Case Study 42, STAT.1072.001.0001_R at [20]-[22].
\(^{1442}\) Transcript of B Farran, Case Study 42, 16 November 2016, 23208:24-26.
\(^{1443}\) Transcript of B Farran, Case Study 42, 16 November 2016, 23208:39.
\(^{1444}\) Exhibit 42-0114, 'Supplementary Statement of Peter Stuart', Case Study 42, STAT.1082.001.0001_R at [2.4.1].
\(^{1445}\) Transcript of B Farran, Case Study 42, 16 November 2016, 23214:19-22.
\(^{1446}\) Transcript of B Farran, Case Study 42, 16 November 2016, 23214:29-30.
\(^{1447}\) Transcript of B Farran, Case Study 42, 16 November 2016, 23211:34-38.
\(^{1448}\) Transcript of B Farran, Case Study 42, 17 November 2016, 23233:13-32.
\(^{1449}\) Transcript of B Farran, Case Study 42, 16 November 2016, 23215:2-15 and 23221:13-16.
\(^{1450}\) Exhibit 42-0001, 'Professional Standards Ordinance 2005', Case Study 42, ANG.0050.001.4524 (Tab 448A of Tender Bundle).
\(^{1451}\) Exhibit 42-0001, 'National Model 2005 Professional Standards Ordinance', Case Study 42, ANG.9310.01001.0193 (Tab 446 of Tender Bundle).
new framework represented a distinct break with the past, effectively supplanting the old Panel of Triers process,\textsuperscript{1452} and was designed to keep the disciplinary process against clergy independent of the Bishop.\textsuperscript{1453}

904. Among other things, the new framework created the position of Professional Standards Director. Mr Michael Elliott was appointed as the Professional Standards Director in the Diocese in January 2009.\textsuperscript{1454}

905. From early on, and particularly in the period from around 2009 to 2013 there was significant disquiet in some quarters of the Diocese about the operation of the professional standards framework. This disquiet found its genesis in the way that the framework operated against two popular priests in the Diocese, Mr John Gumbley and COJ, both of whom were accused of sexual misconduct with female adults.\textsuperscript{1455}

906. Then in October 2009, complaints were made against Mr Lawrence, who had only recently retired as Dean of the Cathedral, and his partner Mr Goyette, as well as three other priests being Mr Hoare, Mr Sturt and Mr Duncan.\textsuperscript{1456} This gave rise to a protracted disciplinary process which eventually led to the defrocking of Mr Lawrence and Mr Hoare, the five year suspension of Mr Sturt’s licence, and Mr Duncan’s resignation. Mr Goyette was banned from all lay roles within the Anglican Church.\textsuperscript{1457}

907. At the same time, the details of Rushton’s prolific child sexual offending were emerging and Bishop Farran decided to go public on these allegations in 2010.\textsuperscript{1458}

908. The application of the professional standards framework and the move to go public over Rushton both led to a significant backlash against Bishop Farran from elements of the Diocese, particularly from a cohort within the Cathedral. Bishop Farran referred in his evidence to the ‘vehemence of the Mr Lawrence supporters’ whom he thought were ‘out to get him’.\textsuperscript{1459}

909. Numerous complaints were made against Bishop Farran to the Primate of the Anglican Church and to the Anglican Church’s Episcopal Standards Commission, which is responsible for disciplining Bishops.\textsuperscript{1460} Ultimately, all of the complaints were dismissed.\textsuperscript{1461}

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\textsuperscript{1452} Transcript of B Farran, Case Study 42, 16 November 2016, 23203:39-42.

\textsuperscript{1453} Transcript of B Farran, Case Study 42, 16 November 2016, 23215:40 to 23216:9.

\textsuperscript{1454} Exhibit 42-0054, ‘Further Statement of Michael Elliott’, Case Study 42, STAT.1088.001.0001_R at [6]; Exhibit 42-0107, ‘Statement of Bishop Brian Farran’, Case Study 42, STAT.1072.001.0001_R at [64]-[65].

\textsuperscript{1455} Transcript of B Farran, Case Study 42, 16 November 2016, 23227:5; Exhibit 42-0107, ‘Statement of Bishop Brian Farran’, Case Study 42, STAT.1072.001.0001_R at [58].

\textsuperscript{1456} Exhibit 42-0107, ‘Statement of Bishop Brian Farran’, Case Study 42, STAT.1072.001.0001_R at [66].

\textsuperscript{1457} Exhibit 42-0107, ‘Statement of Bishop Brian Farran’, Case Study 42, STAT.1072.001.0001_R at [91]-[94].

\textsuperscript{1458} Exhibit 42-0107, ‘Statement of Bishop Brian Farran’, Case Study 42, STAT.1072.001.0001_R at [84]; Exhibit 42-0001, ‘Media Statement about Father Peter Rushton’, Case Study 42, ANG.0048.001.4538_R (Tab 236 of Tender Bundle); Exhibit 42-0001, ‘Media Article, Newcastle Herald’, Case Study 42, ANG.0048.001.4616 (Tab 240A of Tender Bundle); Exhibit 42-0001, ‘Media Article, Maitland Mercury’, Case Study 42, ANG.0048.001.4618 (Tab 240C of Tender Bundle).

\textsuperscript{1459} Transcript of B Farran, Case Study 42, 17 November 2016, 23353:10-14;
Bishop Farran said he had a ‘terrible time’ as the Bishop of Newcastle.\textsuperscript{1462} The Director of Professional Standards, Mr Michael Elliott, and the Diocesan Business Manager, Mr Cleary, also gave evidence of the harassment they endured and the vandalism they experienced by reason of their roles in professional standards.\textsuperscript{1463}

Also during Bishop Farran’s episcopate, Bishop Farran and Assistant Bishop Stuart were involved in the Diocesan response to complaints against CKC and Barrack.

This section of the submissions:

\begin{enumerate}
\item Provides an overview of the new professional standards framework introduced in 2005;
\item Describes the introduction of a scheme of redress within the Diocese known as the Pastoral Assistance Care and Support Scheme;
\item Considers the level of pastoral support offered by the Diocese to CKU and CKR during and after the trial of Barrack and redress provided by the Diocese to CKU;
\item Considers the level of pastoral supported offered by the Diocese to CKA in relation to allegations that he was sexually abused by CKC as a child, and the redress provided by the Diocese to CKA;
\item Examines the response of the Diocese to allegations that Rushton had abused children, which came to light after his death, and the response of members of the church community to Bishop Farran’s public acknowledgement that Rushton was a perpetrator of child sexual abuse;
\item Considers early challenges to the professional standards framework in light of the Gumbley and COJ disciplinary processes and the resultant fallout;
\item Discusses the 2010 review of the professional standards framework following the Gumbley and COJ matters, and the resulting amendments to the Professional Standards Ordinance and challenges to the Professional Standards Director;
\item Outlines the experiences of alleged sexual abuse survivor CKH and describes the disciplinary process that followed when CKH made complaints to the Diocese against Mr Lawrence, Mr Goyette, Mr Duncan, Mr Hoare and Mr Sturt in relation to his alleged abuse;
\item Considers the complaints by lay members of the Diocese against Bishop Farran regarding his treatment of Mr Lawrence;
\item Examines the dysfunctional culture of the Diocese reacting to the disciplining of Mr Lawrence by Bishop Farran, and the resignation of the Chancellor, Mr Paul Rosser QC;
\item Describes the implementation of the Professional Standard Board’s recommendation against Mr Lawrence and others, detailing the initial resistance of Bishop Farran to doing so;
\end{enumerate}

\textsuperscript{1462} Transcript of B Farran, Case Study 42, 16 November 2016, 23211:42.
\textsuperscript{1463} Transcript of M Elliott, Case Study 42, 12 August 2016, 17212:36-17213:24; Transcript of J Cleary, Case Study 42, 23 November 2016, 23561:34-46; Exhibit 42-0142, ‘Statement of the Hon Colin Elliott’, Case Study 42, STAT.1075.001.0001 at [33].
l. Considers attempts at implementing risk management of Mr Lawrence and Mr Goyette at their new parish; and

m. Lastly, considers the changes to the Professionals Standards Ordinance in 2012 and the impact of those changes on the transparency of professional standards procedures.

5.2 The introduction of the 2005 professional standards framework

913. In October 2005, shortly after Bishop Farran commenced as Bishop, the Diocese’s disciplinary regime changed significantly. The Diocese adopted the Professional Standards Ordinance 2005,1464 which was based upon the Model Professional Standards Ordinance promulgated by the General Synod in 2004.1465 The Diocese also adopted ‘Faithfulness in Service’ as a code of conduct in 2005.1466

914. The General Synod of the Anglican Church had adopted the Model Professional Standards Ordinance in 2004, based upon the recommendations of the Anglican Church’s Sexual Abuse Working Group.1467 Due to the principle of Diocesan autonomy within the Anglican Church, it remained a matter for each Diocese to determine whether to implement the model ordinance in whole or in part.

915. Bishop Farran gave evidence that he was in support of the model professional standards framework.1468

The Professional Standards Ordinance 2005

916. The Diocese’s Professional Standards Ordinance 2005 established a Professional Standards Committee, a Professional Standards Board and the office of Director of Professional Standards.1469 According to several witnesses, this new professional standards regime was intended to operate instead of the Panel of Triers process prescribed by the Anglican Church Constitution, the Offences Canon 1962 and Clergy Discipline Ordinance 1966.1470

917. Under this system, the key functions of the Professional Standards Director are to:1471

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1464 Exhibit 42-0001, ‘Professional Standards Ordinance 2005’, Case Study 42, ANG.0050.001.4524 (Tab 448A of Tender Bundle).
1466 Exhibit 42-0001, ‘Faithfulness in Service’, Case Study 42, ANG.0048.002.3533 (Tab 448 of Tender Bundle).
1469 Exhibit 42-0001, ‘Professional Standards Ordinance 2005’, Case Study 42, ANG.0050.001.4524 (Tab 448A of Tender Bundle).
1470 Transcript of M Elliott, Case Study 42, 11 August 2016, 17038:13-19; Transcript of P Rosser, Case Study 42, 30 August 2016, 17491:4-13; Exhibit 42-0082, ‘Statement of Philip Gerber’, STAT.0063.001.0001_R at [21]-[22].
a. Receive or uncover allegations of misconduct, including child sexual abuse, and to conduct initial investigations into allegations and then refer the matter to the Professional Standards Committee for further directions;

b. Conduct further investigations if so authorised by the Professional Standards Committee; and

c. Support complainants who come forward.

918. A key feature of this system is the independence of the Professional Standards Director from the Diocesan hierarchy.1472

919. The professional standards system is information-based rather than complaint-based in the sense that information about misconduct can be received from a variety of sources and is not limited to the situation where a formal complaint is made.1473

920. The function of the Professional Standards Committee is to investigate information about allegations of misconduct on the part of ‘Church workers’. The Committee can then refer the matter for further investigation, dismiss the matter or refer the matter to the Professional Standards Board.1474 The Committee also has the power to recommend to the Bishop that a person be suspended pending further action.1475

921. A ‘Church worker’ was defined in the Professional Standards Ordinance 2005 as a person who is or who at any relevant time was a member of clergy, a person employed by a Church body or a person holding a position or performing a function with the actual or apparent authority of a Church authority or Church body.1476 This definition included individuals in youth groups and other lay people.1477

922. The Professional Standards Board was established under the Professional Standards Ordinance 2005 as an adjudicative body, which can hear evidence and submissions. It has power to make findings as to whether the alleged misconduct occurred and to make recommendations as to the consequences that should follow from those findings.1478 However, the recommendations are not binding on the Bishop (or other person or body having administrative authority to license, appoint, authorise, dismiss or suspend a Church worker).1479 The Bishop has the discretion as to whether to follow the recommendations.1480

923. Under the Professional Standards Ordinance 2005, hearings of the Professional Standards Board were ordinarily to take place in public. However, the Board has absolute discretion to

1472 Transcript of P Rosser, Case Study 42, 30 August 2016, 17491:15-22, 17493:38-45.
1473 Transcript of M Elliott, Case Study 42, 11 August 2016, 17037:5-9.
1474 Exhibit 42-0155, ‘Statement of Geoff Spring’, Case Study 42, STAT.1099.001.0001 at [14].
1475 Exhibit 42-0001, ‘Professional Standards Ordinance 2005’, Case Study 42, ANG.0050.001.4524 at 4526 (Tab 448A of Tender Bundle).
1476 Exhibit 42-0128, ‘Statement of Bishop Gregory Thompson’, Case Study 42, STAT.1036.001.0001 at 0014.
1477 Exhibit 42-0128, ‘Statement of Bishop Gregory Thompson’, Case Study 42, STAT.1036.001.0001 at 0014.
1478 Exhibit 42-0001, ‘Professional Standards Ordinance 2005’, Case Study 42, ANG.0050.001.4524 at 4526 (Tab 448A of Tender Bundle).
1479 Transcript of M Elliott, Case Study 42, 30 August 2016, 17491:15-22.
direct that no person other than the respondent and anyone representing them, witnesses, persons making submissions and Board members be present during the hearing. Any person in a proceeding can have legal representation and the respondent is entitled to call or give evidence, examine or cross-examine witnesses and make submissions to the Board.  

Faithfulness in Service

924. Also in 2005, the Diocese adopted Faithfulness in Service based upon the General Synod’s model. Faithfulness in Service is a code for personal behaviour and the practice of pastoral ministry by clergy and church workers. Faithfulness in Service has been updated a number of times since it was first implemented in 2005.

925. Faithfulness in Service specifies standards of behaviour for clergy and church workers in relation to children. These include ensuring that there are proper systems for the safety and welfare of children and that applicable requirements of civil authorities and the church authority are complied with.

926. Under Faithfulness in Service, if a member of the clergy or a church worker suspects that a child is at risk of harm from child abuse, he or she is required to report it to the appropriate civil authorities. If he or she suspects that another member of clergy or a church worker has abused a child he or she is to report it to both the appropriate civil authorities and the Director of Professional Standards.

People appointed under the professional standards framework

927. Following the introduction of the professional standards framework in the Diocese, Mr Phillip Gerber initially took up the role of Professional Standards Director, although this was only a part-time/as needed basis because he was also the Professional Standards Director in the Dioceses of Sydney, Grafton and Armidale. Mr Gerber ceased acting as the Professional Standards Director in the Diocese of Newcastle in late 2007.

928. In the meantime, in January 2007 Mr John Cleary became the Diocesan Business Manager (which was the new position title for the Diocesan Registrar). From around March 2008 until about January 2009, Mr Cleary acted as the Professional Standards Director in addition to his role as Diocesan Business Manager.
929. Mr Michael Elliott was appointed Professional Standards Director in January 2009 on a part time basis, and then on a full time basis in May 2010. He has held this position ever since.

930. In 2005, CASM effectively became the Professional Standards Committee in the Diocese. Initially, Ms Gwen Vale was appointed as the Chair of this committee. Mr Geoff Spring has been the Chair since 2011.

931. Mr John Ryan was Chair of the Professional Standards Board from 28 June 2007 to 28 June 2009. In October 2009, Mr Colin Elliott, a retired magistrate, was appointed as the President. He resigned in late 2012 for reasons that will be discussed later in these submissions. On 30 April 2015, Mr Christopher Armitage was appointed as President of the Professional Standards Board.

5.3 Introduction of the Pastoral Care and Assistance Scheme

932. Until April 2007, the Diocese had no policy for providing redress to survivors of sexual abuse. On 26 April 2007, the Diocesan Council adopted the Pastoral Care and Assistance Scheme for Victims of Child Abuse or Sexual Misconduct by a Church Worker that was used in the Diocese of Sydney. The upper limited of compensation available under the scheme was set at $75,000. This scheme offered an alternative path for redress as compared with seeking compensation through the courts.

933. Mr Cleary said that given that the cap was $75,000, redress under the scheme was ‘regularly rejected’ by survivors.

1490 Transcript of M Elliott, Case Study 42, 11 August 2016, 17034:22-26.
1491 Transcript of M Elliott, Case Study 42, 11 August 2016, 17034:28-29.
1492 Exhibit 42-0083, ‘Statement of Philip Gerber’, Case Study 42, STAT.1069.001.0001_R at [26]; Exhibit 42-0128, Statement of Bishop Greg Thompson, Case Study 42, STAT.1036.001.0001_R at 0048.
1493 Exhibit 42-0042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0001_R at [46]; Exhibit 42-0083, ‘Further Statement of Philip Gerber’, Case Study 42, STAT.1069.001.0001_R at [26].
1494 Exhibit 42-0155, ‘Statement of Geoff Spring’, Case Study 42, STAT.1099.001.0001 at [5].
1495 Exhibit 42-0128, ‘Statement of Bishop Greg Thompson’, Case Study 42, STAT.1036.001.0001_R at .0047_R.
1496 Exhibit 42-0142, ‘Statement of Colin Elliott’, Case Study 42, STAT.1075.001.0001 at [3].
1497 Exhibit 42-0128, ‘Statement of Bishop Greg Thompson’, Case Study 42, STAT.1036.001.0001_R at .0047_R.
1498 Exhibit 42-0001, ‘Diocesan Council minutes of 26 April 2007 meeting’, Case Study 42, ANG.0048.001.1144 at 1146 (Tab 153 of Tender Bundle); Exhibit 42-0115, ‘Pastoral Care and Assistance Scheme in the Diocese of Sydney’, Case Study 42, ANG.0365.001.0027.
1499 Exhibit 42-0001, ‘Diocesan Council minutes of 26 April 2007 meeting’, Case Study 42, ANG.0048.001.1144 at 1146 (Tab 153 of Tender Bundle); Transcript of J Cleary, Case Study 42, 23 November 2016, 23550:1 to 23551:6; Exhibit 42-0115, ‘Pastoral Care and Assistance Scheme in the Diocese of Sydney’, ANG.0365.001.0027.
1500 Transcript of J Cleary, Case Study 42, 23 November 2016, 23551:28-32.
5.4 Diocesan response to CKU and CKR from 2005 to 2009

Barrack’s sentencing hearing in 2006

934. As set out in Section 4 above, on 10 May 2006, Barrack pleaded guilty to one count of sexual intercourse with a child aged between 10 and 16 years. On 22 September 2006, he was sentenced to two years’ imprisonment with a non-parole period of 12 months.

935. CKU gave evidence that Mr Lawrence gave a character reference for Barrack at trial. Mr Lawrence could not recall in oral evidence whether he had written a reference for Barrack for use at the sentencing hearing, but said that he did not support him in court.

936. CKR gave evidence that Mr Rosser QC attended one of the days of the court proceedings against Barrack, and said that she overheard Mr Rosser QC tell a DPP solicitor that he was there at Bishop Farran’s request. Mr Rosser QC gave evidence he had attended on one day to observe, and had done so in his role as Deputy Chancellor at Bishop Farran’s request.

937. CKR said she later emailed Bishop Farran regarding Mr Rosser QC’s presence at the proceedings, but Bishop Farran denied arranging for Mr Rosser QC to attend. Bishop Farran was not asked about this in evidence.

938. On 14 August 2006, CKR told Mr Gerber that she and CKU had not been offered any support by the Diocese during the criminal proceedings and requested Reverend Rosemary Gillham be allowed to attend the sentencing hearing in August 2006 in support of herself and CKU. CKR told the Royal Commission that she did not know why she had to request a pastoral support person when the Diocesan procedures required that support be provided whenever a member or parishioner was in need.

939. CKR gave evidence that at the sentencing hearing in August 2006, Barrack was supported by Reverend Wayne Sheean, who also gave character evidence. After the sentencing hearing,
CKR contacted Bishop Farran and Mr Gerber to enquire about the presence of Reverend Sheehan at court in support of Barrack. Both Bishop Farran and Mr Gerber denied that Reverend Sheehan was representing the Diocese and said he was present only in a private capacity. Reverend Sheehan did not give evidence to the Royal Commission.

940. CKR gave evidence that during the court proceedings, she and CKU had the support of a social worker provided by the DPP who sat with them and talked them through the process. CKR said she felt cared for, unlike the lack of support she and CKU had received from the church.

941. CKU said it felt like a ‘slap in the face’ for the Church to provide support people for Barrack, but only make contact with CKU after his mother rang the Bishop and ‘had a go at him’.

Available finding:

AF104 The Diocese failed to provide consistent pastoral care and support to CKU and CKR during the Barrack criminal proceedings as required by the Diocese’s Principles and Procedures for Dealing with Allegations of Sexual Misconduct.

Redress for CKU from 2006 to 2009

942. On 6 October 2005, CKR met with Bishop Farran and told him of her concerns with how the matter had been conducted by the Diocese, and in particular, the lack of pastoral care offered by Bishop Herft and Mr Hoare, who was then Archdeacon.

943. On 4 October 2006, CKR met with Reverend Gillham to discuss CKR’s issues with the Diocesan response to her complaints about Barrack and the lack of support provided to CKR and CKU.

944. On 29 November 2006, the Diocese’s by then established Professional Standards Committee reviewed the manner in which the complaint against Barrack had been handled by the Diocese. The then Professional Standards Director, Mr Gerber, provided a report to the committee and Bishop Farran recommending an ex gratia payment of $2000 be made to CKU as a contribution towards the cost of an overseas trip CKU was planning. The payment was not intended as compensation but as a symbolic gesture to indicate the church was sorry for what had occurred.

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1515 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [70]; Exhibit 42-0001, ‘Professional Standards Committee Report prepared by Philip Gerber in relation to Ian Barrack’, Case Study 42, ANG.0061.001.0457_R at 0458_R (Tab 160 of Tender Bundle); Exhibit 42-0001, ‘Email from CKR to Bishop Farran re criminal proceedings against Barrack’, Case Study 42, ANG.0323.001.0127_R (Tab 147 of Tender Bundle).

1516 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [68].

1517 Transcript of CKU, Case Study 42, 5 August 2016, 16580:4–8.

1518 Exhibit 42-0107, ‘Statement of Bishop Brian Farran’, Case Study 42, STAT.1072.001.0001_R at [219]; Exhibit 42-0001, ‘Filnote by Bishop Brian Farran in relation to Ian Barrack’, Case Study 42, ANG.0050.004.4827_R (Tab 143 of Tender Bundle).

1519 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [73].

1520 Exhibit 42-0107, ‘Statement of Bishop Brian Farran’, Case Study 42, STAT.1072.001.0001_R at [227].

945. In March 2007, CKU sought compensation from the Diocese for the sexual abuse by Barrack.\textsuperscript{1522} CKU was then offered additional counselling by the Diocese, which he initially accepted.\textsuperscript{1523} However, CKU was ultimately not comfortable attending counselling organised by the Church because of the abuse and the lengthy criminal proceeding and compensation process. CKU said that he no longer trusted the Church after his experiences. CKU requested that the Diocese pay a lump sum in addition to the compensation amount so he could organise his own counselling.\textsuperscript{1524}

946. In February 2009, CKU received a settlement of $60,000 from the Diocese, including $3000 for the cost of his ongoing counselling.\textsuperscript{1525}

947. CKU told the Royal Commission that obtaining compensation from the Diocese took nearly two years. He felt this was a long process considering that Barrack had pleaded guilty in 2006.\textsuperscript{1526} On 3 September 2009, CKU received a written apology from Bishop Brian Farran in relation to CKU’s abuse.\textsuperscript{1527} CKU told the Royal Commission that the apology was important to him as it was an acknowledgment that the Church was ‘in the wrong’.\textsuperscript{1528}

5.5 Response to allegations concerning CKC from 2008 to 2012

First settlement between the Diocese and CKA in 2008

948. CKA gave evidence that the Diocesan response to his complaint against CKC improved as he dealt with different Diocesan personnel.\textsuperscript{1529} He said that the two major changes which improved things were the appointment of Mr Cleary as the Diocesan Business Manager and the appointment of Mr Michael Elliott as the Professional Standards Director.\textsuperscript{1530}

949. CKA said that Mr Cleary was the cornerstone of the provision of support and redress that he has received from the Diocese.\textsuperscript{1531} He said that Mr Cleary had been pivotal in providing redress and appropriate respect on behalf of the Diocese.\textsuperscript{1532}

950. Mr Cleary gave evidence that he was the first person in the Church to listen to CKA’s story and believe him.\textsuperscript{1533} Mr Cleary said that he attended various meetings with CKA, Mr Elliott and the

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{1522} Exhibit 42-0026, ‘Statement of CKU’, Case Study 42, STAT.1086.001.0001_R at \[67\].
\item \textsuperscript{1523} Exhibit 42-0026, ‘Statement of CKU’, Case Study 42, STAT.1086.001.0001_R at \[69\].
\item \textsuperscript{1524} Exhibit 42-0026, ‘Statement of CKU’, Case Study 42, STAT.1086.001.0001_R at \[69\].
\item \textsuperscript{1525} Exhibit 42-0026, ‘Statement of CKU’, Case Study 42, STAT.1086.001.0001_R at \[70\].
\item \textsuperscript{1526} Exhibit 42-0026, ‘Statement of CKU’, Case Study 42, STAT.1086.001.0001_R at \[68\].
\item \textsuperscript{1527} Exhibit 42-0001, ‘Letter from Bishop Brian Farran to Rev [CKR]’, Case Study 42, ANG.0050.004.4441_R (\textit{Tab 182 of Tender Bundle}).
\item \textsuperscript{1528} Exhibit 42-0026, ‘Statement of CKU’, Case Study 42, STAT.1086.001.0001_R at \[72\].
\item \textsuperscript{1529} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at \[56\].
\item \textsuperscript{1530} Transcript of CKA, Case Study 42, 4 August 2016, 16461:47 – 16462:6-18.
\item \textsuperscript{1531} Transcript of CKA, Case Study 42, 4 August 2016, 16461:41-45.
\item \textsuperscript{1532} Transcript of CKA, Case Study 42, 4 August 2016, 16461:47 – 16462:15.
\item \textsuperscript{1533} Exhibit 42-0124, Statement of John Cleary, Case Study 42, STAT.1087.001.0001_R at \[197\].
\end{itemize}
\end{footnotesize}
Professional Standards Committee regarding redress and counselling support for CKA.\footnote{1534} Mr Cleary said that he and Mr Michael Elliott continued to provide support to CKA because CKA endured a ‘systemic cover up’ by the Diocese for many years and was in desperate need of assistance.\footnote{1535}

951. CKA gave evidence that he has had a positive experience with Mr Michael Elliott because he is independent from the Church. He said that Mr Michael Elliott had been ‘extremely supportive’ since they first met in 2009.\footnote{1536}

952. Bishop Farran gave evidence that when he met with CKA, it was very clear that Mr Michael Elliott had played a significant role in helping CKA come to terms with what he had suffered and in enabling CKA to feel strong enough to proceed with his complaint.\footnote{1537}

953. In November 2007, CKA was offered financial support for counselling which was approved by Mr Cleary.\footnote{1538} CKA gave evidence that, while beneficial, he found six counselling sessions to be insufficient.\footnote{1539}

954. Mr Cleary gave evidence that CKA received generous amounts of counselling support from the Diocese over many years, typically in blocks of six sessions at a time.\footnote{1540} In addition, CKA received financial support in the form of payment for independent legal advice and travel assistance to visit his daughter.\footnote{1541}

955. In February 2008, CKA attended a healing service conducted by the Church with the expectation that he would receive an apology. CKA gave evidence that after travelling 250 kilometres, he was disappointed to learn that key Diocesan figures would no longer be attending. CKA was under the impression that Bishop Herft, then Dean Lawrence and Mr Cleary would be in attendance, and their absence meant that the Diocese had managed to turn a ‘healing service’ into an abusive process as well.\footnote{1542}

956. In March 2008, CKA applied for pastoral care and assistance from the Diocese.\footnote{1543} In April 2008, CKA negotiated his first settlement with the Diocese and received $35,000 in compensation for CKC’s abuse at the rectory.\footnote{1544}

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\footnote{1534} Exhibit 42-0124, Statement of John Cleary, Case Study 42, STAT.1087.001.0001_R at [190].
\footnote{1535} Exhibit 42-0124, Statement of John Cleary, Case Study 42, STAT.1087.001.0001_R at [189] and [197].
\footnote{1536} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [72].
\footnote{1537} Transcript of B G Farran, Case Study 42, 16 November 2016, 23216:19-27.
\footnote{1538} Exhibit 42-0001, ‘Letter from G Vale to CKA dated November 2007’, Case Study 42, ANG.0050.002.2476_R (Tab 159A of Tender Bundle).
\footnote{1539} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [56].
\footnote{1540} Exhibit 42-0124, Statement of John Cleary, Case Study 42, STAT.1087.001.0001_R at [198] and [209].
\footnote{1541} Exhibit 42-0124, Statement of John Cleary, Case Study 42, STAT.1087.001.0001_R at [198] and [209].
\footnote{1542} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [57].
\footnote{1543} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [58].
\footnote{1544} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [58]; Exhibit 42-0001, ‘Deed of Release of CKA’, Case Study 42, ANG.0050.002.2420_R at .2422_R (Tab 162A of Tender Bundle).
Information sharing with Diocese of Ballarat in 2008

957. On 3 March 2008, Bishop Farran wrote to the Bishop of Ballarat to advise that the Newcastle Professional Standards Committee had ‘investigated a complaint against CKC’. Bishop Farran requested that the Bishop of the Ballarat Diocese issue a caveat against CKC’s Permission to Officiate, which had been granted by the Ballarat Diocese.

Alleged meeting with Dr Sandra Smith in 2010

958. CKA gave evidence that sometime in early 2010, he was treated by a psychologist or psychiatrist who introduced herself as ‘Dr Sandra Smith’. CKA told the Royal Commission that he believed that he was referred to Dr Smith by the Church.

959. CKA said that during his appointment, Dr Smith did not ask how he was feeling or about his experience of CKC’s abuse, but merely focused on his intentions regarding proceedings against the Church. CKA gave evidence that Dr Smith said she would contact him for a follow up appointment but never did.

960. Dr Smith is the current wife of Mr Keith Allen, who acted as CKC’s solicitor during the criminal proceedings. CKA gave evidence that he recently discovered Dr Smith’s relationship with Mr Allen. Dr Smith did not marry Mr Allen until 2013.

961. The Royal Commission summonsed Dr Smith’s diaries. They showed no evidence of a meeting between Dr Smith and CKA. Dr Smith also prepared an email for her solicitor, produced to the Royal Commission, which stated that she did not have any record or memory of treating CKA at any time.

962. There is insufficient evidence to make a finding that CKA consulted with Dr Smith.

Bishop Farran’s apology to CKA in 2010

963. As will be discussed in further detail below, on 19 October 2010, the Newcastle Herald published an apology by the Diocese to the victims of Rushton’s sexual abuse. CKA gave evidence that this reignited enormous pain and prompted CKA to write to Bishop Farran to
request an apology.\textsuperscript{1555} As a consequence, Mr Michael Elliott arranged for Bishop Farran to meet CKA and apologise for the suffering that CKA had experienced due to the protracted settlement of his complaint against CKC.\textsuperscript{1556}

964. In December 2010, CKA attended a meeting with Bishop Farran and Mr Michael Elliott.\textsuperscript{1557} Bishop Farran said that he found this meeting quite traumatic because he was ‘horrified’ by how CKA had been treated.\textsuperscript{1558} Bishop Farran said he ‘felt contaminated’ as the Bishop of the Diocese when CKA and his family had been treated so terribly.\textsuperscript{1559} He felt the Diocese had betrayed CKA who was a loyal server at the time of his abuse by CKC and that CKA’s mother, a very devout parishioner, had been ‘disdainfully treated’ by Bishop Shevill.\textsuperscript{1560}

965. After hearing CKA’s story during this meeting, Bishop Farran apologised for the abuse that CKA suffered at the hands of CKC.\textsuperscript{1561} Bishop Farran told the Royal Commission that he was deeply moved by this meeting and felt that CKA had been seeking an apology for a long time.\textsuperscript{1562}

966. Following this meeting, CKA received a public apology from the Diocese which was published in the Anglican Encounter.\textsuperscript{1563} The apology acknowledged that CKA and his family had been treated inappropriately over an extended period of time by the Diocese following CKA’s report of abuse by a member of the Diocese. The Royal Commission heard that CKA had waited 35 years to receive this apology from the Diocese.\textsuperscript{1564}

967. Bishop Farran told the Royal Commission that he issued this public apology at CKA’s request. Bishop Farran said that given CKA had previously been trivialised in the public domain by the Diocese, including by Mr Mitchell when he was the Diocesan Register, Bishop Farran felt that a public statement was important to recognise how CKA had been mistreated.\textsuperscript{1565}

Second settlement between the Diocese and CKA in 2010

968. From 2010 to 2012, CKA gave evidence that he made further disclosures revealing that he had been sexually abused by CKC to a much greater extent than previously disclosed. CKA said that he did not previously disclose this abuse out of shame and humiliation.\textsuperscript{1566}

969. In March 2011, CKA’s psychologist reported to Mr Michael Elliott on the progress of CKA’s psychological treatment. The psychologist advised that, up until recently, CKA’s primary distress had focused on the trauma of his earlier disclosures not being believed by the Diocese and that this clouded CKA’s ability to address CKC’s abuse itself. As CKA was now starting to

\textsuperscript{1555} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [60].
\textsuperscript{1556} Exhibit 42-0107, ‘Statement of Bishop Farran’, Case Study 42, STAT.1072.001.0001_R at [244]; Transcript of M Elliott, Case Study 42, 11 August 2016, 17126:25-27.
\textsuperscript{1557} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [61].
\textsuperscript{1558} Transcript of B J Farran, Case Study 42, 17 November 2016, 23231:44-46.
\textsuperscript{1559} Transcript of B J Farran, Case Study 42, 17 November 2016, 23232:6-8.
\textsuperscript{1560} Exhibit 42-0107, ‘Statement of Bishop Farran’, Case Study 42, STAT.1072.001.0001_R at [245].
\textsuperscript{1561} Transcript of B J Farran, Case Study 42, 17 November 2016, 23232:1-2.
\textsuperscript{1562} Transcript of B J Farran, Case Study 42, 17 November 2016, 23231:37-39.
\textsuperscript{1563} Exhibit 42-0001, ‘Media Statement from Bishop Brian Farran published in The Anglican Encounter’, Case Study 42, ANG.0050.001.1819 (Tab 259 of Tender Bundle).
\textsuperscript{1564} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [61].
\textsuperscript{1565} Transcript of B J Farran, Case Study 42, 17 November 2016, 23232:19-39.
\textsuperscript{1566} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [62].
deal with the abuse itself, the psychologist reported that CKA had disclosed more incidents of abuse by CKC which had previously been withheld out of fear of not being believed.\textsuperscript{1567}

970. In 2012, CKA negotiated a second settlement with the Diocese and received $75,000 in compensation for the additional incidents of abuse by CKC which CKA disclosed after his first settlement with the Diocese.\textsuperscript{1568} CKA gave evidence that while this was the maximum amount allowable by the Church, it could never be enough to compensate him for the impact that CKC’s abuse has had on his life.\textsuperscript{1569}

Diocesan response to CKB

971. The Royal Commission heard that the Diocese has never offered CKB any compensation, counselling, support or an apology.\textsuperscript{1570} CKB gave evidence that he found the institutional response of the Diocese to be poor because the Diocese has never tried to contact CKB even though it would be easy for the Diocese to do so.\textsuperscript{1571}

972. While there is no evidence before the Royal Commission to suggest that CKB ever made a complaint to the Diocese about CKC’s abuse, it is clear that the Diocese was on notice of CKB’s allegations against CKC as a result of the criminal proceedings in 2001.

5.6 The Diocese’s response to allegations that Rushton sexually abused children

973. Rushton had retired from the priesthood before Bishop Farran came to the Diocese, but he still held a permission to officiate in the Diocese before his death in 2007.\textsuperscript{1572}

974. Reverend Roger Dyer commenced as a priest at St Luke’s in the parish of Wallsend in June 2006.\textsuperscript{1573} Rushton had previously been the priest at St Luke’s from 1973 to 1983.\textsuperscript{1574}

975. Reverend Dyer gave evidence that shortly after he arrived in the parish he became aware something was ‘seriously wrong’. He heard stories and innuendo about Rushton.\textsuperscript{1575} Then in May 2007, shortly after Rushton had died, survivor CKV disclosed to Reverend Dyer his own story of sexual abuse as a child at the hands of Rushton. Further disclosures from other survivors followed.\textsuperscript{1576}

\textsuperscript{1567} Exhibit 42-0001, ‘Letter from psychologist to Michael Elliott re CKA’, Case Study 42, ANG.0050.003.6894_R (Tab \textsuperscript{275A of Tender Bundle}).

\textsuperscript{1568} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [62]; Exhibit 42-0001, ‘Deed of Release of CKA’, Case Study 42, IND.0448.001.0001 (Tab \textsuperscript{291B of Tender Bundle}).

\textsuperscript{1569} Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [62].

\textsuperscript{1570} Exhibit 42-0092, ‘Statement of CKB’, Case Study 42, STAT.1109.001.0001_R at [30].

\textsuperscript{1571} Exhibit 42-0092, ‘Statement of CKB’, Case Study 42, STAT.1109.001.0001_R at [30].

\textsuperscript{1572} Transcript of B Farran, Case Study 42, 17 November 2016, 23233:1-11.

\textsuperscript{1573} Exhibit 42-0012, ‘Statement of Reverend Roger Dyer’, Case Study 42, STAT.1076.001.0001 at [17].

\textsuperscript{1574} Exhibit 42-0001, ‘Extract of Anglican Directory 1997’, Case Study 42, ANG.0050.004.2894_R (Tab \textsuperscript{30 of Tender Bundle}); Exhibit 42-0143, ‘Statement of Christopher Hall’, Case Study 42, STAT.1213.001.0001_R at [8] (Tab \textsuperscript{23A of Statements Bundle}).

\textsuperscript{1575} Exhibit 42-0012, ‘Statement of Reverend Roger Dyer’, Case Study 42, STAT.1076.001.0001 at [20].

\textsuperscript{1576} Exhibit 42-0012, ‘Statement of Reverend Roger Dyer’, Case Study 42, STAT.1076.001.0001 at [28].
Reverend Dyer said to the best of his recollection he first raised his concerns about Rushton with Bishop Farran and Mr Michael Elliott in the early part of 2008.\(^{1577}\) Documentary evidence obtained by the Royal Commission suggests that Reverend Dyer first spoke with Mr Michael Elliott in mid-2009.\(^{1578}\) Nevertheless, Reverend Dyer’s account that he contacted Mr Michael Elliott and Bishop Farran regarding concerns about Rushton should be accepted.

Bishop Farran gave evidence that his knowledge of allegations against Rushton came primarily through Mr Michael Elliott.\(^{1579}\)

On 10 December 2009, Reverend Dyer wrote to Bishop Farran.\(^{1580}\) The letter stated in part:

> As we are all now aware there have been serious allegations, which have affected and are still affecting the life and community of St Luke’s and Wallsend. ... There still remains the spiritual issues, an admixture of confusion, betrayal, guilt, love and anger towards Fr. Peter and all aspects of his legacy.

**Available finding:**

| AF105 | Reverend Dyer first raised his concerns about allegations that Rushton had sexually abused boys with Mr Michael Elliott in mid-2009 and with Bishop Farran by late 2009 at the latest. |

Reverend Dyer recommended that a public advertised healing ceremony take place. The tone of the letter suggests that Reverend Dyer had previously raised the matter with Bishop Farran and Bishop Farran agreed in evidence that the allegations had been previously raised.\(^{1581}\) Reverend Dyer gave evidence that he had been “trying for a long time” to get Bishop Farran to acknowledge the sexual abuse by Rushton.\(^{1582}\) Mr Michael Elliott also believed it important for the Diocese to acknowledge the sexual abuse perpetrated by Rushton.\(^{1583}\)

In April 2010, Bishop Farran received a forwarded email from Reverend Dyer which contained a complaint against Rushton.\(^{1584}\)

In an email from Reverend Dyer to Mr Michael Elliott on 12 April 2010, Reverend Dyer described his perceived lack of concern on behalf of the Diocese in response to him raising allegations of historical child sexual abuse perpetrated by Rushton upon an altar server, and issues of child sexual abuse more generally within the parishes he had been responsible for.\(^{1585}\)

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\(^{1577}\) Exhibit 42-0012, ‘Statement of Reverend Roger Dyer’, Case Study 42, STAT.1076.001.0001 at [40].

\(^{1578}\) Exhibit 42-0015, ‘Email exchange between Bishop Stuart and Roger Dyer’, Case Study 42, IND.0495.001.0001_R at 0002_R; Exhibit 42-0013, ‘Email exchange between Bishop Farran and Roger Dyer’, Case Study 42, IND.0496.001.0002_R.

\(^{1579}\) Transcript of B Farran, Case Study 42, 17 November 2016, 23235:26-30.

\(^{1580}\) Exhibit 42-0001, ‘10 December 2009 letter from Reverend Dyer to Bishop Farran’, Case Study 42, ANG.0050.003.5076 (Tab 190 of Tender Bundle).

\(^{1581}\) Transcript of B Farran, Case Study 42, 17 November 2016, 23306:2-7.

\(^{1582}\) Exhibit 42-0012, ‘Statement of Roger Dyer’, Case Study 42, STAT.1076.001.0001 at [50].

\(^{1583}\) Exhibit 42-0054, ‘Further Statement of Michael Elliott’, Case Study 42, STAT.1088.001.0001 at [225].

\(^{1584}\) Exhibit 42-0107, ‘Statement of Bishop Brian Farran’, Case Study 42, STAT.1072.001.0001_R at [357].

\(^{1585}\) Exhibit 42-0127, ‘Email from Roger Dyer to Michael Elliott’, Case Study 42, ANG.0050.004.3008_R.
982. Bishop Farran visited the Wallsend Parish on 31 July 2010 and conducted a ‘healing ceremony’. Bishop Farran said that he had interviews that weekend with a number of people who made him aware of further allegations that Rushton had sexually abused children.

983. On 19 October 2010, Bishop Farran issued a media release about Rushton. The media release stated in part:

Following his death, significant allegations and information of concern has been brought forward in relation to Fr. Peter’s involvement in the sexual abuse of minors. The Diocesan Director of Professional Standards has been investigating these matters and is fully co-operating with NSW Police. The Diocese has also been supporting persons who have come forward in relation to these matters.

In recognition of this situation the Bishop of Newcastle, The Right Reverend Dr. Brian Farran held a service of recognition and reconciliation at the parish of St. Luke’s, Wallsend earlier this year that was well received.

The Bishop wishes to publicly apologise to any person adversely affected by these deeply regrettable events and urges any persons with any information about such matters to come forward and speak with the Anglican Diocese of Newcastle’s Professional Standards Director.

984. Bishop Farran explained that he considered it important to go public about the allegations in order to honour the victims who had been traumatised, to ensure transparency in the community and to invite other victims to come forward.

985. On 19 October 2010, Bishop Farran emailed each of his predecessors, being Bishop Holland, Bishop Appleby and Bishop Herft to notify them about Rushton. He explained to each Bishop, ‘I think there were other clergy involved with these allegations; there may have been an organized group who met in the Wallsend Rectory on Sunday evenings.’

986. All disclaimed any prior knowledge of allegations against Rushton.

987. In a 20 October 2010 email, Bishop Holland told Bishop Farran:

It has quite taken ‘the wind out of my sails’ because Rushton was a punctilious priest, known and respected widely throughout the diocese, and popular among his fellow priests. I have, hither to, had a sense of pride that the diocese seemed to have a clean sheet about abuse, unlike other places.
988. In a 21 October 2010 email to Bishop Farran, Bishop Appleby denied knowing of an organised group that operated out of the Wallsend rectory, stating:\footnote{Exhibit 42-0001, ‘21 October 2010 email from Bishop Appleby to Bishop Farran’, Case Study 42, ANG.0050.003.5050_R (Tab 242 of Tender Bundle).}

> You mention that you think other clergy may have been involved and that there may have been an organised group at the Wallsend rectory on Sunday evenings. I can assure you that I have absolutely no knowledge or [sic] either other clergy or such a group.

989. In a 22 October 2010 letter to Bishop Farran, Bishop Herft denied any knowledge of allegations of child sexual abuse by Rushton but noted that he had previously sought to discipline Rushton for ‘conduct unbecoming of a clergyperson’, recalling:\footnote{Exhibit 42-0001, ‘Letter from Bishop Roger Herft to Bishop Brian Farran’, Case Study 42, ANG.0050.003.5056 (Tab 246 of Tender Bundle).}

> that at least on one occasion I sought to have his licence removed on the basis that he was found in possession of adult pornographic material... All of these matters should be in the separate records kept concerning matters of conduct unbecoming of clergy in the safe in the diocese.

990. As detailed above in Sections 3.5 to 3.9 above, the evidence before the Royal Commission supports a finding that Bishops Holland and Appleby were each made aware of allegations that Rushton had sexually abused children during the period of Bishop Holland’s episcopate from 1978 to 1992.

991. On the basis of this evidence, it is open to the Royal Commission to find that Bishop Holland and Bishop Appleby’s respective correspondence denying knowledge of any allegations of child sexual abuse against Rushton are not consistent with their knowledge.

992. As set out at Section 4.6 above, in his oral evidence to the Royal Commission, Bishop Herft also conceded that he was made aware of all of the complaints comprising the yellow envelope documents - including those in relation to Rushton - during his tenure as Bishop.

### Available findings:

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<tr>
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<th>Description</th>
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<tbody>
<tr>
<td>AF106</td>
<td>Bishop Holland implied to Bishop Farran that he had no prior knowledge of allegations that Rushton had sexually abused children. This representation was not correct.</td>
</tr>
<tr>
<td>AF107</td>
<td>Bishop Appleby implied to Bishop Farran that he had no prior knowledge of allegations that Rushton had sexually abused children. This representation was not correct.</td>
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<tr>
<td>AF108</td>
<td>Bishop Herft implied to Bishop Farran that he had no prior knowledge of allegations that Rushton had sexually abused children. This representation was not correct.</td>
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993. Bishop Farran said he formed the view that other priests operated together with Rushton to sexually abuse children based upon what survivor CKV told him.\footnote{Transcript of B Farran, Case Study 42, 17 November 2016, 23237:34 to 23238:2.}
Bishop Farran gave evidence that some people in the Diocese were ‘furious’ with him for publishing the media release and that he experienced repercussions because of it. Reverend Dyer also gave evidence of being ostracised within the Diocese following his attempts to bring the allegations against Rushton to light. These repercussions are discussed in further detail later in this section of the submissions.

5.7 Early challenges to the professional standards framework

The John Gumbley and COJ matters

The new professional standards framework was utilised for only the second time in 2009 when allegations of adult sexual misconduct were made against two popular members of the clergy, then Father John Gumbley and COJ. Bishop Farran suspended Father Gumbley on 15 September 2009 and COJ on 21 September 2009. In both cases, the Professional Standards Board heard the charges and found the complaints sustained. The Board recommended that Father Gumbley be deposed from Holy Orders.

Ultimately, on 7 May 2010, Mr Gumbley was deposed from Holy Orders by Bishop Farran while COJ was suspended for around ten months.

There was strong criticism voiced among some parishioners and certain members of the Diocesan Council about the conduct of these cases. Among other matters, concerns were raised about the costs of the investigations, delays in finalising the matters, and the use of ‘illegally’ obtained computer diaries in the Gumbley matter.

The evidence shows that Mr Rosser QC, then the Chancellor of the Diocese, was particularly vocal in his criticisms. Bishop Farran identified Mr Rosser QC as a key critic. Mr Rosser QC expressed particular concerns about the delay in finalising the COJ and Gumbley matters, what he perceived to be an unreasonable refusal to provide information.
‘apparently unlawfully obtained’ computer material in the matter of Mr Gumbley, expenditure, and the Professional Standards Director, Mr Michael Elliott, allegedly giving directions which he was not empowered to give.

999. Mr Geoff Spring, the Chair of the Professional Standards Committee, said that during the Gumbley matter ‘the then Chancellor, Mr Rosser QC, continually and aggressively harassed the PSC and the Director’. He said that Mr Rosser QC and some Diocesan Council members were unhappy about the Board’s recommendation in the Gumbley matter.

1000. Mr Colin Elliott, the then President of the Professional Standards Board, also gave evidence that there was a lot of criticism of how the Committee and the Board had handled the Gumbley matter.

1001. Mr Michael Elliott said that following Mr Gumbley’s deposition from Holy Orders, Mr Gumbley embarked on a campaign to discredit him and others involved in the professional standards process. A number of people, including Mr Rosser QC, queried the validity of Mr Michael Elliott’s appointment as Professional Standards Director. In oral evidence, Mr Rosser QC conceded that this step ‘was probably too far’. The Diocesan Council eventually found that Mr Michael Elliott had been validly appointed.

1002. On 27 May 2010, Mr Rosser QC proposed a notice of motion for the Diocesan Council that requested the Bishop to direct the Professional Standards Committee to provide the Council with certain information about the Gumbley and COJ matters. According to Mr Rosser QC, this motion was intended to ‘put in place some oversight’ of the Professional Standards processes. At this time Mr Rosser QC was the Chancellor, meaning that he was the Bishop’s adviser. Bishop Farran gave evidence that at no time did he instruct Mr Rosser QC to propose this motion. Bishop Farran was ‘troubled by his forcefulness’, and in an email, warned Mr Rosser QC against appearing ‘as an activist in your own right’.

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1608 Exhibit 42-0094, ‘Statement of Paul David Rosser’, Case Study 42, STAT.1062.001.0001 at [60]-[61].
1609 Exhibit 42-0094, ‘Statement of Paul David Rosser’, Case Study 42, STAT.1062.001.0001 at [64].
1610 Exhibit 42-0094, ‘Statement of Paul David Rosser’, Case Study 42, STAT.1062.001.0001 at [64].
1611 Exhibit 42-0155, ‘Statement of Geoff Spring’, Case Study 42, STAT.1099.001.0001_R at [20].
1612 Exhibit 42-0155, ‘Statement of Geoff Spring’, Case Study 42, STAT.1099.001.0001_R at [24].
1613 Exhibit 42-0155, ‘Statement of Colin Elliott’, Case Study 42, STAT.1075.001.0001_R at [12].
1614 Exhibit 42-0054, ‘Further Statement of Michael Elliott’, Case Study 42 STAT.1088.001.0001_R at [49].
1615 Exhibit 42-0001, ‘Email from Paul Rosser to John Cleary re questions of notice for DC meeting’, Case Study 42, ANG.0041.001.0649_R (Tab 209 of Tender Bundle).
1616 Transcript of P Rosser, Case Study 42, 30 August 2016, 17508:31.
1617 Transcript of M Elliott, Case Study 42, 11 August 2016, 17042:12-16.
1618 Exhibit 42-0001, ‘Notice of motion by Rosser QC’, Case Study 42, ANG.0048.001.2236 (Tab 198 of Tender Bundle); Transcript of P Rosser, Case Study 42, 30 August 2016, 17493:26-36.
1619 Transcript of P Rosser, Case Study 42, 30 August 2016, 17493:26-36.
1621 Transcript of B Farran, Case Study 42, 17 November 2016, 23244:8-12.
1622 Exhibit 42-0001, ‘Email from Bishop Brian Farran to John Cleary in relation to the role of Chancellor’, Case Study 42, ANG.0061.001.1478_R (Tab 222 of Tender Bundle); Transcript of B J Farran, Case Study 42, 17 November 2016, 23243:31.
1003. In oral evidence Mr Rosser QC confirmed he had not been instructed by Bishop Farran to put such a motion.\textsuperscript{1623} He agreed that it was ‘perhaps not’ appropriate that he as Chancellor proposed the motion and it ‘might have’ been prudent for someone else to put the motion.\textsuperscript{1624}

**Available finding:**

**AF109** It was not appropriate for Mr Rosser QC, as the Chancellor of the Diocese, to propose motions relating to the Professional Standards Committee independently of instructions to do so from the Bishop. In doing so, Mr Rosser QC exceeded the proper role of Chancellor, which is to advise the Bishop when advice is requested.

1004. Also at the 27 May 2010 meeting, the Diocesan Council resolved to appoint an external person, Professor Patrick Parkinson, to review the processes undertaken in 2009 and 2010 in relation to Gumbley and COJ.\textsuperscript{1625} On this basis, Mr Rosser QC withdrew his proposed motion.\textsuperscript{1626}

1005. In the meantime, in August 2010, a meeting was held at COJ’s parish in Cooks Hill which had a purpose of restorative justice and which was designed to ‘clear the air’. The complaints against COJ were outlined in a great amount of detail by the Diocesan advocate who had prosecuted the matter before the Board.\textsuperscript{1627} This attracted a significant amount of criticism and Bishop Farran said that the meeting was ‘terrible’ and ‘really damaged’ the professional standards framework.\textsuperscript{1628}

1006. Consequent upon Professor Parkinson’s review, he found that the matter relating to Gumbley was ‘handled appropriately overall’ and that ‘a person who engaged in the behaviour complained of would not be allowed to remain a licensed minister in any other denomination in the Christian Church’.\textsuperscript{1629}

1007. In relation to COJ, Professor Parkinson found that suspension was not warranted,\textsuperscript{1630} and that the investigation of that matter ‘ranged too widely, for too long, and at too great an expense to the Diocese’.\textsuperscript{1631} However, Professor Parkinson also found that the length of time and expense incurred was because of COJ’s actions during the investigation.\textsuperscript{1632}

1008. Professor Parkinson made some recommendations about the future conduct of professional standards matters,\textsuperscript{1633} which were tabled at the 30 September 2010 meeting of the Diocesan

\textsuperscript{1623} Transcript of P Rosser, Case Study 42, 30 August 2016, 17494:18-22.
\textsuperscript{1624} Transcript of P Rosser, Case Study 42, 30 August 2016, 17494:7-16, 17499:13-38.
\textsuperscript{1625} Transcript of M Elliott, Case Study 42, 11 August 2016, 17039:4-7.
\textsuperscript{1626} Transcript of P Rosser, Case Study 42, 30 August 2016, 17499:40-47, 17500:1-6.
\textsuperscript{1627} Exhibit 42-0001, ‘Email dated 6 August 2010 from Michael Elliott to Brian Farran’, Case Study 42, STAT.1072.002.0016_R (Tab 201C of Tender Bundle); Transcript of P Rosser, Case Study 42, 30 August 2016, 17503:5-19.
\textsuperscript{1628} Transcript of B Farran, Case Study 42, 17 November 2016, 23229:7-15.
\textsuperscript{1629} Transcript of M Elliott, Case Study 42, 11 August 2016, 17039:43-44, 17040:5-7.
\textsuperscript{1630} Transcript of M Elliott, Case Study 42, 11 August 2016, 17040:18-31.
\textsuperscript{1631} Transcript of M Elliott, Case Study 42, 11 August 2016, 17041:6-7.
\textsuperscript{1633} Exhibit 42-0001, ‘Recommendations from the Report by Professor Patrick Parkinson’, Case Study 42, ANG.0006.001.0620 (Tab 227 of Tender Bundle).
Council. Of note, Professor Parkinson made no finding that the professional standards process had operated in a procedurally unfair way. He was not critical of the professional standards framework.

5.8 2010 amendments to the Professional Standards Ordinance 2005 and challenges to the Professional Standards Director

1009. In August 2010, while Professor Parkinson was undertaking his review of the Gumbley and COJ matters, the Diocesan Council appointed a committee comprising Mr Rosser QC, Canon Stephen Williams and Mr Cleary to review the professional standards processes.

1010. On 31 August 2010, Mr Rosser QC emailed Assistant Bishop Stuart and Mr Cleary a lengthy set of draft amendments to the Professional Standards Ordinance 2005. Mr Rosser QC told the Royal Commission that the proposed amendments came about following consideration by the review committee comprising himself, Assistant Bishop Stuart and Mr Cleary, and consultation with members of Diocesan Council, and were responsive to issues that emerged in the Gumbley and COJ matters.

1011. The very large number of proposed amendments including limiting the Professional Standards Committee’s expenditure; providing for complaints to be made against the Professional Standards Director and members of the Professional Standards Committee; the introduction of a ‘show cause’ procedure where a priest had been suspended; the interposition of a ‘show cause’ procedure between the Board’s recommendation and the implementation of that recommendation by the Bishop; and the introduction of a new Part 12, to provide for a review of a decision of the Board before the Bishop was required to make a decision.

1012. Mr Cleary gave evidence that in his view, the general nature of the proposed amendments was to weaken the Professional Standards Ordinance. Mr Cleary stated that he considered that this was symptomatic of a ‘pro-respondent culture’ in the Diocese, with no apparent consideration for victims. In oral evidence, Mr Rosser QC said that ‘ideally’ he should not

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1634 Exhibit 42-0001, ‘Diocesan Council Minutes’, Case Study 42, ANG.0006.001.0608 [Tab 231 of Tender Bundle]; Transcript of B Farran, Case Study 42, 17 November 2016, 23230:42-46.

1635 Transcript of B Farran, Case Study 42, 17 November 2016, 23231:13-20; Transcript of P Stuart, Case Study 42, 18 November 2016, 23327:4-17.


1637 Exhibit 42-0001, ‘Email from Amanda Zaicos to Bishop Brian Farran, forwarding email from Paul Rosser in relation to professional standards processes and attaching a draft Ordinance to amend the Professional Standards Ordinance 2005’, Case Study 42, ANG.0041.001.1577_R (Tab 214 of Tender Bundle).


1639 Exhibit 42-0094, Statement of Paul David Rosser, Case Study 42, STAT.1062.001.0001 at [52].

1640 Exhibit 42-0001, ‘Draft Ordinance to amend the Professional Standards Ordinance 2005 as circulated by Paul Rosser to Bishop Brian Farran, Bishop Peter Stuart and John Cleary on 31 August 2010’, Case Study 42, ANG.0041.001.1578 (Tab 212 of Tender Bundle).


1642 Exhibit 42-0124, ‘Statement of John Cleary’, Case Study 42, STAT.1087.001.0001_R at [49].
have been on the drafting committee and instead should have advised the Bishop on dealing with the recommendations. This concession is clearly correct.

1013. Not all of Mr Rosser QC’s amendments were eventually considered by the Diocesan Council. The final version considered by the Diocesan Council contained the Part 12 review procedure, but did not contain the other amendments initially proposed by Mr Rosser QC. The grounds for review were set out in clause 83 of the Ordinance and included a breach of the rules of natural justice, lack of jurisdiction and the availability of fresh and compelling evidence.

1014. Mr Rosser QC gave evidence that these revisions to the proposed amendments came about as a result of a meeting that took place in early-mid September 2010 with himself, Assistant Bishop Stuart, Bishop Farran, Mr Cleary and perhaps Canon Williams. Mr Rosser QC gave evidence that there was ‘no consensus about other matters’, which were ‘put in the too hard basket’.

1015. The revised amendments to the Professional Standards Ordinance 2005 were duly passed by the Diocesan Council at a meeting on 30 September 2010. At that time, the Diocesan Council had delegated power to pass amendments itself under the Synod (Delegation of Powers) Ordinance 2009.

1016. Mr Rosser QC gave evidence that there was a groundswell of concern about the professional standards framework which ‘infected the whole process’. It contributed to a division within the Diocese.

1017. It was against this backdrop that a complaint of child sexual misconduct was made in August 2009 against Mr Lawrence, who had only recently retired as Dean of the Cathedral and who remained one of the most powerful and influential members of the Diocese. The course of this complaint is considered in more detail below, as are the experiences of CKH, the person who made the complaint.
5.9 CKH’s complaint against Mr Lawrence, Mr Goyette, Mr Duncan, Mr Hoare and Mr Sturt

October 2009 complaint made against Mr Lawrence and others

1018. On 3 October 2009, CKH submitted a detailed letter of complaint to the Diocese of Melbourne alleging that he was sexually abused as a child by Mr Duncan, Mr Lawrence and Mr Goyette. Additionally, he said he had sex as a 19 year old with Mr Hoare and Mr Lawrence in the presence of Mr Sturt and a 17 year old.††† These acts were said to have occurred in the Diocese of Riverina in the early 1980s.†††

The experiences of survivor CKH

1019. CKH gave written and oral evidence to the Royal Commission. He said he became a member of the St Alban’s Anglican Church in Griffith at the age of 14.††† In 1979, Mr Duncan came to Griffith as deacon and befriended CKH’s family.††† CKH told the Commission that Duncan performed oral sex on him during a family holiday in January 1980, when CKH was 14 years old.††† The sexual abuse continued for the next six years until 1985.†††

1020. CKH told the Royal Commission that by 1980 he had formed the belief that Mr Lawrence was aware that Mr Duncan was engaging in sexual relations with him.††† CKH said Mr Duncan told him that Mr Lawrence ‘is part of the family’.††† At that time, Duncan lived in a house next door to Mr Lawrence’s rectory at St Alban’s church.†††

1021. CKH said that in 1981 when he was 16 years old, Mr Lawrence visited him at his family home.††† CKH said that Mr Lawrence followed CKH into his bedroom and then placed CKH’s hand on his erect penis through his pants and suggested that CKH could ‘have that at any time’.†††

1022. CKH said that on a separate occasion not long after this, Mr Lawrence masturbated him and they commenced a sexual relationship.††† CKH said that in 1982, when he was 17 years old, also commenced a sexual relationship with Mr Lawrence’s long term partner, Mr Goyette.†††
CKH said that from that time he had sexual relations with both Mr Lawrence and Mr Goyette, separately and together.\textsuperscript{1664}

1023. CKH also told the Royal Commission about an incident which occurred at Narranderra in February 1984, when he was 19 years old. Following a clergy function, CKH was in a motel room with Mr Lawrence, Mr Hoare, Mr Sturt and a 17 year old boy who was so drunk that he had passed out.\textsuperscript{1665} CKH told the Royal Commission that they drank alcohol. He had group sex with Mr Lawrence and Mr Hoare. CKH said that Mr Sturt watched on and stroked the drunk boy on his stomach.\textsuperscript{1666} CKH said that the drunk boy then vomited and this terminated the gathering in the hotel room.\textsuperscript{1667} CKH said he went to Mr Hoare’s room and had sex with him there.\textsuperscript{1668}

1024. CKH said that he continued having sex with Mr Lawrence and Mr Goyette, as well as Mr Duncan, until about 1985.\textsuperscript{1669}

1025. In 1982, CKH disclosed an instance of sexual abuse by Mr Duncan to his best friend at school. An attempt by Mr Duncan the night before to have anal sex with CKH while his parents were overseas caused CKH great distress, and as a result, caused him to disclose the abuse to his friend.\textsuperscript{1670}

1026. In 1987, CKH told his mother about the sexual abuse by Mr Duncan, Mr Lawrence and Mr Goyette.\textsuperscript{1671}

1027. In the course of the professional standards process, which is discussed in more detail below, each of Mr Lawrence, Mr Goyette, Mr Sturt, Mr Hoare and Mr Duncan denied CKH’s allegations.\textsuperscript{1672}

1028. In statements provided to the Royal Commission, Mr Lawrence,\textsuperscript{1673} Mr Hoare\textsuperscript{1674} and Mr Duncan\textsuperscript{1675} did not address the truthfulness of CKH’s allegations one way or the other. Mr Goyette was not asked to provide a statement. Mr Sturt passed away in November 2014.\textsuperscript{1676}

1029. During CKH’s oral evidence to the Royal Commission, counsel for Mr Lawrence put to CKH that he never had any sexual relationship at all with Mr Lawrence, which CKH said was not true.\textsuperscript{1677}

\textsuperscript{1664} Transcript of CKH, Case Study 42, 9 August 2016 at 16868:4-6.
\textsuperscript{1665} Transcript of CKH, Case Study 42, 9 August 2016 at 16868:8-22.
\textsuperscript{1666} Transcript of CKH, Case Study 42, 9 August 2016 at 16868:18-22.
\textsuperscript{1667} Exhibit 42-0040, ‘Statement of CKH’, Case Study 42, STAT.1078.001.0001\_R at [38].
\textsuperscript{1668} Transcript of CKH, Case Study 42, 9 August 2016 at 16868:43.
\textsuperscript{1669} Transcript of CKH, Case Study 42, 9 August 2016 at 16869:19-21.
\textsuperscript{1670} Transcript of CKH, Case Study 42, 9 August 2016 at 16867:31; Exhibit 42-0040, ‘Statement of CKH’, Case Study 42, STAT.1078.001.0001\_R at [31].
\textsuperscript{1671} Transcript of CKH, Case Study 42, 9 August 2016, 16869:41-46.
\textsuperscript{1672} Exhibit 42-0001, ‘Letter from John Woodward, Turnbull Hill on behalf of Graeme Sturt’, Case Study 42, OMB.0005.002.0068\_R (\textit{Tab 202 of Tender Bundle}); Exhibit 42-0001, ‘Letter from John Woodward, Turnbull Hill on behalf of Graeme Lawrence’, Case Study 42, OMB.0005.002.0065\_R (\textit{Tab 203 of Tender Bundle}).
\textsuperscript{1673} Exhibit 42-116, ‘Statement of Graeme Lawrence’, Case Study 42, STAT.1079.001.0001.
\textsuperscript{1674} Exhibit 42-147, ‘Statement of Bruce Hoare’, Case Study 42, STAT.1063.001.0001.
\textsuperscript{1675} Exhibit 42-141, ‘Statement of Andrew Duncan’, Case Study 42, STAT.1108.001.0001\_R.
\textsuperscript{1676} Exhibit 42-0054, ‘Further Statement of Michael Elliott’, Case Study 42, STAT.1088.001.0001\_R at [153].
\textsuperscript{1677} Transcript of CKH, Case Study 42, 9 August 2016, 16882:19-25.
1030. Mr Lawrence was asked about CKH’s allegations in oral evidence. He denied CKH’s allegations.\(^{1678}\)

1031. Mr Lawrence gave evidence that he suspected in late 1979 that his trainee priest, Mr Duncan, was having sex with CKH, then 15 years old and an altar boy.\(^{1679}\) Mr Lawrence said that at the time CKH was one of his parishioners.\(^{1680}\) Mr Lawrence agreed that he visited CKH’s family home many times.\(^{1681}\)

1032. Mr Lawrence said that he raised his suspicion with Mr Duncan, who denied it,\(^{1682}\) and with CKH, who denied it.\(^{1683}\) Mr Lawrence said he also raised it with CKH’s mother.\(^{1684}\) He said he did not believe Mr Duncan’s denials.\(^{1685}\) Mr Lawrence also agreed that evidence he had earlier given to the Royal Commission that he did not think Mr Duncan was a homosexual at this time was incorrect.\(^{1686}\)

1033. Mr Lawrence admitted he did not report the matter to the police or to his superiors within the Diocese and said that in hindsight he ought to have reported it to the police.\(^{1687}\) Mr Lawrence said he was ‘more concerned about [Mr Duncan’s] alcoholism’ and said that he did raise that matter with the Bishop.\(^{1688}\) This shows very bad judgment on Mr Lawrence’s part.

**Available finding:**

AF110  Despite being of the strong suspicion that his trainee priest Mr Duncan was having sex with a 15 year old boy, Mr Lawrence, then a senior priest in the Diocese of Riverina, did not report the matter to the police or to the Bishop of the Diocese of Riverina. This was seriously remiss of Mr Lawrence.

1034. Mr Lawrence denied having any sexual relationship with CKH at any time.

1035. Specifically, Mr Lawrence denied going into CKH’s bedroom in around 1981 and unzipping the fly of his pants and putting CKH’s hand there and saying ‘you can have this any time’.\(^{1689}\) Mr Lawrence also denied masturbating CKH at around that time in a bookshop.\(^{1690}\) He denied having any sexual experiences with CKH in 1981.\(^{1691}\)

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\(^{1678}\) Transcript of G Lawrence, Case Study 42, 23 November 2016, 23463:12-16.

\(^{1679}\) Transcript of G Lawrence, Case Study 42, 23 November 2016, 23464:21-32.

\(^{1680}\) Transcript of G Lawrence, Case Study 42, 23 November 2016, 23468:6-8.

\(^{1681}\) Transcript of G Lawrence, Case Study 42, 23 November 2016, 23464:6-8.

\(^{1682}\) Transcript of G Lawrence, Case Study 42, 23 November 2016, 23464:38 to 23465:5.

\(^{1683}\) Transcript of G Lawrence, Case Study 42, 23 November 2016, 23482:40 to 23843:8.

\(^{1684}\) Transcript of G Lawrence, Case Study 42, 23 November 2016, 23465:8-10 and 17.

\(^{1685}\) Transcript of G Lawrence, Case Study 42, 23 November 2016, 23465:1-17.

\(^{1686}\) Transcript of G Lawrence, Case Study 42, 23 November 2016, 23467:12-32.

\(^{1687}\) Transcript of G Lawrence, Case Study 42, 23 November 2016, 23465:38 to 23466:7.

\(^{1688}\) Transcript of G Lawrence, Case Study 42, 23 November 2016, 23466:10-46.

\(^{1689}\) Transcript of G Lawrence, Case Study 42, 23 November 2016, 23468:10-14.

\(^{1690}\) Transcript of G Lawrence, Case Study 42, 23 November 2016, 23468:20-23.

\(^{1691}\) Transcript of G Lawrence, Case Study 42, 23 November 2016, 23468:25-32.
1036. Mr Lawrence admitted that CKH came to dinner at the rectory at the Cathedral on a number of occasions but said that he was accompanied by Mr Duncan.\textsuperscript{1692} That Mr Lawrence was prepared to have Mr Duncan and CKH to dinner at the rectory suggests he condoned the sexual relationship between Mr Duncan and CKH.

1037. Mr Lawrence denied that he and his partner Mr Goyette had sex with CKH when CKH was 17 years old, and denied any ongoing sexual relationship with CKH.\textsuperscript{1693}

1038. Mr Lawrence admitted that he attended a clergy function in Narrandera in February 1984 at which CKH, Mr Sturt, Mr Hoare and the 17 year old boy were present.\textsuperscript{1694} However, he denied having sex with CKH at the function together with Mr Hoare and while the 17 year old boy was in the room.\textsuperscript{1695}

1039. Mr Lawrence admitted sending CKH a card dated 6 June 1984 that depicted a man placing his hand down his trousers and touching his erect penis. The card said on the front ‘Thank Heavens for Little Boys for little boys get BIGGER every day’. Mr Lawrence inscribed the inside of the card, ‘Now, isn’t that true?! Thank Heavens!’ Mr Lawrence denied the card was sent in the context of an ongoing sexual relationship and said the card ‘was meant to be fun’.\textsuperscript{1696} He denied that the only possible reference in the card was to there being a sexual relationship between him and CKH.\textsuperscript{1697}

1040. Mr Lawrence said in evidence ‘you haven’t seen the correspondence that he wrote to me’, which in the context, appeared to suggest that CKH had engaged in sexualised correspondence with him.\textsuperscript{1698}

1041. In mid-1984, Mr Lawrence was the Dean of the Cathedral. CKH was 19 years old and until recently, had been one of Mr Lawrence’s parishioners at St Alban’s in Griffith. Mr Lawrence says it did not occur to him that sending this kind of correspondence to CKH was in anyway inappropriate.\textsuperscript{1699} He denied that his relationship with CKH in 1984 was one in which he was taking advantage of his power, and denied that having been priest to CKH for some years prior to that meant that he had developed dominance over CKH.\textsuperscript{1700}

\begin{center}
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\hline
\textbf{Available finding:} \\
\hline
\textbf{AF111} It was seriously inappropriate for the Dean of the Cathedral, Mr Lawrence, to send a highly sexualised card to a 19 year old man who until recently had been his parishioner and altar boy for a number of years. \\
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\begin{itemize}
\item \textsuperscript{1692} Transcript of G Lawrence, Case Study 42, 23 November 2016, 23468:34 to 23469:6.
\item \textsuperscript{1693} Transcript of G Lawrence, Case Study 42, 23 November 2016, 23469:8-19.
\item \textsuperscript{1694} Transcript of G Lawrence, Case Study 42, 23 November 2016, 23469:21-45.
\item \textsuperscript{1695} Transcript of G Lawrence, Case Study 42, 23 November 2016, 23470:1-39.
\item \textsuperscript{1696} Exhibit 42-0001, ‘Card from Lawrence to CKH inscribed Thank Heavens for Little Boys’, Case Study 42, NSW.0030.004.0124_R (\textit{Tab 3F of Tender Bundle}); Transcript of G Lawrence, Case Study 42, 23 November 2016, 23471:12 to 23472:17.
\item \textsuperscript{1697} Transcript of G Lawrence, Case Study 42, 23 November 2016, 23527:2-6.
\item \textsuperscript{1698} Transcript of G Lawrence, Case Study 42, 23 November 2016, 23527:12.
\item \textsuperscript{1699} Transcript of G Lawrence, Case Study 42, 23 November 2016, 23483:47 to 23484:18.
\item \textsuperscript{1700} Transcript of G Lawrence, Case Study 42, 23 November 2016, 23486:47 to 23487:17.
\end{itemize}
1042. During oral evidence, Mr Lawrence was also shown a number of cards sent by Mr Goyette to CKH in 1984 and 1985. These cards depicted naked men and penises. Mr Lawrence denied seeing these cards previously or knowing that Mr Goyette had sent them to CKH.  

1043. Mr Goyette’s statements in the cards were filled with sexual innuendo. For instance:

   a. On a card which depicted a naked man performing oral sex on another naked man, Mr Goyette stated, a ‘I prefer the ‘head’ of this card’;

   b. On a card depicting a naked man lying on a deck chair and bearing the words ‘Wish you were here’, Mr Goyette wrote ‘will have to deal with this problem which is arising yet again!! Ah!!’;

   c. On a card which depicted a close up of a man’s penis in a Christmas stocking, Mr Goyette wrote ‘I know it is not Christmas, but once again I thought of you when I saw this letter Christmas stocking stuffed full of goodies (almost good enough to eat!)’. That card also said, ‘in the meantime, don’t forget to buy some KY & lubafax & think of me relaxing into (!?) a similar position!!’

   d. In a card dated 3 September 1985, Mr Goyette referred to CKH’s recent visit to Newcastle to stay with him and Mr Lawrence and stated, ‘I was beginning to worry a little about some of the petty tensions that seemed to be developing in our relationship. Everything, however, seems to be going well now ... I must say that rest and relaxation also restores other powers (not that too much restoration was need) and even allows one to reach unexpected heights!!’

1044. Mr Lawrence said in oral evidence that he could not see the innuendo. His evidence in this regard is not plausible and serves to cast doubt upon his credibility. Mr Lawrence denied any knowledge that Mr Goyette and CKH were in a sexual relationship, yet did not appear to express any surprise in his oral evidence when presented with documentary evidence that his long-term partner had been in a sexual relationship with CKH.

1045. In the card which depicted one naked man performing oral sex on another naked man, Mr Goyette stated to CKH:

   Thank you for the card which accompanied your first letter to us. Your feelings were very warmly welcomed by both of us. We too are grateful for and do appreciate your friendship, and look forward to that growing and consolidating over the years.

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1702 Exhibit 42-0001, ‘Card from Goyette to CKH dated 28 May 1984, Case Study 42, NSW.0030.004.0114_R (Tab 3C of Tender Bundle).
1703 Exhibit 42-0001, ‘Card from Goyette to CKH dated 5 May 1984, Case Study 42, NSW.0030.004.0118_R (Tab 3D of Tender Bundle).
1704 Exhibit 42-0001, ‘Card from Goyette to CKH dated 3 June 1984’, Case Study 42, NSW.0030.004.0111_R (Tab 3E of Tender Bundle).
1705 Exhibit 42-0001, ‘Letter from Goyette to CKH dated 3 September 1995, Case Study 42, NSW.0030.003.0091_R (Tab 4AA of Tender Bundle).
1707 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23476:24-26 and 23747:10-16; 23527:14-34.
1708 Exhibit 42-0001, ‘Card from Goyette to CKH dated 28 March 1984’, Case Study 42, NSW.0030.004.0114_R (Tab 3C of Tender Bundle).
This suggests that Mr Goyette was writing to CKH both on his own behalf and that of Mr Lawrence, and that they were jointly pursuing a friendship with CKH. In another letter dated 3 September 1985, Mr Goyette wrote, ‘Thank you for your letter to us which arrived yesterday’ and ‘I was going to leave room on this letter for G to write but he said he’d write separately to you soon.’

These cards are consistent with Mr Goyette being in a sexual relationship with CKH and corroborate CKH’s claims that he had a sexual relationship with Mr Goyette. The Royal Commission should find they were in a sexual relationship. The evidence is that CKH had dinner at the Cathedral rectory on a number of occasions and stayed there with Mr Lawrence and Mr Goyette from time-to-time. Taking that into account and also the fact that some of Mr Goyette’s cards were written on his and Mr Lawrence’s behalf, it is highly unlikely that Mr Lawrence was not aware that Mr Goyette and CKH were pursuing a sexual relationship.

Further, Mr Lawrence’s ‘Thank Heaven’s for Little Boys’ card to CKH is also consistent with Mr Lawrence having a sexual relationship with CKH in 1984. The card tends to corroborate CKH’s account. No evidence has been raised that CKH has some motive to be untruthful. Further, Mr Lawrence was not a credible witness. His testimony on many occasions was contradictory, evasive and implausible. In addition, the former Lord Mayor of Newcastle, Mr John McNaughton, gave evidence that he saw CKH at the Deanery on several occasions when CKH was a ‘young man’ and assumed that he was in a sexual relationship with Mr Lawrence.

Available findings:

AF112 In 1981, Mr Lawrence, then a senior priest in the Diocese of Riverina, commenced a sexual relationship with CKH who was then 16 years old.

AF113 Mr Goyette commenced a sexual relationship with CKH when CKH was 17 years old.

AF114 Mr Goyette and Mr Lawrence continued to have a sexual relationship with CKH until around 1985, when CKH was 19 years old.

AF115 At all material times, Mr Lawrence was aware that Mr Goyette and CKH were having a sexual relationship.

Steps taken by the Diocese upon receipt of CKH’s complaint

On 7 October 2009, CKH’s 3 October 2009 complaint against Mr Lawrence and others was forwarded to Mr Michael Elliott, the Professional Standards Director, who immediately reported it to the NSW Police.

CKH stated that he was prompted to make his complaint after learning that Mr Lawrence held a locum position in the diocese where his parents worshipped.
1051. In 2009:

a. Mr Lawrence was a locum priest and an Archdeacon in the Diocese of Wangaratta, however, he still held a permission to officiate in the Diocese of Newcastle;\footnote{1714}

b. Mr Hoare was the Priest in Charge in the Parish of Branxton Greta Lochinvar in the Diocese of Newcastle, and resided in the ‘Branxton Rectory’;\footnote{1715}

c. Mr Sturt was the Rector of the Parish of Cardiff in the Diocese of Newcastle;\footnote{1716}

d. Mr Duncan lived in Foster and did not hold a permission to officiate in the Diocese of Newcastle;\footnote{1717} and

e. Mr Goyette was involved with the church as a lay person and not in the capacity of clergy.\footnote{1718}

1052. Between about 9 and 13 October 2009, and pending an investigation, Bishop Farran withdrew Mr Lawrence’s permission to officiate in the Diocese and stood down each of Mr Goyette, Mr Hoare and Mr Sturt from their roles in the Diocese.\footnote{1719} Mr Lawrence was also suspended from his locum position in the Diocese of Wangaratta by the Bishop of Wangaratta.\footnote{1720}

1053. Bishop Farran also wrote to the Bishop of Bendigo since Mr Hoare had been offered employment there. Bishop Farran advised that Mr Hoare’s licence had been suspended due to allegations of inappropriate behaviour. The offer of employment to Mr Hoare was withdrawn.\footnote{1721}

1054. On 26 October 2009, Mr Michael Elliott was informed by the NSW Police that they were investigating the matter. The NSW Police requested that the Diocese suspend its professional standards investigation during the police investigation. The Diocese did so.\footnote{1722}


\footnote{1715} Exhibit 42-0147, ‘Statement of Bruce Hoare’, Case Study 42, STAT.1063.001.0001_R at [6(a)]: Exhibit 42-0001, ‘Letter from Bishop Brian Farran to Rev Bruce Hoare’, Case Study 42, ANG.0308.001.0006_R (Tab 187 of Tender Bundle); Exhibit 42-0001, ‘Anglican Directory 2010’, Case Study 42, NSW.0030.004.0163_R (Tab 190B of Tender Bundle).

\footnote{1716} Exhibit 42-0001, ‘Anglican Directory 2010’, Case Study 42, NSW.0030.004.0163_R (Tab 190B of Tender Bundle).

\footnote{1717} Exhibit 42-0017, ‘Statement of Brian Farran’, Case Study 42, STAT.1072.001.0001 at [317].

\footnote{1718} Transcript of M Elliott, Case Study 42, 12 August 2016, 17047:27-28; Exhibit 42-0124, ‘Statement of John Cleary’, Case Study 42, STAT.1087.001.0001_R at [315]; Exhibit 42-0001, ‘Statement of Bishop Brian Farran in relation to Graeme Lawrence et al’, Case Study 42, IND.0019.001.0012 (Tender Bundle Tab 337).

\footnote{1719} Exhibit 42-0001, ‘Letter from Bishop Brian Farran to Rev Bruce Hoare’, Case Study 42, ANG.0308.001.0006_R (Tab 187 of Tender Bundle); Exhibit 42-0001, ‘Letter from Bishop Brian Farran to Dean Graham Lawrence withdrawing permission to officiate’, Case Study 42, ANG.0050.003.3321_R (Tab 188 of Tender Bundle); Transcript of M Elliott, Case Study 42, 11 August 2016, 17042:9-23; Transcript of M Elliott, Case Study 42, 11 August 2016, 17042:45-17043:7; Exhibit 42-0107, ‘Statement of Bishop Brian Farran’, Case Study 42, STAT.1072.001.0001 at [82]; Exhibit 42-0147, ‘Statement of Bruce Hoare’, Case Study 42, STAT.1063.001.0001_R at [23]; Exhibit 42-0001, ‘Media article in The Herald “Church Suspends Accused Priests”’, Case Study 42, NSW.0030.003.0159_R (Tab 189 of Tender Bundle); Exhibit 42-0001, ‘Letter from Bishop Brian Farran to Rev Bruce Hoare’, Case Study 42, ANG.0308.001.0006_R (Tab 187 of Tender Bundle).

\footnote{1720} Transcript of B Farran, Case Study 42, 17 November 2016, 23248:20-26.

\footnote{1721} Exhibit 42-0001, ‘Letter from Bishop Brian Farran to Bishop Andrew Curnow’, Case Study 42, ANG.0308.001.0005 (Tab 186 of Tender Bundle).

\footnote{1722} Transcript of M Elliott, Case Study 42, 11 August 2016, 17043:25-36.
1055. Some months later, on 2 August 2010, the police advised the Diocese that no charges would be laid and that the Diocese was free to commence its own investigation. 1723

1056. On or around 5 August 2010, the Diocesan Professional Standards Committee authorised further investigation of CKH’s complaint. 1724 Mr Michael Elliott wrote to all five respondents in similar terms advising them that an investigation would be conducted by the Diocese. He outlined the allegations that had been made, and sought an initial response from each of them. 1725

1057. Mr Lawrence, through his solicitor Mr Woodward, denied each of the allegations but otherwise did not cooperate in the investigation. 1726 Mr Lawrence said he did not apply for financial assistance from the Diocese as he did not wish to have anything to do with the Diocese. 1727

1058. It is worth noting that Mr Lawrence played a pivotal role in the pre-professional standards disciplinary framework in the Diocese. He was a member of the Board of Enquiry on the period 1993 to 1997, which was somewhat akin to the Professional Standards Committee. He was also a member of the Panel of Triers from 1996 to 2001 and from 2005 to 2007. 1728 The Panel of Triers was analogous to the Professional Standards Board.

1059. Mr Lawrence had also played a role at the national level of the Anglican Church. He was a member of the General Synod of the Anglican Church from 1978 to 2008, and also held a position in the Standing Committee of the General Synod. 1729 The General Synod was responsible for the introduction of the national Professional Standards Model Ordinance. 1730 He was involved for a short period of time in a subcommittee developing the Professional Standards Model Ordinance, and during this time, was supportive of the initiative to introduce the Professional Standards Model Ordinance. 1731

Available finding:

AF116 Mr Lawrence occupied key positions in the early disciplinary framework in the Diocese, and was involved at a national level in developing the model professional standards framework that the Diocese then implemented. However, Mr Lawrence refused to submit himself to the new professional standards framework when a complaint was made against him.

1723 Transcript of M Elliott, Case Study 42, 11 August 2016, 17043:38-41.

1724 Transcript of M Elliott, Case Study 42, 11 August 2016, 17043:43-17044:3; Exhibit 42-0001, ‘Legal advice provided to Michael Elliott by Garth Blake SC’, Case Study 42, NSW.0030.005.0156_R at [15] (Tab 237 of Tender Bundle).

1725 Transcript of M Elliott, Case Study 42, 11 August 2016, 17044:5-34.

1726 Transcript of M Elliott, Case Study 42, 11 August 2016, 17044:36-40; Exhibit 42-0001, ‘Letter from John Woodward, Turnbull Hill on behalf of Graeme Sturt’, Case Study 42, OMB.0005.002.0068_R (Tab 202 of Tender Bundle); Exhibit 42-0001, ‘Letter from John Woodward, Turnbull Hill on behalf of Graeme Lawrence’, Case Study 42, OMB.0005.002.0065_R (Tab 203 of Tender Bundle).

1727 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23478:27-23479:12.

1728 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23489:4 to 23490:11

1729 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23400:26-41.

1730 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23400:46-47.

1731 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23401:2-15.
Throughout August and September 2010, Mr Michael Elliott conducted his investigation into CKH’s complaint. On 19 October 2010, he sought advice from barrister Mr Garth Blake SC as to whether there was a sufficient case to proceed to a Professional Standards Board hearing in respect of each of the five respondents. Mr Blake SC was, and still is, the Chair of the Anglican Church of Australia’s Professional Standards Commission, and one of the architects of the national model Professional Standards Ordinance.

On 19 October 2010, Mr Blake SC advised that there was a reasonable prospect that the Professional Standards Board would regard the conduct as sufficiently serious to bear upon the fitness of Mr Lawrence, Mr Sturt, Mr Duncan and Mr Hoare to continue in the ministry, and of the fitness of Mr Goyette to hold an office or position of responsibility in the Church. Mr Michael Elliott referred this advice to the Professional Standards Committee and on 28 October 2010, the Committee unanimously referred the matter to the Professional Standards Board.

Professional Standards Board hearings of CKH’s complaint

In December 2010, the Professional Standards Board conducted public hearings into the allegations against Mr Lawrence, Mr Sturt, Mr Goyette and Mr Duncan. Mr Colin Elliott, the President of the Professional Standards Board, presided. Initially, the matter could not proceed against Mr Hoare due to the Supreme Court case commenced by Mr Lawrence and Mr Sturt on 15 December 2010. Following the decision of the Supreme Court in April 2012, the matter against Mr Hoare commenced on 4 July 2012.

Except for procedural requests, the respondents save for Mr Sturt all elected not to participate in the hearings. Mr Lawrence said he elected not to participate on the basis of legal advice. He said he believed the process would not be a just and fair one because of the way in which Gumbley and COJ had been treated. Mr Sturt participated through counsel to a limited extent, seeking for the matter to be heard in private, and withdrawing when that application was declined.

Mr Michael Elliott told the Royal Commission that each of the respondents was offered the opportunity to appear at the hearing and ‘significant opportunity’ to place material before the

1732 Transcript of M Elliott, Case Study 42, 11 August 2016, 17044:45-17045:7; Exhibit 42-0001, ‘Legal advice provided to Michael Elliott by Garth Blake SC’, Case Study 42, NSW.0030.005.0156_R (Tab 237 of Tender Bundle).
1733 Transcript of M Elliott, Case Study 42, 11 August 2016, 17045:19-24; Exhibit 42-0001, ‘Legal advice provided to Michael Elliott by Garth Blake SC’, Case Study 42, NSW.0030.005.0156_R (Tab 237 of Tender Bundle).
1734 Transcript of M Elliott, Case Study 42, 11 August 2016, 17046:28-37.
1735 Transcript of M Elliott, Case Study 42, 11 August 2016, 17046:39-42.
1736 Exhibit 42-0142, ‘Statement of Colin Elliott’, Case Study 42, STAT.1075.001.0001 at [4].
1738 Transcript of M Elliott, Case Study 42, 11 August 2016, 17047:44-17047:1; Exhibit 42-01116, Case Study 42, ‘Statement of Graeme Lawrence’, STAT.1079.001.0001 at [21]; Exhibit 42-0001, ‘Sturt & Anor v Bishop Brian Farran & Ors [2012] NSWSC 400’, Case Study 42, NSW.0030.005.0004 (Tab 293 of Tender Bundle).
1739 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23479:22-32.
1740 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23479:41 to 23480:9.
1741 Transcript of M Elliott, Case Study 42, 11 August 2016, 17046:44-17047:1.
Submissions of Counsel Assisting in Case Study No. 42

1742 The Supreme Court of NSW also found in its later judgment on this issue, that ‘ample opportunity had been afforded to the plaintiffs’ to provide their version of events’. 

1743 Mr Duncan said in a statement that he sought an adjournment of the proceeding in December 2010, which was not granted. He referred to his concerns regarding ‘the lack of procedural fairness’ and ‘the inadequacy of the brief and the unfairness of the process’ although he did not seek to explain why this was so.

1744 On 15 December 2010, the Professional Standards Board found that the allegations were sustained against each of Mr Lawrence, Mr Sturt, Mr Duncan and Mr Goyette. The Board recommended that each of the clergy be deposed from Holy Orders and that Mr Goyette be permanently banned from holding any position within the diocese.

1745 The same day, the Professional Standards Board announced these findings publicly at the hearings before members of the Diocese, the public and the media.

1746 Bishop Farran told the Royal Commission that he first heard the Board’s determinations on 15 December 2010 on the car radio after they were announced on the local news.

1747 According to Mr Michael Elliott, the announcement of the Board’s determination publicly before advising Bishop Farran, while making Bishop Farran unhappy, was in accordance with the Professional Standards Ordinance 2005.

1748 On 24 January 2011, Bishop Farran later wrote to the President of the Professional Standards Board, Mr Colin Elliott, advising that his decision to release the Board’s determinations publicly, before advising him, placed him in an ‘unnecessary and unfortunate pressured environment’.

1749 Mr Colin Elliott replied to Bishop Farran on 27 January 2011 strongly rejecting the Bishop’s suggestion that determinations should be conveyed to the Bishop privately, on the basis that this would damage the perceived independence of the Board.

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1742 Transcript of M Elliott, Case Study 42, 11 August 2016, 17047:3-9.
1743 Exhibit 42-0001, ‘Sturt & Anor v Bishop Brian Farran & Ors [2012] NSWSC 400’, Case Study 42, NSW.0030.005.0004 at [384], (Tab 293 of Tender Bundle).
1744 Exhibit 42-0141, ‘Statement of Andrew Duncan’, Case Study 42, STAT.1108.001.0001_R at [30]-[32].
1745 Exhibit 42-0141, ‘Statement of Andrew Duncan’, Case Study 42, STAT.1108.001.0001_R at [38].
1746 Exhibit 42-0112, ‘Determination of the Professional Standards Board in Respect of Graham Lawrence’, Case Study 42, IND.0577.001.0001_R.
1747 Transcript of M Elliott, Case Study 42, 11 August 2016, 17047:22-25.
1748 Transcript of M Elliott, Case Study 42, 11 August 2016, 17047:27-31; Exhibit 42-0054, ‘Further Statement of Michael Elliott’, Case Study 42, STAT.1088.001.0001_R at [125].
1749 Exhibit 42-0054, ‘Further Statement of Michael Elliott’, Case Study 42, STAT.1088.001.0001_R at [125]; Exhibit 42-0001, ‘Email from Chris McNaughton to Bishop Farran’, Case Study 42, ANG.0050.003.7308_R (Tab 260B of Tender Bundle).
1750 Transcript of B Farran, Case Study 42, 17 November 2016, 23251:28-35; Exhibit 42-0001, ‘Email from Chris McNaughton to Bishop Farran’, Case Study 42, ANG.0050.003.7308_R (Tab 260B of Tender Bundle).
1751 Exhibit 42-0054, ‘Further Statement of Michael Elliott’, Case Study 42, STAT.1088.001.0001_R at [125]; Exhibit 42-0001, ‘Letter from Colin Elliott to Bishop Brian Farran about the announcement of the Professional Standards Board determination’, Case Study 42, ANG.0041.001.0165_R (Tab 270 of Tender Bundle).
1752 Exhibit 42-0001, ‘Letter from Bishop Brian Farran to Colin Elliott about the announcement of the Professional Standards Board determination’, Case Study 42, ANG.0041.001.0714_R (Tab 269 of Tender Bundle).
1753 Exhibit 42-0001, ‘Letter from Colin Elliott to Bishop Brian Farran about the announcement of the Professional Standards Board determination’, Case Study 42, ANG.0041.001.0165_R (Tab 270 of Tender Bundle).
Supreme Court challenge launched by Mr Lawrence and Mr Sturt in December 2010

1071. The day after the Professional Standards Board rendered its decision and recommendations, Mr Lawrence and Mr Sturt commenced proceedings in the NSW Supreme Court alleging that the professional standards regime was invalid and unfair in its application to them. They asserted that a Diocesan Tribunal process was required. They sought to quash the recommendations of the Board and to permanently restrain Bishop Farran from given effect to the Board’s recommendations, and also restrain any other Diocesan tribunal from hearing and determining the complaints against them.

1072. Some members of the Diocese contributed to a ‘fighting fund’ to assist Mr Lawrence and Mr Sturt in funding the Supreme Court litigation. One of those people was Mr Caddies.

1073. Mr Michael Elliott gave evidence that while the Supreme Court action was on foot, the Diocese could not proceed with finalising any disciplinary action against Mr Lawrence, Mr Goyette, Mr Duncan or Mr Sturt, and could not proceed with the hearing against Mr Hoare.

1074. The Supreme Court dismissed this legal action on 27 April 2012. The Court found that the professional standards regime was valid under the Anglican Church’s Constitution and that Mr Lawrence and Mr Sturt had not been denied procedural fairness. The presiding Justice, Sackar J, relevantly said:

Mr Lawrence and Mr Sturt’s solicitor gave advice to both plaintiffs and as a result they made an informed decision not to participate in the case of Father Lawrence at all, and in the case of Father Sturt, potentially to participate in some ways, subject to whether the PSB resolved to hear the matter in camera. I find it difficult to accept that in the circumstances they were denied a reasonable opportunity to be heard. … I see nothing untoward in the approach adopted by the PSB. They evaluated the evidentiary materials as in my view they were entitled to do. The material before them clearly permitted them to reach the conclusions that they did.

1075. Mr Blake SC, who acted for the Diocese in the Supreme Court action, gave evidence that a consequence of the Supreme Court’s decision was that the provisions of the Professional Standards Ordinance (both at a national level and in Newcastle) are valid in relation to the

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1754 Transcript of M Elliott, Case Study 42, 11 August 2016, 17047:33–17048:2; Exhibit 42-0001, ‘Sturt & Anor v Bishop Brian Farran & Ors [2012] NSWSC 400’, Case Study 42, NSW.0030.005.0004 (Tab 293 of Tender Bundle).

1755 Exhibit 42-0001, ‘Sturt & Anor v Bishop Brian Farran & Ors [2012] NSWSC 400’, Case Study 42, NSW.0030.005.0004 at 0011 (Tab 293 of Tender Bundle); Transcript of G Lawrence, Case Study 42, 23 November 2016, 23480:47 to 23481:19.

1756 Transcript of R Caddies, Case Study 42, 30 August 2016, 17553:13–16.

1757 Transcript of M Elliott, Case Study 42, 11 August 2016, 17048:11-20.

1758 Exhibit 42-0100, ‘Supplementary Statement of Robert Caddies, Case Study 42, STAT.1070.001.0001_R at 0008; Transcript of R Caddies, Case Study 42, 30 August 2016, 17553:13-16.

1759 Exhibit 42-0001, ‘Sturt & Anor v Bishop Brian Farran & Ors [2012] NSWSC 400’, Case Study 42, NSW.0030.005.0004 at 0130 (Tab 293 of Tender Bundle).

1760 Exhibit 42-0001, ‘Sturt & Anor v Bishop Brian Farran & Ors [2012] NSWSC 400’, Case Study 42, NSW.0030.005.0004 at 0130, [396] (Tab 293 of Tender Bundle).

1761 Exhibit 42-0001, ‘Sturt & Anor v Bishop Brian Farran & Ors [2012] NSWSC 400’, Case Study 42, NSW.0030.005.0004 at 0130, [396] (Tab 293 of Tender Bundle).
5.10 Complaints against Bishop Farran

In the meantime, in the period from late 2009, parishioner dissent against Bishop Farran grew. Bishop Farran told the Royal Commission that on 26 February 2011, Archbishop Phillip Aspinall, the then Primate of the Anglican Church, telephoned him to advise him that a group of parishioners from the Newcastle Cathedral had requested a meeting with him to discuss their concerns about Bishop Farran’s administration of the Diocese in regards to the Professional Standards regime. This group included Mr Simon Adam, Mr Caddies, Mr Christopher McNaughton, Mr John McNaughton, Mr Geoff Orrock, Ms Lyn Scanlon and Mr Laurie Tabart.

Bishop Farran said that he was surprised by this request but did not object to Archbishop Aspinall attending the meeting. Archbishop Aspinall met with the parishioners on 27 February 2011. At that meeting, they asked Archbishop Aspinall to relay to Bishop Farran that ‘they had lost all confidence in [his] leadership’ and felt that ‘matters were so dire that there was no way to address the issues other than for him to resign’. Archbishop Aspinall’s recollection is different. He said that he was not recommending to Bishop Farran that he should resign but ‘was simply trying to offer [his] support … in discerning a way forward and in managing the situation’.

Within a week of that telephone call, Archbishop Aspinall informed Bishop Farran that the group of parishioners had determined to force his resignation as Bishop of Newcastle. According to Bishop Farran, Archbishop Aspinall suggested to him that he retire early as ‘[he] would be in for a very difficult time.’ Bishop Farran said he was very disquieted with Archbishop Aspinall’s advice and thought that he had ‘over-reached himself as Primate’. Archbishop Aspinall’s recollection is different. He said that he was not recommending to Bishop Farran that he should resign but ‘was simply trying to offer [his] support … in discerning a way forward and in managing the situation’.

In the group’s complaint to Archbishop Aspinall, a key issue was Bishop Farran’s handling of the child sexual abuse matters. In particular, they complained that by bringing the matter of Rushton’s serial child sexual abuse to the attention of the media, Bishop Farran was bringing the Diocese into disrepute. They further saw the lack of regular updates from the Professional Standards Committee regarding the progress of complaints as a failure of Bishop Farran to properly administrate the Diocese.

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1762 Exhibit 42-0134, ‘Statement of Garth Blake’, Case Study 42, STAT.1091.001.0001 at [44].
1763 Exhibit 42-0107, ‘Statement of Brian Farran’ Case Study 42, STAT.1072.001.0001 at [102], [103] and [406].
1764 Exhibit 42-0001, ‘Complaint to the Episcopal Standards Commission by several parties’, Case Study 42, ANG.0050.003.7489 (Tab 282 of Tender Bundle).
1765 Exhibit 42-0107, ‘Statement of Brian Farran’ Case Study 42, STAT.1072.001.0001 at [103].
1767 Exhibit 42-0131, ‘Statement of Dr Phillip Aspinall’, Case Study 42, STAT.1153.001.0001 at [12].
1768 Exhibit 42-0107, ‘Statement of Brian Farran’, Case Study 42, STAT.1072.001.0001 at [104].
1769 Exhibit 42-0107, ‘Statement of Brian Farran’, Case Study 42, STAT.1072.001.0001 at [104].
1770 Exhibit 42-0131, ‘Statement of Dr Phillip Aspinall’, Case Study 42, STAT.1153.001.0001 at [15]-[16].
1771 Exhibit 42-0001, ‘Letter to the Episcopal Standards Commission enclosing complaint’, Case Study 42, ANG.0050.003.7487 (Tab 282 of Tender Bundle); Exhibit 42-0001, ‘Complaint to the Episcopal Standards Commission by several parties’, Case Study 42, ANG.0050.003.7489 at 7490-7491 (Tab 282 of Tender Bundle).
1080. The Royal Commission received a statement from Archbishop Aspinall. He said that he held the somewhat contentious view that the role of the Primate extended to providing pastoral support, guidance and even advice to other church leaders when appropriate and necessary. He acknowledged that as Primate, the only diocese in which he could impose his own views ‘to some extent’ was his own diocese of Brisbane.1773

1081. On 14 June 2011, the group of parishioners sent a letter enclosing their complaint to the Episcopal Standards Commission, which is an Anglican Church body responsible for disciplining bishops of the Anglican Church.1774 The substance of their complaint was that:

a. Bishop Farran had intimidated and harassed Lawrence and prevented the Diocesan Council from fulfilling its role;

b. Bishop Farran had failed to act in accordance with the Diocese’s Professional Standards Ordinance 2005;

c. Bishop Farran had brought the Diocese into disrepute with his media commentary on allegations of child sexual abuse perpetrated by Rushton1775 and other matters before the Professional Standards Committee; and

d. Bishop Farran had failed to properly administer the affairs of the Diocese.1776

1082. Similar complaints against Bishop Farran were separately made to the Episcopal Standards Commission by individual members of this group, including Mr Tabart and Mr Christopher McNaughton.1777 All the persons who made complaints were members of the Cathedral congregation.1778

1083. Mr Caddies told the Royal Commission that he was part of this group of parishioners making the complaint to the Episcopal Standards Commission.1779 He agreed that two of the key matters causing concern to that group were the public airing of Rushton’s paedophilic activities and the disciplinary process followed with respect to Lawrence.1780 With respect to the former, Mr Caddies said that the group was not concerned to keep those activities secret but rather, they wanted ‘a proper way of doing it, rather than by … [a] press release to various

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1773 Exhibit 42-0131, ‘Statement of Dr Phillip Aspinall’, Case Study 42, STAT.1153.001.0001 at [6].
1774 Exhibit 42-0001, ‘Letter to the Episcopal Standards Commission enclosing complaint dated 14 June 2011’, Case Study 42, ANG.0050.003.7487 (Tab 281 of Tender Bundle); Exhibit 42-0001, ‘Complaint to the Episcopal Standards Commission by several parties dated 14 June 2011’, Case Study 42, ANG.0050.003.7489 (Tab 282 of Tender Bundle).
1775 Exhibit 42-0001, ‘Media Article, Newcastle Herald dated 20 October 2010’, Case Study 42, ANG.0048.001.4617 (Tab 240A of Tender Bundle); Exhibit 42-0001, ‘Media Article, Newcastle Herald dated 20 October 2010’, Case Study 42, ANG.0048.001.4617 (Tab 240B of Tender Bundle); Exhibit 42-0001, ‘Newcastle Herald Article dated 29 October 2010’, Case Study 42, ANG.0048.001.4630 (Tab 251 of Tender Bundle).
1776 Exhibit 42-0001, ‘Letter to the Episcopal Standards Commission enclosing complaint dated 14 June 2011’, Case Study 42, ANG.0050.003.7487 (Tab 281 of Tender Bundle); Exhibit 42-0001, ‘Complaint to the Episcopal Standards Commission by several parties dated 14 June 2011’, Case Study 42, ANG.0050.003.7489 (Tab 282 of Tender Bundle).
1777 Exhibit 42-0001, ‘Complaint by Laurie Tabart to Episcopal Standards Commission dated 1 May 2011’, Case Study 42, ANG.0050.003.7366_R (Tab 276 of Tender Bundle); Exhibit 42-0001, ‘Complaint by Chris McNaughton to the Episcopal Standards Commission dated 3 May 2011’, Case Study 42, ANG.0050.003.7294_R (Tab 277 of Tender Bundle).
1779 Transcript of R Caddies, Case Study 42, 16 November 2016, 23144:36 – 23147:8.
Mr Caddies disagreed with the proposition that the series of complaints made by this group was an attempt to intimidate or punish Bishop Farran for the way he had acted with respect to Mr Lawrence. However, Mr Caddies agreed with the proposition that a good outcome of these complaints would have been the removal of Bishop Farran as Bishop.

Mr Caddies said that Bishop Farran should not have made the allegations against Rushton public without a ‘proper investigation’. However, he later conceded that he did not know what investigation the Diocese had conducted.

On 20 June 2011, Bishop Farran received a letter from the Episcopal Standards Commission, advising that it had received several complaints regarding his administration of the Diocese, including the complaints referred to above.

During this period, members of this group of parishioners told reporters from the Newcastle Herald about their concerns. In an article published in June 2013, the Newcastle Herald reported that the parishioners had alleged that Bishop Farran was on an ‘anti-gay witch-hunt’.

Available finding:

AF117 Following Bishop Farran’s decision to make public the allegations that Rushton was a perpetrator of child sexual abuse, and his decision to take interim measures against Mr Lawrence and others pending a disciplinary proceeding, Bishop Farran experienced a backlash from elements of the Diocese.

AF118 This backlash included the making of complaints about Bishop Farran to the then Primate of the Anglican Church and the Episcopal Standards Commission.

5.11 Dysfunctional culture within the Diocese

Mr Michael Elliott gave evidence that within the Diocese there were groups of influential Church members who would launch reprisals against actions perceived to threaten the clergy. Mr Elliott told the Royal Commission that, in response to his work on professional standards, he believes he has been subject to isolation, bullying, under-resourcing and vandalism such as vehicle and tyre damage, washing being pulled from his home clothesline and his dog going

1781 Transcript of R Caddies, Case Study 42, 16 November 2016, 23148:4-8.
1782 Transcript of R Caddies, Case Study 42, 16 November 2016, 23152:19-29; 23152:42-44.
1783 Transcript of R Caddies, Case Study 42, 16 November 2016, 23154:33-42.
1784 Transcript of R Caddies, Case Study 42, 16 November 2016, 23150:23-35.
1785 Transcript of R Caddies, Case Study 42, 16 November 2016, 23151:29-30.
1787 Exhibit 42-0001, ‘Article ‘Bishop defends actions’, Case Study 42, PUB.0008.001.0227 at 0228 (Tab 280 of Tender Bundle).
missing. He has also told the Royal Commission that he had received harassing phone calls and text messages.

1088. Bishop Farran said in oral evidence that there were ‘really big issues’ in the culture of the Diocese and pointed to a lack of professionalism in terms of supervision of the clergy; a ‘very paternalistic culture’ of ‘father knows best’ and a strong culture of non-accountability where people felt they could do what they want and the Bishop should turn a blind eye.

1089. Bishop Farran also said that the long term membership of a limited number of people to various Diocesan bodies over the years created difficulties. He thought that it was ‘very difficult for people to challenge each other in those circumstances, because they had such length and solid connections’.

1090. By January 2010, Bishop Farran had identified a serious problem within the culture of the Diocese. He retained organisational consultant Mr Stephen Ames to advise on the matter and seek to engender cultural change. In a 7 January 2010 email to Mr Ames, Bishop Farran stated:

We have had some significant and as yet unresolved Professional Standards issues involving prominent clergy ... there is a culture that needs addressing within the Diocese.

I particularly think of the influence of high profile clergy who have contributed to and even embodied this culture. Components of this culture that I think are regressive and disempowering are:

i. Secrecy
ii. Gossip
iii. Networking
iv. Complaint
v. Negativity
vi. Bitchiness
vii. Face-saving
viii. Exclusion

In combination these elements develop a sick and debilitating culture.

1091. In evidence Mr Lawrence said there was ‘some truth’ in this email but some of it was exaggerated.

1092. In his statement, Mr Cleary suggested that there was a ‘pro-respondent culture with no apparent consideration for the victims’. He said that the culture is so deeply ingrained in

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1788 Transcript of M Elliott, Case Study 42, 11 August 2016, 17068:12-44.
1789 Transcript of M Elliott, Case Study 42, 11 August 2016, 17069:19-22.
1790 Transcript of B Farran, Case Study 42, 16 November 2016, 23212:15-41.
1792 Exhibit 42-0001, ‘7 January 2010 email from Bishop Farran to Stephen Ames’, Case Study 42, ANG.0323.001.0086_R at 0087 (Tab 191 of Tender Bundle).
1793 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23504:3-25.
1794 Exhibit 42-0124, ‘Statement of John Cleary’, Case Study 42, STAT.1087.001.0001_R at [49]; Exhibit 42-0001, ‘Email from Paul Rosser to John Cleary and Stephen Williams’, Case Study 42, ANG.0041.001.0673_R (Tab 213 of Tender Bundle).
the Diocese that barring external pressure, he did not consider that the Diocese could move beyond its ‘past practice of a pro-perpetrator culture’. 1795

1093. Mr Cleary cited as examples of a ‘pro-respondent’ culture, some of the proposed changes by Assistant Bishop Stuart to the Professional Standards Ordinance 2005 in 2012. He suggested that the inclusion of measures to ensure procedural fairness to respondents as examples of a regression to a pro-respondent culture. 1796 Assistant Bishop Stuart said it was not correct that he had sided with people who wanted to undermine the Professional Standards system and that Mr Cleary’s suggestion that he was making changes that were ‘respondent-driven’ was ‘completely unfair’. 1797

1094. Bishop Farran gave evidence that Mr Lawrence was an influential figure in the Diocese. He said:

many people supporting him sought to rationalise and sanitise the nature of his alleged conduct. I found this response both strange and troubling. The vehemence of the Lawrence supporters concerned me in conducting my pastoral responsibilities or promoting harmony and the practice of Christian faith of the Diocese.

1095. Bishop Farran also gave evidence of his view that people became psychologically dependent upon Mr Lawrence. 1799

1096. Bishop Farran’s observations are made good by the evidence of Mr Caddies. Mr Caddies, one of Mr Lawrence’s backers and one of those who supported complaints against Bishop Farran, told the Royal Commission that he did not think due process was followed with respect to Mr Lawrence. 1800 However, despite being a solicitor for several decades, Mr Caddies was not able to articulate how in fact Mr Lawrence had been denied due process. 1801 At one stage, he said that an ‘abuse protocol’ which required an offer of legal assistance had not been followed. 1802 However, he also admitted that he was not aware of the existence of this protocol at the time. 1803 Mr Caddies ultimately conceded that it was ‘pretty hard’ to say Mr Lawrence was denied natural justice in all the circumstances. 1804 Mr Caddies also said it was ‘very unwise’ that Mr Lawrence had not participated in the disciplinary process. 1805

1097. Mr Caddies told the Royal Commission that most people did not know what the allegations were against Mr Lawrence at the time but ‘they found it hard to believe’. There was also a perception that Mr Lawrence had been ‘unfairly treated’. He said that Mr Lawrence had been their priest for 24 years and ‘people had a very high regard for him’. 1806

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1795 Exhibit 42-0124, ‘Statement of John Cleary’, Case Study 42, STAT.1087.001.0001_R at [64].
1796 Exhibit 42-0124, ‘Statement of John Cleary’, Case Study 42, STAT.1087.001.0001_R at [111].
1797 Transcript of P Stuart, ‘Case Study 42, 18 November 2016, 23394:30-39.
1798 Transcript of P Stuart, ‘Case Study 42, 18 November 2016, 23394:30-39.
1799 Exhibit 42-0108, ‘Supplementary Statement of Bishop Brian Farran’, Case Study 42, STAT.1072.002.0001_R at [37].
1801 Transcript of R Caddies, Case Study 42, 16 November 2016, 23137:29-34.
1802 Transcript of R Caddies, Case Study 42, 16 November 2016, 23138:10 to 23139:7 and 23142:21-47.
1804 Transcript of R Caddies, Case Study 42, 16 November 2016, 23139:42-43.
1805 Transcript of R Caddies, Case Study 42, 16 November 2016, 23140:24-26.
1806 Transcript of R Caddies, Case Study 42, 16 November 2016, 23143:22.
1807 Transcript of R Caddies, Case Study 42, 16 November 2016, 23143:42-23144:11.
1098. Assistant Bishop Stuart gave evidence that he had ‘significant negative engagement with the Cathedral community’ in relation to Mr Lawrence. He said there was a continued resistance within that community to accepting the findings of misconduct made in respect of Mr Lawrence. He said they have been a ‘really harsh’ group and that he had never had to work with a group as ‘difficult and as intractable and as hurtful’ as this group of people.  

1099. Mr Lawrence denied that he played any role in engendering these perceptions. Mr Lawrence, who by then had retired as Dean of the Cathedral, gave evidence that he was not involved in the making of the complaints to the Episcopal Standards Commission. However, he acknowledged that the complainants were all his supporters. Mr Lawrence agreed that he could have counselled those complainants not to proceed, but did not do so. While he was no longer Dean, he maintained ongoing relationships with this group of people. He acknowledged that he still occupied a position of influence, but insisted that he did not seek to influence this group of people in the actions they took.

1100. Mr Rosser QC had been a parishioner at the Cathedral since 1992 and agreed that he had a ‘solid friendship’ with Mr Lawrence. Mr Rosser QC agreed that in 2011, at a point in time after Mr Rosser QC had resigned as Chancellor of the Diocese, he reviewed an expert report for Mr Lawrence for the purpose of Mr Lawrence’s proceedings in the Supreme Court.

Available finding:

AF119 A group within the Diocese, largely situated within the Cathedral, took action, including the making of complaints, to discourage the Diocese from dealing with allegations of child sexual abuse and perpetuated a culture of cover up and denial.

5.12 Resignation of Mr Rosser QC as Chancellor

1101. The evidence shows that tensions developed in 2010 between Bishop Farran and Mr Rosser QC, who had been appointed Chancellor in 2009.

1102. Mr Rosser QC said that the role of the Chancellor is to act as the Bishop’s personal legal advisor, and accepted that this role required him to advise the Bishop and any other people with the Bishop’s permission, any other people as the Bishop directs. Mr Rosser QC agreed in evidence that he perceived that the Bishop did not want his advice about the professional standards framework, but he continued to provide the advice anyway.

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1087 Transcript of P Stuart, Case Study 42, 18 November 2016, 23354:26-2355:17.
1088 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23501:45-47.
1089 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23502:10-12.
1090 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23502:47-23503:9.
1091 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23503:11-35.
1092 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23505:6-45.
1093 Transcript of P Rosser, Case Study 42, 30 August 2016, 17465:412 to 17466:1.
1094 Transcript of P Rosser, Case Study 42, 30 August 2016, 17466:6-28.
1095 Transcript of P Rosser, Case Study 42, 30 August 2016, 17465:4-9.
1096 Transcript of P Rosser, Case Study 42, 30 August 2016, 17502:17-27.
1103. Bishop Farran gave evidence that he emailed Mr Rosser QC on around 2 September 2010 expressing concern that Mr Rosser QC was taking an ‘activist role’ in the Diocesan Council, and was adopting an ‘interrogatory’ style. Mr Rosser QC agreed in his evidence that at some point in the latter part of 2010, Bishop Farran said to him (either by email or otherwise), ‘[y]ou don’t have an activist role, you’re my Chancellor’.

1104. Mr Rosser QC gave evidence that he was Lawrence’s friend in 2009 and 2010, and that he had personal sympathy for Lawrence. However, he denied that his relationship with Lawrence informed his criticisms of the professional standards process.

1105. There was evidence that in around October 2010, Bishop Farran also raised with Mr Rosser QC the issue of a perceived ‘conflict of interest’ in Mr Rosser QC’s representation of Brown in his various criminal proceedings while Deputy Chancellor and then Chancellor. In this regard, the evidence showed that in 2010 Mr Rosser QC accepted the brief to appear on behalf of Brown who was being prosecuted for a very large number of historical child sexual offences at a time when Brown was associated with the Diocese.

1106. That Mr Rosser QC acted as counsel for Brown at the same time as holding office as Chancellor is probably not a true conflict of interest. However, performing these two separate roles at the same time could reasonably engender in the minds of the public and in the minds of survivors of Brown’s abuse that it was the Diocese, and not Mr Rosser QC the private individual, who was defending Brown.

1107. Ultimately, Mr Rosser QC accepted during oral evidence that holding the position of Chancellor and continuing to act for a person who was accused of sexual abuse while a Church worker would cause an informed and reasonable member of the community to perceive a ‘conflict of interest’.

1108. On 26 November 2010, Mr Rosser QC resigned as Chancellor. He asserted in a 16 December 2010 email to Bishop Farran that there was no conflict in him acting for Brown and also being the Chancellor of the Diocese.

1109. Despite the issue of a perceived ‘conflict of interest’ being raised, Mr Rosser QC continued to act for Brown in his criminal proceedings throughout 2010, his committal in 2010, and his

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1817 Exhibit 42.0001, ‘Email from Bishop Brian Farran to John Cleary in relation to the role of Chancellor’, Case Study 42, ANG.0061.001.1478_R (Tab 222 of Tender Bundle); Exhibit 42-0107, Case Study 42, Statement of Bishop Brian Farran, STAT.1072.001.0001_R at [118].


1819 Transcript of P Rosser, Case Study 42, 30 August 2016, 17501:7-9.

1820 Transcript of P Rosser, Case Study 42, 30 August 2016, 17505:3-21.

1821 Transcript of P Rosser, Case Study 42, 30 August 2016, 17505:3-21.

1822 Exhibit 42-0001, ‘Email from Bishop Brian Farran to John Cleary in relation to various matters’, Case Study 42, ANG.0061.001.2256_R (Tab 235 of Tender Bundle); Exhibit 42-0001, ‘Email from Bishop Brian Farran to Michael Evans concerning Paul Rosser’, Case Study 42, ANG.0061.001.0189_R (Tab 243 of Tender Bundle); Exhibit 42-0001, ‘Email chain between Bishop Brian Farran and Michael Evans regarding Chancellor of Newcastle’, Case Study 42, ANG.0323.001.0095_R at 0096_R (Tab 241 of Tender Bundle); Transcript of P Rosser, Case Study 42, 30 August 2016, 17522:24-28.

1823 Transcript of P Rosser, Case Study 42, 30 August 2016, 17518:43-45.

1824 Transcript of P Rosser, Case Study 42, 30 August 2016, 17475:43-17476:23.

1825 Transcript of P Rosser, Case Study 42, 30 August 2016, 17522:35-37.

1826 Exhibit 42-0001, ‘Email from Paul Rosser QC to Bishop Farran dated 16 December 2010’, Case Study 42, ANG.0050.003.7859_R (Tab 261 of Tender Bundle).
sentencing hearing on 2012. Mr Rosser QC asserted that he was obliged to accept the brief because of the ‘cab rank’ rule. This demonstrates a misunderstanding of the rule. He was not obliged to act where there were sound reasons for not doing so.

**Available findings:**

**AF120** Mr Rosser QC acted as counsel for Brown in his prosecution for historical child sexual abuse offences committed at a time when Brown was a youth worker and lay preacher in the Diocese. At the same, Mr Rosser QC held the office of Chancellor of the Diocese. Performing these two separate roles at the same time could reasonably engender in the minds of the public and in the minds of survivors of Brown’s abuse that it was the Diocese, and not Mr Rosser QC the private individual, who was defending Brown.

**AF121** In accepting the brief to appear for Brown in 2010, Mr Rosser QC showed poor judgment.

**AF122** Mr Rosser QC adopted an activist role within the Diocese at the time when he was Chancellor which was inconsistent with the function of the office of Chancellor, which was to advise the Bishop when the Bishop sought advice. In adopting this activist position Mr Rosser QC showed poor judgment.

### 5.13 Implementing the Professional Standard Board’s recommendations against Mr Lawrence and others

#### Disciplinary process for Mr Hoare in July 2012

1110. As noted above, the Supreme Court handed down its judgment in Mr Lawrence and Mr Sturt’s cases on 27 April 2012. This cleared the way for the Professional Standards Board to proceed in relation to Mr Hoare.

1111. On 4 July 2012, the Professional Standards Board held a hearing in relation to the allegations against Mr Hoare. He declined to appear or put any evidence before the Board. He said in his statement to the Royal Commission that he did not participate because he had no faith ‘in the system or the process which was to be instituted’ and no faith in Mr Michael Elliott.

1112. On 5 July 2012, the Board upheld the allegations and recommended that Mr Hoare be deposed from Holy Orders.

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1827 Transcript of P Rosser, Case Study 42, 30 August 2016, 17518:33-41.
1828 Transcript of P Rosser, Case Study 42, 30 August 2016, 17519:18 to 17520:8
1829 Transcript of M Elliott, Case Study 42, 11 August 2016, 17048:36-46; Exhibit 42-0147, ‘Statement of Bruce Hoare’, Case Study 42, STAT.1063.001.0001 at [25].
1830 Exhibit 42-0147, ‘Statement of Bruce Hoare’, STAT.1063.001.0001 at [24].
1113. Assistant Bishop Stuart, who was Commissary in July 2012 while Bishop Farran was on leave, gave evidence that Mr Colin Elliott ‘did use his best endeavours to advise [Assistant Bishop Stuart] promptly of its decision once it had been made and delivered’.\footnote{Exhibit 42-0114, ‘Supplementary Statement of Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.9.7].}

**Bishop Farran’s friendship with Mr Lawrence**

1114. Bishop Farran agreed that he had a very long friendship with Mr Lawrence.\footnote{Transcript of B Farran, Case Study 42, 17 November 2016, 23248:35-38 and 23249:5-12.} However, he said he could not excuse himself from making a decision on the Professional Standard Board’s recommendations because only the Diocesan Bishop could take action. He said he was not aware of any mechanism to give his decision-making power to someone else.\footnote{Transcript of B Farran, Case Study 42, 17 November 2016, 23253:39-42.}

**Bishop Farran’s response to the Professional Standards Board’s recommendations**

1115. Bishop Farran had been aware since the Professional Standards Board rendered its determinations in mid-December 2010, that it recommended that Mr Lawrence, Mr Sturt and Mr Duncan be deposed from Holy Orders, and that Mr Goyette should be banned permanently from holding any lay ministry.

1116. On 27 April 2012, the Supreme Court had dismissed Mr Lawrence and Mr Sturt’s appeal proceedings.\footnote{Exhibit 42-0001, ‘Statement of Bishop Brian Farran in relation to Graeme Lawrence et al ’, Case Study 42, IND.0019.001.0012 (Tab 337 of Tender Bundle).} On 5 July 2012, the Board made recommendations in the case of Mr Hoare.

1117. Bishop Farran told the Royal Commission that at this time he understood that it was important to act quickly on the Professional Standards Board’s recommendations in view of the delay caused by the lengthy processes undertaken since the initial recommendations in December 2010.\footnote{Exhibit 42-0001, ‘Statement of Bishop Brian Farran in relation to Graeme Lawrence et al ’, Case Study 42, IND.0019.001.0012 (Tab 337 of Tender Bundle).}

1118. However, it was not until 10 September 2012 that, Bishop Farran deposed Mr Lawrence and Mr Hoare from Holy Orders and permanently prohibited Mr Goyette from performing any official function in the Church.\footnote{Exhibit 42-0141, ‘Statement of Andrew Duncan’, Case Study 42, STAT.1108.001.0001_R at [33]; Exhibit 42-0001, ‘Letter from Andrew Duncan to Bishop Farran’, Case Study 42, IND.0487.001.0447_R (Tab 311B of Tender Bundle).} Mr Duncan complied with a request to relinquish his Holy Orders on 6 August 2012, and no further disciplinary action was taken against him.\footnote{Exhibit 42-0108, ‘Statement of Bishop Brian Farran’, Case Study 42, STAT.1072.001.0001_R at [134].} Bishop Farran met with Mr Sturt in person to communicate to Sturt that he was prohibited from exercising ordained ministry for five years.\footnote{Exhibit 42-0108, ‘Statement of Bishop Brian Farran’, Case Study 42, STAT.1072.001.0001_R at [134].}
1119. Mr Michael Elliott gave evidence that ‘there seemed to be a significant delay...I thought that he [Bishop Farran] should have been ready to act immediately that decision [of the Supreme Court] was handed down’. CKH also expressed concern about the delay.

1120. Bishop Farran said he received advice from his Chancellor, the Hon. Justice Peter Young, that it would be prudent to wait to see if an appeal was filed by Mr Lawrence or Mr Sturt prior to taking action in response to the 27 April 2012 decision. Bishop Farran told the Royal Commission he understood that an appeal may be lodged at any time within a 28 day period of a decision, until about 27 May 2012.

1121. Bishop Farran also said that he did not consider that it would have been appropriate for him to take action on the matter while the complaints against him were still on foot before the Episcopal Standards Commission. He considered that the people who had made the complaints were ‘extremely litigious’ and feared that if he took action which might give rise to further action he could be extending the process for an indefinite period.

1122. In June 2012, when Bishop Farran was on long service leave, he was notified by the Episcopal Standards Commission that it was not proceeding with any of the complaints against him. Bishop Farran said that he then ‘felt [he] could consider the recommendations of the Professional Standards Board ...

1123. Bishop Farran said that upon his return from leave on 18 July 2012, he wrote to the respondents offering them the opportunity to make submissions about what action he should take by 20 August 2012. Mr Lawrence did not respond.

1124. It is clear that Bishop Farran equivocated about what to do following the Professional Standards Board’s recommendations. On 27 August 2012, Mr Cleary had a conversation with Bishop Farran about Bishop Farran’s proposed response to the recommendations. Mr Cleary gave evidence that Bishop Farran told him that implementing the recommendations of the Board would be ‘catastrophic’ for the Diocese and that he had to care for the Diocese.

1125. Mr Michael Elliott gave evidence that in around late August 2012, Mr Cleary told him that the Bishop was not going to implement the recommendations of the Board, and would instead suspend the respondents’ ministry for a period of time.

1126. Further, Mr Michael Elliott agreed in oral evidence that, from as early as October 2009, a group of parishioners based at the Cathedral came out strongly and publically in favour of Mr Lawrence. He also agreed that there was a group, made up of prominent people within the Diocese, publically advocating for Mr Lawrence and seeking to exert their influence in favour of him in the period where Bishop Farran was considering his response to the Board.

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1840 Transcript of M Elliott, Case Study 42, 11 August 2016, 17167:36-41.
1841 Exhibit 42-0040, ‘Statement of CKH’, Case Study 42, STAT.1078.001.0001_R at 0017_R [79]-[81].
1842 Transcript of B Farran, Case Study 42, 17 November 2016, 23254:3-9.
1844 Transcript of B Farran, Case Study 42, 17 November 2016, 23523:16-27; Exhibit 42-0107, ‘Statement of Brian Farran’, Case Study 42, STAT.1072.001.0001 at [413].
1845 Exhibit 42-0107, ‘Statement of Brian Farran’, Case Study 42, STAT.1072.001.0001 at [101].
1846 Transcript of B Farran, Case Study 42, 17 November 2016, 23254:28-44.
1848 Transcript of M Elliott, Case Study 42, 11 August 2016, 17050:4-14.
1849 Transcript of M Elliott, Case Study 42, 11 August 2016, 17072:27-42.
recommendations. Mr Michael Elliott gave evidence that he observed that group in fact ‘mak[ing] things difficult’ for Bishop Farran following the decision to depose Mr Lawrence.

1127. Assistant Bishop Stuart gave evidence that he became aware in August 2012 that Bishop Farran had reservations about following the Professional Standards Board’s recommendations and that Bishop Farran was concerned about the impact on the Cathedral and the city of deposing someone of Mr Lawrence’s standing. Assistant Bishop Stuart said that he thought the Board’s recommendations should be followed.

1128. Bishop Farran agreed in evidence that he was originally minded not to follow the Board’s recommendations. He said he ‘agonised’ about what to do and was concerned about what impact defrocking Mr Lawrence would have upon his parishioners in view of the sacraments he had performed such as marrying them and baptising them.

1129. According to a contemporaneous filenote prepared by Mr Cleary, Bishop Farran told him on 23 August 2012 that acting on the recommendations would be ‘catastrophic’ for the Diocese and that Mr Lawrence’s ‘networks’ and ‘sphere of influence’ within the Diocese was extremely large and that he was ‘somewhat intimidated’ by Mr Lawrence. Bishop Farran also expressed concern for ‘tertiary victims.’ Bishop Farran agreed these aspects of the filenote were accurate, but explained the reference to intimidation was a reference to a time when he was young and sharing accommodation with Mr Lawrence in Griffith.

1130. Mr Cleary said that on 23 August 2012, he told Bishop Farran that he was not prepared to work with him to give effect to any decision that did not give effect to the Board’s recommendations. Mr Cleary said that, as a result, Bishop Farran stood him down for a short period of time and appointed Assistant Bishop Stuart temporarily to his role as Diocesan Registrar in order to sign orders made by Bishop Farran, which would impose disciplinary action that differed from the Board’s recommendations.

1131. Bishop Farran denied he was intimidated by Mr Lawrence and denied that he was influenced by his friendship with Mr Lawrence.

1132. CKH also gave evidence that he became concerned about Bishop Farran’s apparent delay in taking action on the Board’s recommendations. CKH sent a letter to Bishop Farran in

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1850 Transcript of M Elliott, Case Study 42, 11 August 2016, 17073:2-25.
1851 Transcript of M Elliott, Case Study 42, 11 August 2016, 17074:1-5.
1852 Transcript of P Stuart, Case Study 42, 18 November 2016, 23322:42-44.
1853 Transcript of P Stuart, Case Study 42, 18 November 2016, 23323:10-17.
1854 Transcript of B Farran, Case Study 42, 17 November 2016, 23255:11-17.
1855 Transcript of B Farran, Case Study 42, 17 November 2016, 23255:14-41.
1856 Exhibit 42-0001, ‘Filenote of J Cleary dated 23 August 2012’, Case Study 42, IND.0019.001.0013 (Tab 326 of Tender Bundle).
1857 Transcript of B Farran, Case Study 42, 17 November 2016, 23258:14 to 23259:15.
1858 Transcript of J Cleary, Case Study 42, 23 November 2016, 23553:9-12.
1861 Exhibit 42-0108, ‘Supplementary Statement of Bishop Brian Farran’, Case Study 42, STAT.1072.0002.001_R at .0005.
1862 Exhibit 42-0040, ‘Statement of CKH’, Case Study 42, STAT.1078.001.0001_R at 0017_R [79]-[81].
August 2012, asking him to make a decision. Mr Michael Elliott gave evidence that in early September 2012, Bishop Farran asked him for the contact details of CKH. Mr Elliott said that Mr Cleary had told him that the Bishop wanted to meet with CKH, and that Mr Michael Elliott offered to arrange that appointment. Mr Michael Elliott also gave evidence that Bishop Farran did not initially invite him to attend that appointment but Mr Elliott and CKH insisted he attend. Bishop Farran told the Royal Commission that he sought Mr Elliott’s assistance with arranging the appointment with CKH and never intended to cut Mr Michael Elliott out of the process.

In any event, Bishop Farran and Mr Michael Elliott attended a meeting with CKH in his home town on 7 September 2012. During that meeting, Bishop Farran told CKH that he intended to depose Mr Duncan and Mr Hoare from Holy Orders, but not Mr Lawrence or Mr Sturt. He told CKH, in the presence of Mr Michael Elliott, that this was because of his pastoral duty to parishioners, and that it would upset the parishioners to depose Mr Lawrence and Mr Sturt. CKH was distressed and angry and recounted the effect that Mr Lawrence had had on his life and the power that Mr Lawrence had misused with him. Bishop Farran said he found this a ‘very moving experience’ and determined that he would defrock Mr Lawrence.

On 10 September 2012, Bishop Farran deposed each of Mr Lawrence and Mr Hoare and suspended Mr Sturt’s licence to minister for five years. Mr Duncan complied with a request to relinquish his Holy Orders on 6 August 2012, and no further disciplinary action was taken against him. Bishop Farran permanently banned Mr Goyette from holding any lay office. In announcing this decision, Bishop Farran also acknowledged the distress suffered by CKH and his family.

Bishop Farran’s decision to suspend Mr Sturt from ministry for five years departed from the recommendation of the Board. A document prepared by Bishop Farran at around this time indicates that the reasons for this included his relatively lower degree of improper conduct.
than the impact on him of the loss of his stipendiary position (when all other clergy had previously retired).

1137. One matter to which consideration will be given during the Anglican Church summary hearing of the Royal Commission in 2017 is the question of whether a Bishop can refer to another person or external body the power to depose clergy from Holy Orders or otherwise discipline them.

Available findings:

AF123 Bishop Farran did not unreasonably delay in taking action on the Professional Standards Board’s recommendations for Mr Lawrence, Mr Hoare, Duncan, Mr Sturt and Mr Goyette.

AF124 To the extent that there was any delay, Bishop Farran had taken adequate steps in suspending the licenses of Mr Lawrence, Mr Hoare, Mr Sturt and Mr Duncan to minimise any risk those persons posed to children and other vulnerable church members.

5.14 Risk Management of Mr Lawrence and others in September 2012

1138. Following completion of their disciplinary processes on 10 September 2012, Mr Lawrence and Mr Goyette (who remained partners) became parishioners at St Stephens, Adamstown. The rector of St Stephens was, and still is, Reverend Christopher Bird.

1139. On 17 September 2012, at the instigation of Mr Michael Elliott, Bishop Farran wrote to Reverend Bird outlining the risk management expectations in respect of Mr Lawrence and Mr Goyette. However, no formal risk management was put in place at that time. Mr Michael Elliott gave evidence that he ‘made significant efforts to ensure there was risk management put in place’ but was not successful at that stage.

1140. Reverend Bird was not called to give oral evidence. In a statement to the Royal Commission, Reverend Bird stated that he was advised by Bishop Farran of the adverse finding relating to Mr Lawrence and Mr Goyette in 2012. He stated that despite no formal order being in place, he agreed to supervise Mr Lawrence and Mr Goyette, and that Mr Lawrence complied. Mr Michael Elliott accepted, in response to questioning from counsel for Reverend Bird, that Reverend Bird had advised Mr Michael Elliott and Bishop Thompson in May 2014 that he had, since 2012, had his own informal management in place and let them be involved in certain activities at the parish.

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1877 Exhibit 42-0001, 'Letter to Colin Elliott from Bishop Farran', Case Study 42, ANG.0061.001.0025 (Tab 342A of Tender Bundle).


1879 Transcript of M Elliott, Case Study 42, 11 August 2016, 17064:26-30.

1880 Transcript of M Elliott, Case Study 42, 11 August 2016, 17065:32-34; Exhibit 42-0133, Case Study 42, 'Statement of Reverend Chris Bird', STAT.1100.001.0001_R at [22].

1881 Transcript of M Elliott, Case Study 42, 11 August 2016, 17065:41-43.

1882 Exhibit 42-0133, Case Study 42, 'Statement of Reverend Chris Bird', STAT.1100.001.0001_R at [22].

1883 Transcript of M Elliott, Case Study 42, 11 August 2016, 17199:27-172004; Exhibit 42-0054, 'Further Statement of Michael Elliott', Case Study 42, STAT.1088.001.0001_R at [169].
1141. Mr Michael Elliott also accepted that prior to September 2013, there was no formal mechanism in the Diocese to force a parishioner to sign a risk management agreement, or to ensure compliance, but noted that this was not necessarily a requirement in order for the priest to enact risk management. It should also be noted that the Professional Standards Commission produced its guidelines on parish safety, or risk management, in 2009. It was not until 2013 that the Diocese of Newcastle implemented a parish safety policy. This is discussed in further detail in section 6 of these submissions.

1142. Further discussion of the risk management steps taken in respect of Mr Lawrence and the others is set out below at section 7.3.

5.15 Changes to the Professional Standards Ordinance in 2012

1143. In October 2011, the Diocesan Synod requested the Diocesan Council to once again review the professional standards regime. Assistant Bishop Stuart said that this review was put on hold pending the outcome of the Supreme Court’s decision in the Lawrence and Mr Sturt matter.

1144. At a special meeting of the Diocesan Council on 13 August 2012, an ‘Ordinance Preparation Working Group’ was appointed, comprising Deputy Chancellor Chris Armitage, the Venerable Arthur Copeman and the Canon Williams (Task Group). Mr Spring, the Chair of the Professional Standards Committee, was invited to and attended that meeting. Mr Michael Elliott gave evidence that he was not invited to attend.

1145. Mr Cleary gave evidence that he was not involved in the drafting process in 2012, as it was his view that there was no need to amend the ordinance. Mr Cleary gave evidence that the problem with professional standards lay with respondents not accepting the decisions of the Professional Standards Board and with the culture of the Diocese, and that the decision by Justice Sackar on 27 April 2012 dismissing Mr Lawrence and Mr Sturt’s claim was a validation of the existing Professional Standards framework.

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1185 Exhibit 42-0001, ‘Guidelines For Parish Safety where there is a risk of sexual abuse by a person of concern’, Case Study 42, ANG.0041.001.0617.
1186 Exhibit 42-0001, ‘Guidelines For Parish Safety where there is a risk of sexual abuse by a person of concern’, Case Study 42, ANG.0041.001.0617.
1187 Transcript of P Stuart, Case Study 42, 18 November 2016, 23330:16-19.
1188 Transcript of P Stuart, Case Study 42, 18 November 2016, 23331:20-23.
1189 Exhibit 42-0114, ‘Supplementary statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.9.9-3.9.10]; Exhibit 42-0001, ‘Diocesan Council Minutes’, Case Study 42, ANG.0006.001.0662 (Tab 312 of Tender Bundle).
1190 Transcript of M Elliott, Case Study 42, 11 August 2016, 17054:13-23.
1146. Based on the issues identified at the 13 August 2012 workshop, Assistant Bishop Stuart subsequently drafted amendments to the Professional Standards Ordinance 2005 and Protocol and emailed them to the Task Group on 15 August 2012.\textsuperscript{1894}

1147. The proposed amendments were considered by the Diocesan Council at its meeting on 23 August 2012.\textsuperscript{1895} Mr Cleary gave evidence that he made representations to Bishop Farran that Mr Michael Elliott should be involved in this meeting, but Mr Michael Elliott was not invited to attend.\textsuperscript{1896}

1148. At the 23 August meeting, a ‘Drafting Group’ was delegated authority to prepare relevant Bills for Synod.\textsuperscript{1897} The Council determined that the Drafting Group should consult with others, including Mr Michael Elliott, before the drafts were presented to Synod and Diocesan Council.\textsuperscript{1898} Although Assistant Bishop Stuart provided the relevant material to Mr Michael Elliott on 27 August 2012,\textsuperscript{1899} both Mr Michael Elliott and Mr Colin Elliott considered they were not properly consulted. Further drafts were provided to the Chancellor, the Hon. Justice Peter Young, and Deputy Chancellor on 1 and 4 September 2012.\textsuperscript{1900}

1149. At the Diocesan Synod on 27 and 28 October 2012, the Bills were adopted with some amendments and received the assent of Bishop Farran.\textsuperscript{1901} Assistant Bishop Stuart gave evidence that the constant stream of review and amendment meant there was no stability in the professional standards process.\textsuperscript{1902}

1150. Among other amendments, the Professional Standards Ordinance 2012 included a new section 77, which provided:\textsuperscript{1903}

\textsuperscript{1894} Exhibit 42-0114, ‘Supplementary statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.9.14]; Exhibit 42-0001, ‘Email from Bishop Stuart to Canon Stephen Williams and Arthur Copeman (copied to John Cleary and Bishop Brian Farran) dated 15 August 2012’, Case Study 42, ANG.0061.001.0934_R (Tab 317 of Tender Bundle); Exhibit 42-0001, ‘Proposed revisions to the Professional Standards protocol dated 15 August 2012’, Case Study 42, ANG.0061.001.0935 (Tab 318 of Tender Bundle); Exhibit 42-0001, ‘Draft Professional Standards Ordinance 2012 (marked up) dated 15 August 2012’, Case Study 42, ANG.0061.001.0953 (Tab 319 of Tender Bundle); Exhibit 42-0001, ‘Memo to the Newcastle Diocesan Council dated August 2012 in relation to revising the Professional Standards Ordinance and Protocol’, Case Study 42, ANG.0006.001.0455 (Tab 307 of Tender Bundle); Exhibit 42-0001, ‘Proposed revisions to the Professional Standards Protocol as at 1 August 2012’, Case Study 42, ANG.0006.001.0525 (Tab 308 of Tender Bundle); Exhibit 42-0001, ‘Proposed revisions to the Professional Standards Protocol as at 15 August 2012’, Case Study 42, ANG.0061.001.0935 (Tab 318 of Tender Bundle).

\textsuperscript{1895} Exhibit 42-0114, ‘Supplementary statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.9.14-3.9.15].

\textsuperscript{1896} Exhibit 42-0124, ‘Statement of John Cleary’, Case Study 42, STAT.1087.001.0001_R at [59]-[62].

\textsuperscript{1897} Exhibit 42-0114, ‘Supplementary statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.9.14-3.9.16]; Exhibit 42-0001, ‘Minutes of the Meeting of the Diocesan Council on 23 August 2012’, Case Study 42, ANG.0006.001.0669 (Tab 326A of Tender Bundle).

\textsuperscript{1898} Exhibit 42-0114, ‘Supplementary statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.9.16]; Exhibit 42-0001, ‘Minutes of the Meeting of the Diocesan Council on 23 August 2012’, Case Study 42, ANG.0006.001.0669 (Tab 326A of Tender Bundle).

\textsuperscript{1899} Exhibit 42-0114, ‘Supplementary statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.9.17].

\textsuperscript{1900} Exhibit 42-0114, ‘Supplementary statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.9.18].

\textsuperscript{1901} Exhibit 42-0114, ‘Supplementary statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.9.22]; Exhibit 42-0001, ‘Minutes of the Second Session of the Fiftieth Synod of the Diocese of Newcastle’, Case Study 42, ANG.0006.001.0725 at 0728 (Tab 348 of the Tender Bundle); Exhibit 42-0001, ‘Professional Standards Ordinance 2012’, Case Study 42, ANG.0041.001.1261 (Tab 457 of Tender Bundle).

\textsuperscript{1902} Transcript of P Stuart, Case Study 42, 18 November 2016, 23330:37-45.

\textsuperscript{1903} Exhibit 42-0001, ‘Professional Standards Ordinance 2012’, Case Study 42, ANG.0041.001.1261 at [77] (Tab 457 of Tender Bundle).
The Board shall announce its determination and recommendations in a sitting at which are present only representatives of the Bishop and the respondent and such other persons as the Bishop and the respondent agree should be present.

1151. This had the effect that the complainant could be excluded and not be made aware at the time of the Board’s determination and recommendation to the Bishop.

1152. The amendments also included new sections 107 and 108 which had the combined effect that the Board’s determination (that is, its findings regarding the truth of the complaint) would be made public 60 days after the Board’s determination. However, the Board’s recommendation would never be made public.\(^{1904}\) As a matter of practice, this meant that in taking action, the Bishop could depart from the Board’s recommendation (as was his right under section 83(c))\(^{1905}\) and no-one but the respondent would know this.

1153. Mr Michael Elliott and Mr Cleary gave evidence to the effect that section 77 made it possible for a Bishop to decide privately not to implement the recommendation of the Professional Standards Board, in circumstances where no-one other than the Bishop and respondent would know there had been such a departure.\(^{1906}\) Mr Cleary said this was, in his view, the Church being secretive and not transparent\(^{1907}\) and imposing a framework that favoured respondents.\(^{1908}\)

1154. Mr Michael Elliott’s considered that the section 77 amendment was ‘catastrophic’, because:\(^{1909}\)

> I felt it would be a significantly abusive process for a complainant who may be a victim of sexual abuse to have to seek the consent of their abuser to be present to hear the findings and recommendations of the case. I also thought that it didn't preserve the integrity of those proceedings and the transparency of the recommendation to the Bishop by virtue of the fact that the Bishop may not then follow the recommendation but no-one would know and I think that was the intent.

1155. Assistant Bishop Stuart agreed that section 77, when read with sections 107 and 108, undermined the transparency of the process.\(^{1910}\)

1156. Mr Michael Elliott gave evidence that CKA withdrew from making a complaint because of the introduction of section 77. CKA did not give evidence as to whether or not he withdrew a complaint for these reasons.

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\(^{1904}\) Exhibit 42-0001, ‘Professional Standards Ordinance 2012’, Case Study 42, ANG.0041.001.1261 at 1289 (Tab 457 of Tender Bundle).

\(^{1905}\) Exhibit 42-0001, ‘Professional Standards Ordinance 2012’, Case Study 42, ANG.0041.001.1261 at 1284 (Tab 457 of Tender Bundle).


\(^{1907}\) Transcript of J Cleary, Case Study 42, 23 November 2016, 23548:4-7.

\(^{1908}\) Transcript of J Cleary, Case Study 42, 23 November 2016, 23544:31-39; Exhibit 42-0124, ‘Statement of John Cleary’, Case Study 42, STAT.1087.001.0001_R at [110].

\(^{1909}\) Transcript of M Elliott, Case Study 42, 11 August 2016, 17056:9-25.

\(^{1910}\) Transcript of P Stuart, Case Study 42, 18 November 2016, 23338:40-43.
1157. Mr Colin Elliott, the President of the Professional Standards Board, resigned on 4 December 2012. In this resignation letter, and in other correspondence at that time, he stated that he had resigned due to his objections to the 2012 Ordinance. He particularly objected to the inclusion of the new section 77. In his statement to the Royal Commission, Mr Elliott said that the amendments ‘affected profoundly the transparency of hearings from beginning to end.’

1158. Bishop Farran gave evidence that he supported the amendments to the 2012 Ordinance at the time as they enabled him to be notified of a Professional Standards Board’s decision before it was released to the media.

1159. Bishop Farran gave evidence that at the time, he did not understand that such amendments, particularly the new section 77, would have undermined the transparency and integrity of the Board’s determinations and recommendations to the Bishop.

1160. As will be discussed in further detail in section 6 of these submissions, section 77 was repealed in 2015.

1161. After the 23 August 2012 meeting, no further work was done in 2012 on the proposed revisions to the protocol to the Ordinance. At its meeting in November 2012, the Diocesan Council deferred further consideration of the protocol. The protocol was considered again in 2013, details of which are set out below in Section 7.12.

Available finding:

AF125 The amendments to the Professional Standards Ordinance made by the Diocesan Synod in October 2012 undermined the transparency and integrity of the professional standards framework.

Consultation on Professional Standards policies

1162. Mr Michael Elliott gave evidence that he was generally not invited to participate in the process of review of the Professional Standards developments, and sometimes invited on a ‘very limited’ and ‘tokenistic’ basis and that this was ‘consistent throughout the entirety of [his] engagement’.

1163. Mr Cleary in his statement to the Royal Commission said that he could not understand why Mr Michael Elliott, as Director of Professional Standards, was not invited to attend the special

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1151 Exhibit 42-0001, ‘Resignation letter of Colin Elliott’, Case Study 42, IND.0468.001.0015_R (Tab 350 of Tender Bundle).
1152 Exhibit 42-0001, ‘Email forwarded by Colin Elliott to John Cleary regarding section 77’, Case Study 42, ANG.0041.001.0173_R (Tab 352 of Tender Bundle).
1153 Exhibit 42-0142], ‘Statement of Colin Elliott’, Case Study 42, STAT.1075.001.0001_R at [28].
1154 Transcript of B Farran, Case Study 42, 23264-2.5.
1156 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.9.13]-[3.9.16], [3.9.26].
1157 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.9.26].
1158 Transcript of M Elliott, Case Study 42, 11 August 2016, 17054:20-27; Exhibit 42-0054, ‘Further Statement of Michael Elliott’, Case Study 42, STAT.1088.001.0001_R at [18]-[19].
Diocesan Council meeting on 13 August 2012 convened by Bishop Farran to consider amending the Professional Standards Ordinance and protocols.\textsuperscript{1919}

1164. Bishop Farran had emailed Mr Cleary on the morning of the 13 August 2012 meeting to say that ‘as we agreed on Friday’ the presence of Mr Michael Elliott at the meeting could be inflammatory.\textsuperscript{1920} However, Mr Cleary in his oral evidence said he believed this was a case of Bishop Farran telling him why Mr Michael Elliott was not invited to the meeting, rather than Mr Cleary and Bishop Farran having agreed this was the case. Mr Cleary said he did not entirely know why Bishop Farran had not asked Mr Michael Elliott to attend as the Synod had asked for a full review of the ordinance and protocols.\textsuperscript{1921}

5.16 Concluding remarks

1165. There was evidence that between 2009 and 2012, a deep cultural division emerged in the Diocese, which centred upon the professional standards processes applied to COJ, Gumbley, Mr Lawrence and others.

1166. In particular, there was evidence of a faction of key Diocesan office holders and a cohort of Cathedral parishioners who were critical of the professional standards processes in the Diocese. There was evidence that members of this faction were deeply loyal to the respondents, and particularly Mr Lawrence. Such loyalty appears to have been based on personal friendships and long-standing pastoral relationships.

1167. Mr Rosser QC gave evidence that complaints and divisions over these matters were present in the Diocese by late 2009.\textsuperscript{1922} Mr Rosser QC also gave evidence that this groundswell of concern continued while he was a part of the Diocese, and infected the professional standards process during that time and long after he had left the Diocese.\textsuperscript{1923} Mr Michael Elliott gave evidence that he believed these concerns were ‘more than teething problems. I think it was a significant cultural issue that resulted in resistance to change.’\textsuperscript{1924}

1168. There was also evidence that a narrative developed within the faction that the Diocese, in pursuing Mr Lawrence and his fellow four respondents, was engaging in a ‘homosexual witch-hunt’.\textsuperscript{1925}

Available findings:

AF126 Between 2009 and 2012, there was a faction of the Diocese whose strong support for the respondents in professional standards matters resulted in determined opposition to the professional standards framework more broadly.

\textsuperscript{1919} Exhibit 42-0124, ‘Statement of John Cleary’, Case Study 42, STAT.1087.001.0001_R at [59].

\textsuperscript{1920} Exhibit 42-0001, ‘Email from Bishop Farran to John Clear re Professional Standards Ordinance’, Case Study 42, STAT.1072.002.0009 (Tab 304C of Tender Bundle).

\textsuperscript{1921} Transcript of J Cleary, Case Study 42, 23 November 2011, 23572:42 – 23573:1, 15-20.

\textsuperscript{1922} Transcript of P Rosser, Case Study 42, 30 August 2016, 17494:43-47, 17495:1-6.

\textsuperscript{1923} Transcript of P Rosser, Case Study 42, 30 August 2016, 17496:15-22.

\textsuperscript{1924} Transcript of M Elliott, Case Study 42, 11 August 2016, 17133:37-39.

\textsuperscript{1925} Exhibit 42-0001, ‘Article ‘Bishop defends actions’, Case Study 42, PUB.0008.001.0227 at 0228 (Tab 280 of Tender Bundle).
This opposition culminated in a number of actions that had the effect of testing, challenging, amending and then circumventing the professional standards process in turn. Specifically, these actions were:

a. Engagement of Professor Patrick Parkinson to review the outcome and process by which the Professional Standards Ordinance 2005 was applied to COJ and Mr Gumbley;

b. A Supreme Court challenge by Mr Lawrence and Mr Sturt to the Professional Standards Board findings and the validity of the Professional Standards Ordinance 2005;

c. Amendment and later replacement of the Professional Standards Ordinance 2005; and

d. Ongoing public and private pressure exerted on members of the Diocese, particularly Bishop Farran and Mr Michael Elliott, to not implement the Professional Standards Board recommendations and, ultimately, to resign.
6 Institutional response under Assistant Bishop Peter Stuart (December 2012 – February 2014)

6.1 Introduction

1169. Before coming to the Diocese of Newcastle, Assistant Bishop Peter Stuart held various clergy positions in the Dioceses of Tasmania, Melbourne and Adelaide. In February 2009, he was appointed to the position of Assistant Bishop of Newcastle by Bishop Brian Farran. He continues to serve in that role to Bishop Greg Thompson.

1170. Between 16 December 2012 when Bishop Farran retired, and 2 February 2014 when Bishop Thompson was enthroned, Assistant Bishop Stuart was the Administrator of the Diocese, and in this position essentially exercised the functions of the Bishop of the Diocese. As Administrator, he also held the roles of President of Synod, Chair of the Diocesan Council and Chair of the Corporate Trustees known as the Trustees of the Diocese of Newcastle.

1171. This section of the submissions:

a. Provides an overview of key developments in the professional standards framework and associated policies during Assistant Bishop Stuart’s tenure as Administrator;

b. Discusses the implementation of a risk management framework in the Diocese in September 2013, including the delays associated with the introduction of that framework and the difficulties which were encountered when it was sought to implement risk management principles with respect to Mr Lawrence and Mr Goyette in the Adamstown parish where they worshipped; and

c. Identifies the steps that Assistant Bishop Stuart undertook in conjunction with Mr Michael Elliott when it was revealed that past instances of child sexual abuse may not have been appropriately reported to the NSW police.

1926 Exhibit 42-0113, ‘Statement of Bishop Peter Stuart’, Case Study 42, STAT.0808.001.0001_R at [5]-[10].
1929 Exhibit 42-0113, ‘Statement of Bishop Peter Stuart’, Case Study 42, STAT.0808.001.0001_R at [3.10.1]; Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.10.1].
1930 Transcript of P Stuart, Case Study 42, 18 November 2016, 23318:3-6.
1931 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [2.4.2].
6.2 Developments in professional standards framework and associated policies during Assistant Bishop Stuart’s tenure as Administrator

Professional Standards Protocol 2013

1172. Assistant Bishop Stuart said in evidence that it was intended that the professional standards framework (at a national level) would consist of three parts, being the ordinance, the code of conduct (which is called ‘Faithfulness in Service’) and the protocol. The protocol outlined the steps that the Professional Standards Committee and the Professional Standards Director should take in handling complaints. According to Assistant Bishop Stuart, it ‘fleshes out’ the role of people in the process and the support that should be offered to complainants and respondents.

1173. Assistant Bishop Stuart said that in 2010 he became concerned that the protocol had not been adopted in the Diocese. He subsequently ascertained that the Diocesan Council had approved the protocol in 2005, but said that the Diocesan Business Manager Mr John Cleary, and the Chair of the Professional Standards Committee, Mr Geoff Spring, did not know about its existence. Several witnesses gave evidence that until 2010, when Assistant Bishop Stuart located the Professional Standards Protocol, there was a general assumption in the Diocese that no such protocol existed.

1174. A revised version of the Professional Standards Protocol was adopted by the Diocesan Council in March 2013. Mr Michael Elliott gave evidence that he believed almost all of his suggested amendments were adopted in the final version of the Professional Standards Protocol 2013.

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1932 Transcript of P Stuart, Case Study 42, 18 November 2016, 23319:12-15.
1933 Transcript of P Stuart, Case Study 42, 18 November 2016, 23319:43 to 23320:2.
1935 Transcript of P Stuart, Case Study 42, 18 November 2016, 23319:30-39.
1937 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.11.5]; Exhibit 42-0001, ‘Diocesan Council Minutes dated 21 March 2013’, Case Study 42, ANG.0006.001.0707 (Tab 358 of Tender Bundle).
Professional Standards Ordinance Review Committee from 2012 to 2013

1175. In October 2012, the Synod adopted the Professional Standards Ordinance 2012. That ordinance was discussed in section 5.15 above.

1176. In the same session, the Synod also considered a paper prepared by the Reverend Dr Keith Joseph. According to Assistant Bishop Stuart, this paper identified alternative approaches for managing professional standards issues and proposed a further review of professional standards processes in the Diocese. The Synod resolved to undertake the proposed review, and the Professional Standards Ordinance Review Committee (PSORC) was duly formed. Mr Cleary decided not to be involved due to his heavy workload, and instead became a person to be consulted.

1177. The PSORC then met several times and submitted an interim report to the 2013 Synod. In the report, the PSORC stated that it had identified contradictory processes as between a number of the professional standards and disciplinary instruments. The PSORC stated that this regime is ‘unnecessarily complicated, thereby diluting its intelligibility and transparency to all’. The PSORC indicated the Professional Standards Ordinance could be strengthened by remediying overlaps and gaps. The PSORC committed to provide a full report at the 2014 Synod.

1178. In October 2013, Mr Rod Berry, the legal member of PSORC, provided Assistant Bishop Stuart and Mr Cleary with a table comparing the various professional standards and discipline ordinances in the Diocese. He also provided a memorandum proposing options to overhaul the professional standards framework to create ‘consistency and uniformity’.

1179. However, nothing was done to address the issues that had been identified. Assistant Bishop Stuart explained that Dr Joseph moved to the Northern Territory in September 2013, and that he had been the ‘convener and key driver of the Committee’. Further, the Diocese was now awaiting the arrival and advice of Bishop Thompson.

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1179 Exhibit 42-0001, ‘Minutes of the Second Session of the Fiftieth Synod of the Diocese of Newcastle dated 27 October 2012’, Case Study 42, ANG.0006.001.0725 at 0728 (Tab 348 of Tender Bundle); Exhibit 42-0001, ‘Minutes of the Second Session of the Fiftieth Synod of the Diocese of Newcastle dated 28 October 2012’, Case Study 42, ANG.0049.001.0321 at 0321 (Tab 349 of Tender Bundle).

1180 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.9.23].

1181 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.9.25]; Exhibit 42-0001, ‘Report to 2013 Synod by Professional Standards Ordinance Review Committee’, Case Study 42, ANG.0041.001.0215 (Tab 353 of Tender Bundle).

1182 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.12.2].

1183 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.12.3].

1184 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.12.5]; Exhibit 42-0001, ‘Report to 2013 Synod by Professional Standards Ordinance Review Committee’, Case Study 42, ANG.0041.001.0215 (Tab 353 of Tender Bundle).

1185 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.12.7]; Exhibit 42-0001, ‘Email from Rod Berry to Bishop Stuart and John Cleary’, Case Study 42, ANG.0041.001.0224 (Tab 374 of Tender Bundle); Exhibit 42-0001, ‘Table – Professional Standards Key Documents’, Case Study 42, ANG.0041.001.0225 (Tab 375 of Tender Bundle); Exhibit 42-0001, ‘Summary of Issues from Comparative Analysis of Ordinances prepared by Rod Berry’, Case Study 42, ANG.0041.001.0243 (Tab 369 of Tender Bundle).

1186 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.12.8].

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Conflict of Interest policy 2013

1180. At its meeting on 26 April 2012, the Chancellor, the Hon. Justice Peter Young, provided advice to the Diocesan Council regarding declarations of interest. According to the minutes of that meeting, the Chancellor stated that declarations of interest were relevant to situations where a person is ‘conflicted with some other duty to some other Board, or a personal duty. Not just having an interest in two or more bodies’. 1947

1181. Assistant Bishop Stuart gave evidence that he ‘became increasingly alert to conflict issues and felt the need for a clearer statement about how Diocesan Council members should conduct themselves about conflicts of interest’. 1948

1182. Accordingly, Assistant Bishop Stuart proposed that the Diocese adopt the conflict of interest policy then in force in the Anglican Diocese of Perth. This policy was adopted by Diocesan Council in March 2013. 1949

1183. The Conflict of Interest Policy (2013) comprises a set of guidelines to assist members of the Diocesan Council and other governance bodies in determining when and how declarations of interest should be made in situations involving competing interests. 1950 The policy was high level and provided guidance on the process for declaring an interest, but did not provide examples or detail on how to determine when a conflict exists. The policy itself states that ‘there may be some merit in having a clearer policy in this Diocese’. 1951

1184. As set out in Section 7 below, this policy was updated in April 2015. 1952

Working with Children Check procedures 2013

1185. From June 2013, pursuant to the Child Protection (Working with Children) Act 2012 (NSW), the Diocese was required to carry out a Working with Children Check (WWCC) for all employees, clergy and volunteers involved in physical or face-to-face contact with persons under the age of 18. 1953

1186. In order to comply with its mandatory obligations, in May 2013 the Diocese introduced a procedure as part of its Safe Ministry Policy whereby all licences, permissions and other authorities granted to people undertaking spiritual leadership within the Diocese were automatically suspended from 15 January 2014 if the Diocese did not have a record of that person’s WWCC number. 1954

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1947 Exhibit 42-0001, ‘Diocesan Council minutes dated April 2012’, Case Study 42, ANG.0048.001.0632 at 0633 (Tab 292 of Tender Bundle).

1948 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.13.1].

1949 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.13.2]-[3.13.5]; Exhibit 42-0001, ‘Diocesan Council minutes dated March 2013’, Case Study 42, ANG.0006.001.0707 at 0710 (Tab 358 of Tender Bundle); Exhibit 42-0001, ‘Conflict of Interest Policy 2013’, Case Study 42, ANG.0310.001.0013 (Tab 459 of Tender Bundle).

1950 Exhibit 42-0001, ‘Conflict of Interest Policy 2013’, Case Study 42, ANG.0310.001.0013 (Tab 459 of Tender Bundle).

1951 Exhibit 42-0001, ‘Conflict of Interest Policy 2013’, Case Study 42, ANG.0310.001.0013 (Tab 459 of Tender Bundle).

1952 Exhibit 42-0001, ‘Conflict of Interest Policy 2015’, Case Study 42, ANG.0208.001.0004 (Tab 463 of Tender Bundle).


1954 Exhibit 42-0001, ‘Diocesan Handbook – Safe Ministry Policy v1’, Case Study 42, IND.0480.002.0007 (Tab 364A of Tender Bundle); Exhibit 42-0114, ‘Supplementary Statement of Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.16].
In addition to the mandatory requirements under statute, the Diocese also implemented additional safe service training requirements for all persons subject to a WWCC as well as record management practices including a Delegated Authority Register to ensure that WWCC and other screening records were maintained at a Diocesan level.\footnote{1955}

**Claim Resolution Protocol 2013**

1188. Assistant Bishop Stuart gave evidence that in early 2013, he and Mr Cleary explored with their legal advisors, law firm Makinson D’Apice, whether changing the cap on payments under the Diocese’s Pastoral Care and Assistance Scheme (PCAS) would be beneficial.\footnote{1956} The Diocese received advice that did not recommend changes to the payments cap.\footnote{1957} However, at the Diocesan Council meeting on 21 March 2013, the council voted to increase the amount paid by the Diocese for legal assistance to claimants from $1100 to $5000.\footnote{1958}

1189. In August 2013, Assistant Bishop Stuart expressed concerns to the Diocese’s legal advisors that the process of reaching settlement with people seeking a settlement outside of the PCAS was slow.\footnote{1959} A mediated and non-litigious redress scheme was established which did not require as much financial and medical information or require the claimants to repeat their claims of abuse (Claim Resolution Protocol).\footnote{1960}

1190. On 26 September 2013, the Diocesan Council authorised the Diocesan Business Manager to agree to mediated settlements using the Claim Resolution Protocol.\footnote{1961}

1191. The Claim Resolution Protocol states that the Diocese is prepared not to raise any limitation issue from the date it receives notification of a claim until the date of mediation or other alternative dispute resolution process.\footnote{1962} Bishop Thompson agreed in evidence that it appeared that the Diocese still reserved a right to raise a limitation defence under the protocol if the matter proceeded beyond mediation. However, he said some policies would need to be amended in line with any national redress scheme that was implemented and a review at that time would need to examine this issue.\footnote{1963}

**Available findings:**

AF128 Between December 2012 and February 2014, Administrator Bishop Stuart oversaw the implementation of four key professional standards policies:

- The Professional Standards Protocol (March 2013);
- The Conflict of Interest Policy (March 2013);

\footnote{1955} Exhibit 42-0001, ‘Policy and Practice changes arising from Changes in Working with Children Check Requirements’, Case Study 42, INQ.0480.002.0011 (Tab 430L of Tender Bundle).

\footnote{1956} Exhibit 42-0114, ‘Supplementary Statement of Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.14.1].

\footnote{1957} Exhibit 42-0114, ‘Supplementary Statement of Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.14.2].

\footnote{1958} Exhibit 42-0001, ‘Diocesan Council Minutes’, Case Study 42, ANG.0006.001.0707 (Tab 358 of Tender Bundle).

\footnote{1959} Exhibit 42-0114, ‘Supplementary Statement of Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.14.3].

\footnote{1960} Exhibit 42-0114, ‘Supplementary Statement of Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.14.4]; Exhibit 42-0124, ‘Statement of John Cleary’, Case Study 42, STAT.1087.001.0001_R at [157(n)].

\footnote{1961} Exhibit 42-0001, ‘Diocesan Council Minutes’, Case Study 42, ANG.0006.001.1018 (Tab 373 of Tender Bundle); Exhibit 42-0001, ‘Claim Resolution Protocol’, Case Study 42, ANG.0206.001.0007 (Tab 430M of Tender Bundle).

\footnote{1962} Exhibit 42-0001, ‘Claim Resolution Protocol’, Case Study 42, ANG.0206.001.0007 at .0008 (Tab 430M of Tender Bundle).

\footnote{1963} Transcript of G Thompson, Case Study 42, 24 November 2015, 23657:22 – 23658:1.
c. New Working With Children’s Checks processes as part of the Safe Ministry Policy (May 2013); and

d. The Claim Resolution Protocol (September 2013).

In developing these four policies, there was an appropriate level of consultation with the Professional Standards Director and the Professional Standards Committee.

6.3 Risk management

Risk Management policy in September 2013

1192. In 2013, the Diocese adopted a risk management policy for managing the presence of persons charged with or convicted of serious sexual misconduct within parishes. The development of the policy is discussed below. During its development, it was variously known as the ‘Pastoral Supervision and Support of Known and Suspected Sexual Abusers’ policy, the ‘Persons of Concern’ policy and the ‘Safe Ministry’ policy. The policy that was ultimately implemented in September 2013 is referred to in these submissions as the ‘Safe Ministry Policy’.  

1193. In 2009, the Anglican Church’s national Professional Standards Commission produced national guidelines called ‘Guidelines for Parish Safety where there is a risk of sexual abuse by a person of concern’ (Parish Safety Guidelines). The Parish Safety Guidelines were intended to assist those responsible for safe ministry within a parish, such as clergy, to address safety issues where the presence of a member of the parish community, a ‘person of concern’, constituted a risk of sexual abuse to others in the parish.

1194. On 15 March 2012, Mr Michael Elliott wrote to all clergy within the Diocese enclosing the Parish Safety Guidelines and requested clergy contact him if they were aware of any sex offenders or persons of concern involved with their parishes. He did not receive any responses to this letter.

1195. Assistant Bishop Stuart gave evidence that he proposed at the Diocesan Council meeting on 1 March 2013 that the national recommendations regarding persons of concern be adopted as a safety policy. There were concerns expressed at the meeting that the definition of ‘sexually inappropriate behaviour’ was undefined and may have included consensual adult relationships common in the wider community. The Diocesan Council then deferred consideration of the Parish Safety Guidelines.

1196. Mr Michael Elliott said the policy was not well-received. In his view, the policy was seen as ‘excessive, secular and presumptive’ and there was a major problem with ‘persons of concern’

1964 Exhibit 42-0001, ‘Safe Ministry Policy 2013’, Case Study 42, AND.006.001.1030 (Tab 462 of Tender Bundle).

1965 Exhibit 42-0001, ‘Guidelines for Parish Safety where there is a risk of sexual abuse by a person of concern’, Case Study 42, ANG.0041.001.0617 (Tab 454 of Tender Bundle).

1966 Exhibit 42-0056, ‘Statement of Michael Elliott’, Case Study 42, STAT.0062.001.0001_R at [52].

1967 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.15.4].

1968 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.15.5].

1969 Exhibit 42-0001, ‘Diocesan Council Minutes’, Case Study 42, ANG.0006.001.0707 (Tab 358 of Tender Bundle).
in the Church. Mr Michael Elliott said that this was an example of the culture of the Diocese not being ready for risk management policies.1970

1197. At the May 2013 Diocesan Council meeting, it was resolved to establish a working group to review and edit the policy and report back to the council at its July meeting.1971

1198. In his written statement, Mr Cleary said that at the July 2013 Diocesan Council meeting, the Parish Safety Guidelines were considered with ‘a heavy heart’ for those persons of concern and a ‘culture of forgiveness was the dominant view’.1972

1199. In or around July 2013, Mr Michael Elliott met with Assistant Bishop Stuart and was informed that Kitchingman was an active parishioner in the Cathedral. Kitchingman had been convicted of child sexual abuse offences in 1968 and August 2002.1973 Assistant Bishop Stuart did not indicate there was any risk management plan in place at the Cathedral in relation to Kitchingman.1974

1200. On 24 September 2013, Mr Michael Elliott reviewed the proposed policy on risk management of persons of concern produced by the Diocesan Council working group which was to be put forward at the Diocesan Council meeting on 26 September 2013. He wrote a report on the proposed policy, which he emailed to Assistant Bishop Stuart. Mr Michael Elliott indicated that he felt the policy was ‘significantly watered down’ from the Parish Safety Guidelines and he did not consider the policy would be effective.1975

1201. Mr Michael Elliott thought that the policy had been drafted with no formal consultation with the Office of Professional Standards.1976 He further criticised the generality and vagueness of the draft policy, with particular criticism for the narrow definition of a ‘Person of Concern’.1977

1202. Assistant Bishop Stuart proposed a number of amendments to the Diocesan Council after discussing Mr Michael Elliott’s concerns with him.1978 At its meeting on 26 September 2013, the Diocesan Council adopted the ‘Safe Ministry Policy for Persons who have been charged with or convicted of a serious sexual offence’ (Safe Ministry Policy).1979 The Diocese was criticised in the Royal Commission’s Report in Case Study No 3 for only adopting parish safety guidelines in October 2013, when the General Synod had recommended them back in 2009.1980

1971 Exhibit 42-0001, ‘Diocesan Council Minutes’, Case Study 42, ANG.0006.001.0980 at 0984 (Tab 364 of Tender Bundle).
1972 Exhibit 42-0124, ‘Statement of John Cleary’, Case Study 42, STAT.1087.001.0001_R at [122].
1974 Exhibit 42-0056, ‘Statement of Michael Elliott’, Case Study 42, STAT.0062.001.0001_R at [72].
1975 Exhibit 42-0056, ‘Statement of Michael Elliott’, Case Study 42, STAT.0062.001.0001_R at [81].
1976 Exhibit 42-0001, ‘Report – Preliminary review and advice regarding the Anglican Diocese of Newcastle’s proposed policy for Management of Persons of Concern’, Case Study 42, ANG.0006.001.0894 (Tab 371 of Tender Bundle).
1977 Exhibit 42-0001, ‘Report – Preliminary review and advice regarding the Anglican Diocese of Newcastle’s proposed policy for Management of Persons of Concern’, Case Study 42, ANG.0006.001.0894 (Tab 371 of Tender Bundle).
1978 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.15.9]-[3.15.10].
1979 Exhibit 42-0001, ‘Safe Ministry Policy 2013’, Case Study 42, ANG.0006.001.1030 (Tab 462 of Tender Bundle).
1980 Royal Commission into Institutional Responses to Child Sexual Abuse, Report of Case Study No. 3 Anglican diocese of Grafton’s response to child sexual abuse at the North Coast Children’s Home, October 2014.
1203. On 25 October 2013, Assistant Bishop Stuart directed the Dean of the Cathedral to apply the new Safe Ministry Policy to Kitchingman.

1204. The Safe Ministry Policy as adopted at the September 2013 meeting did not apply to a person subject to an adverse risk assessment by the Professional Standards Committee. After discussions with Mr Michael Elliott, Mr Cleary and Mr Scott Pufty, Assistant Bishop Stuart proposed amendments to include a person subject to an adverse risk assessment by the Professional Standards Committee in the policy.

1205. At its November 2013 meeting, the Diocesan Council passed amendments which made clear that the Safe Ministry Policy also applied to any person against whom the Professional Standards Committee had made an adverse risk assessment, any person whose suitability or fitness for office had been placed before a board of review for a relevant allegation, and any person the subject of a formal administrative finding by a board of review for a relevant allegation.

1206. This policy allowed the Diocese to enforce risk management in relation to persons of concern. The requirements of the policy are that the parish priest must establish a Support and Accountability Team to ensure the person is protected from those who may oppose them participating in the parish, that they are compliant with restrictions on their participation outlined in a Safe Worship Agreement and they are compliant with any parole and reporting conditions while attending parish or church activities.

1207. The Support and Accountability Team must meet with the person and agree on a level of support which must then be approved by the Director of Professional Standards. The level of support will vary according to the seriousness of prior or alleged offences but may include attendance at only specified worship services, sitting apart from children or young people, staying away from areas of parish property where children or young people meet, not being part of parish activity that includes children or young people and not accepting nomination for election to any leadership role in the parish.

1208. The Safe Worship Agreement must be signed by the parish priest and finalised before the person attends or continues to attend the parish. If the Worship Agreement is breached, or a child or vulnerable person is considered to be at risk, the parish priest must act to ensure the safety of people in the church and must notify the Director of Professional Standards immediately.

1209. According to the Safe Ministry Policy, the Safe Worship Agreement helps to manage risk by ensuring that the local priest and Professional Standards Director are aware of any possible

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1881 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.15.11].
1882 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.15.12].
1883 Exhibit 42-0001, ‘Diocesan Council Minutes’, Case Study 42, ANG.0006.001.1030 (Tab 379 of Tender Bundle).
1884 Transcript of M Elliott, Case Study 42, 11 August 2016, 17190:14-18; Transcript of M Elliott, Case Study 42, 11 August 2016, 17197:28-32.
1885 Exhibit 42-0001, ‘Safe Ministry Policy 2013’, Case Study 42, ANG.0006.001.1030 at 1033 (Tab 462 of Tender Bundle).
1886 Exhibit 42-0001, ‘Safe Ministry Policy 2013’, Case Study 42, ANG.0006.001.1030 at 1034 (Tab 462 of Tender Bundle).
1887 Exhibit 42-0001, ‘Safe Ministry Policy 2013’, Case Study 42, ANG.0006.001.1030 at 1034 (Tab 462 of Tender Bundle).
1888 Exhibit 42-0001, ‘Safe Ministry Policy 2013’, Case Study 42, ANG.0006.001.1030 at 1035 (Tab 462 of Tender Bundle).
risk of persons participating in their local church. It allows certain people to participate in the parish, without exposing vulnerable people to their presence where it is unsafe to do so.\textsuperscript{1989}

1210. Assistant Bishop Stuart told the Royal Commission that a Safe Worship Agreement requires the consent of the participating person and it not uncommon for people who are persons of concern not to agree to sign the agreement.\textsuperscript{1990}

1211. Assistant Bishop Stuart said that the Safe Worship Agreement was not just to make sure people in the congregation were kept safe but to also provide a pastoral and supportive framework for persons of concern as people that are supported reduced the chance of recidivism.\textsuperscript{1991}

**Risk Management of Mr Lawrence and Mr Goyette**

1212. Assistant Bishop Stuart gave evidence that it was his understanding in late 2012 that risk management plans were to be put in place in relation to Mr Lawrence and Mr Goyette. At that time, Mr Lawrence and Mr Goyette were worshippers at the Parish of St Stephen’s at Adamstown. The parish priest was, and remains, Reverend Christopher Bird.\textsuperscript{1992}

1213. On 17 September 2012, Bishop Farran sent a letter, drafted by Assistant Bishop Stuart, to Reverend Bird outlining the risk management expectations in relation to Mr Lawrence and Mr Goyette.\textsuperscript{1993}

1214. In early February 2013, after becoming Administrator of the Diocese, Assistant Bishop Stuart met with Reverend Bird.\textsuperscript{1994} Following the meeting, Assistant Bishop Stuart spoke again with Reverend Bird, who told him that he did not expect that Mr Lawrence would sign a risk management plan.\textsuperscript{1995} Consistent with this position, Mr Lawrence told the Royal Commission that he would not sign a risk management agreement as it could be construed as an ‘admission of guilt’.\textsuperscript{1996}

1215. Assistant Bishop Stuart gave evidence that he observed that Reverend Bird was himself reluctant to implement the agreement, as he had concerns about the Professional Standards Board process with respect to Mr Lawrence and Mr Goyette and did not consider the agreement was necessary.\textsuperscript{1997}

1216. Assistant Bishop Stuart gave evidence that while he was dissatisfied with Reverend Bird’s attitude, at that time there were no options to enforce a priest to enter into a risk
management agreement. Assistant Bishop Stuart said that part of his own work was to make sure Reverend Bird could be compelled to get involved.

1217. On 2 May 2013, Mr Michael Elliott wrote to Mr Goyette, Mr Lawrence, Mr Hoare and Mr Duncan informing them that the Diocese wished to implement a risk management agreement with them. Mr Michael Elliott received a response from Mr Goyette’s solicitor dated 6 May 2013 advising that he would not enter into any such arrangement.  

1218. Assistant Bishop Stuart said that after the Safe Ministry Policy was implemented in September 2013, he met with Reverend Bird on 2 October 2013 to outline the policy and the expectations of Reverend Bird. Assistant Bishop Stuart said that all clergy were reminded of their obligations in November 2013.  

1219. Further attempts to implement Safe Worship Agreements, which were introduced under the Safe Ministry Policy, for Mr Lawrence and Mr Goyette are discussed in Section 7 below.

Available findings:

AF130 There was continued resistance in some quarters of the Diocese to implementing a risk management policy to manage the presence of persons charged or convicted of serious sexual misconduct who wished to worship in parishes in the Diocese.

AF131 The delay in enacting a risk management policy within the Diocese resulted in unreasonable delays in the implementation of risk management plans for Mr Lawrence, Mr Goyette and Kitchingman.

AF132 Reverend Bird, the priest at St Stephen’s in Adamstown where Mr Lawrence and Mr Goyette worshipped, did not initially cooperate in the implementation of risk management plans for Mr Lawrence and Mr Goyette.

6.4 Uncovering evidence of past child sexual abuse allegations

1220. Assistant Bishop Stuart gave evidence of meeting with Mr Keith Allen on 29 January 2013 just after they had had a Diocesan trustee meeting. During this meeting, Mr Allen outlined practices that had occurred in the past in the Diocese around handling of information about child sexual abuse and the ‘brown’ envelopes. He said he was ‘deeply disturbed’ by what Mr
Allen told him.  This was the first time Assistant Bishop Stuart became aware of the yellow envelopes.

1221. Assistant Bishop Stuart said that Mr Allen told him that there was a group of people who undertook regular reviews of the complaints. Mr Allen also told him that there were people known to each other who were involved in child sexual abuse, including Rushton and Father James Brown.

1222. Assistant Bishop Stuart said that he had a meeting with Mr Michael Elliott and Mr Cleary later the same day as he wanted Mr Michael Elliott to hear what he had heard. Mr Michael Elliott took a filenote of the conversation.

1223. Shortly after the meeting with Mr Allen, Assistant Bishop Stuart wrote to him stating that it appeared that he was one of the few current Diocesan officeholders who was well placed to understand the way allegations of sexual misconduct were handled prior to Bishop Farran’s episcopate. Assistant Bishop Stuart requested that Mr Allen meet with him to tell him what he knew. However, Mr Allen never provided him with further information.

1224. On 21 February 2013, Assistant Bishop Stuart directed Mr Michael Elliott to undertake a review of past cases of child sexual abuse within the Diocese and attempt to locate relevant files and documents in case they were to be sought by the Royal Commission.

1225. On 19 March 2013, Assistant Bishop Stuart wrote to the NSW Police to advise that he had recently become aware that in the 1980s and 1990s the Diocese kept envelopes of information in relation to clergy of concern. He said it was possible that some misconduct was illegal conduct and was not reported to police at the time. He advised that the yellow envelopes could be obtained from Mr Michael Elliott.

Available finding:

AF133 Assistant Bishop Stuart, while Administrator of the Diocese, acted appropriately in directing that a review be conducted of past cases of child sexual abuse in the Diocese and in disclosing to the NSW Police past instances of clergy misconduct which may have involved illegal conduct.
6.5 Concluding remarks

1226. Assistant Bishop Stuart was Administrator of the Diocese during an important period of policy development for the Diocese in the areas of professional standards, redress claim resolution, risk management and conflicts of interest.

1227. As detailed above, during the period of Assistant Bishop Stuart’s leadership of the Diocese, a policy for resolving redress claims outside of the PCAS was implemented.

1228. Assistant Bishop Stuart also successfully implemented a conflict of interest policy based on that used in the Anglican Diocese of Perth.

1229. After model guidelines for the risk management of persons of concern participating in parish activities were originally proposed by the General Synod in 2009, the Diocese implemented a Safe Ministry Policy in September 2013 that compelled parish priests to implement Safe Worship Agreements with persons of concern in their parishes. There was a significant and unreasonable delay in enacting a risk management policy, which resulted in a corresponding delay in implementing risk management plans in relation to Mr Lawrence, Mr Goyette and Kitchingman, who were all actively worshipping in the Diocese during that period.

1230. Both Mr Cleary and Mr Michael Elliott were critical in their evidence about some of the actions of Assistant Bishop Stuart. Mr Cleary described some of these actions as ‘respondent-driven’. Assistant Bishop Stuart rejected any suggestion that he was siding with people who wanted to undermine the professional standards system. No finding should be made that Assistant Bishop Stuart’s actions were ‘respondent driven’. The evidence shows that he worked diligently to progress matters relating to child protection in the Diocese and redress for past abuse.

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2014 Transcript of J Cleary, Case Study 42, 23600:20-23.
2015 Transcript of P Stuart, Case Study 42, 23394:30-39.
7  Institutional Response under Bishop Greg Thompson  
(February 2014 to present)

7.1  Introduction

1231.  Bishop Greg Thompson is the current Bishop of the Newcastle Diocese. He has held this position since 2 February 2014.\(^{2016}\)

1232.  Bishop Thompson is himself a survivor a child sexual abuse, and of abuse he says was perpetrated against him when he was 19 years old by the then Bishop of Newcastle, Bishop Shevill and Canon Eric Barker. Those experiences were detailed in Section 3 of these submissions.

1233.  Bishop Thompson gave evidence of his view that there was a systemic problem of child sexual abuse in the Diocese over many decades.\(^{2017}\) He said that the Professional Standards Director Mr Michael Elliott had identified 30 separate perpetrators in the Diocese.\(^{2018}\) Upon becoming Bishop of Newcastle, Bishop Thompson was aware of the matters that had been publicly reported in the media but said he had no idea of the magnitude of the problem.\(^{2019}\)

1234.  Bishop Thompson embarked upon a ‘listening tour’ after being enthroned in the Diocese and formed the view that there was a disturbing culture within elements of the Diocese, where there was ‘little empathy for victims’\(^{2020}\) and where ‘a high amount of sympathy [was] expressed towards clergy in how they were being disciplined’\(^{2021}\). He gave evidence that he experienced a backlash within the Diocese when he went public about his own experiences of abuse.

1235.  This section of the submissions:

a.  Provides an overview of the ‘listening tour’ undertaken by Bishop Thompson upon commencing his episcopate in February 2014;

b.  Discusses the backlash experienced by Bishop Thompson following his 2015 disclosure of sexual abuse by Bishop Shevill and another senior member of clergy in the 1970s;

c.  Explores the various dealings of the Diocese with Mr Keith Allen, and in particular, the warnings about Mr Allen given to Bishop Thompson from previous bishops; the disclosures made by Mr Allen to Bishop Thompson and Mr John Cleary in 2014 and

\(^{2016}\) Transcript of G Thompson, Case Study 42, 24 November 2016, 23634:44-45.

\(^{2017}\) Transcript of G Thompson, Case Study 42, 24 November 2016, 23638:39-43.

\(^{2018}\) Transcript of G Thompson, Case Study 42, 24 November 2016, 23638/45 to 23639:3.

\(^{2019}\) Transcript of G Thompson, Case Study 42, 24 November 2016, 23639:10-20.

\(^{2020}\) Transcript of G Thompson, Case Study 42, 24 November 2016, 23640:7-8.

\(^{2021}\) Transcript of G Thompson, Case Study 42, 24 November 2016, 23639:43-44.
2015; Mr Allen’s involvement with CKM’s claim for redress; and Bishop Thompson’s suspension of Mr Allen in early 2015;

d. Discusses the implementation of the Responsible Persons Ordinance 2015;

e. Sets out the risk management processes adopted in relation to Mr Lawrence, Mr Goyette and CKC;

f. Identifies the implementation of amendments in 2015 to the Professional Standards Ordinance 2012, including to section 77 of the Ordinance;

g. Discusses the changes to the redress policies in the Diocese; and

h. Explores the reforms to culture undertaken under Bishop Thompson’s leadership, including the creation and role of ‘parish recovery’ teams.

7.2 Bishop Thompson’s listening tour in 2014

1236. Bishop Thompson told the Royal Commission that, after being installed as Bishop of Newcastle, he commenced a ‘listening process’ for about six months. His purpose was to obtain feedback from Church members on how they perceived the Diocese was operating. Bishop Thompson and his senior clergy subsequently met with approximately 2,000 to 3,000 people within the Diocese.

1237. It was not until Bishop Thompson had undertaken the listening process that he understood the extent of the problems in the Diocese concerning child sexual abuse.

1238. Bishop Thompson found a high level of sympathy within the Diocese for clergy in relation to their treatment in disciplinary proceedings for professional misconduct. Specifically, Bishop Thompson observed that a large number of people held the view that the disciplinary action taken against Mr Lawrence and others by Bishop Brian Farran was unfair. He says he was asked on a number of occasions to reverse the disciplinary steps that Bishop Farran had taken in relation to Mr Lawrence.

1239. In contrast, Bishop Thompson found that some Church members expressed little sympathy for victims. Bishop Thompson gained ‘a strong impression’ that a large number of parishioners ‘couldn’t talk about the sex abuse that has taken place in the Diocese’.

1240. Consistent with Bishop Thompson’s observations, Mr Cleary, Mr Michael Elliott, Assistant Bishop Stuart and Bishop Farran gave evidence to the effect that there is a groundswell of
‘pro-perpetrator’ people in the Diocese, many of whom opposed the professional standards framework under which clergy are disciplined.2029

1241. Bishop Thompson also gave evidence of encountering the position that Bishop Farran’s actions against Mr Lawrence and others were motivated by homophobia. He explained: 2030

I think this is an area which has been used to subvert the discipline of these clergy. ... It’s quite clear to me that there was a predatory culture. It happened to be with some homosexual men and there were obviously bisexual men as well. Predatory behaviour relates to all sexual orientations when it takes place.

... There is no homophobic feeling in my life towards these people. It’s the deep sense that children and vulnerable people were taken advantage of. ... Bishop Farran rightly identified this as predatory behaviour.

7.3 Backlash experienced by Bishop Thompson when he disclosed his own abuse in 2015

1242. In August 2015, two members of the clergy told the Diocesan Synod of their own experiences of sexual abuse when they were children. Their stories were subsequently published in the Anglican Encounter, which is a Diocesan publication.2031

1243. On 25 October 2015, Bishop Thompson publicly disclosed his own story of abuse in an article in the Newcastle Herald. 2032

1244. Bishop Thompson told the Royal Commission that his public disclosure of abuse led to a considerable backlash by a group within the Diocese who were largely connected to the Cathedral.2033 Many within this group had previously held office in one capacity or another in the Diocese. Together, this group co-signed a letter to the Royal Commission dated 13 April 2016 to express concerns about Bishop Thompson’s conduct.2034 The signatories to this letter were: Mr Simon Adam; Mr Robert Caddies; Ms Jocelyn Caddies; Ms Pamela Dowdell; Ms Suzanne Evans; Mr Gregory Hansen; Mr John McNaughton AM; Ms Margaret McNaughton AM; Ms Lyn Scanlon; Mr William Scott; Mr David Stewart; Ms Mary Stewart; Mr Laurie Tabart; Mr Andrew Traill; Ms Virginia Wheeler and Ms Stephen Brooker.

1245. As set out in that letter, the substance of their grievances was:

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2029 Transcript of J Cleary, Case Study 42, 24 November 2016, 23583:12-27; Transcript of B Farran, Case Study 42, 17 November 2016, 23277 13-16; Exhibit 42-0114, ‘Supplementary Statement of Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [3.5.2], [7.6], [8.12]; Exhibit 42-0054, ‘Further Statement of Michael Elliott’, Case Study 42, STAT.1088.001.0001_R at [50], [57]; Transcript of M Elliott, Case Study 42, 11 August 2016, 17042:18-37, 17068:12-17069:28.

2030 Transcript of G Thompson, Case Study 42, 24 November 2016, 23640:39 to 23641:12.

2031 Exhibit 42-0099, ‘Statement of Robert Caddies’, Case Study 42, STAT.1000.001.0001_R at [14]-[15].

2032 Exhibit 42-0129, ‘Supplementary Statement of Bishop Greg Thompson’, STAT.1081.001.0001_R at [20]-[21]; Exhibit 42-0001, ‘Newcastle Herald article entitled “Anglican Bishop Greg Thompson sexually abused by late Bishop Ian Shevill”, Case Study 42, ANG.0204.001.0001 (Tab 409 of Tender Bundle).’

2033 Transcript of G Thompson, Case Study 42, 24 November 2016, 23642:9-12, 23642:34 – 23643:16.

2034 Transcript of R Caddies, Case Study 42, 16 November 2016, 23108:22-38; Exhibit 42-102, ‘Statement of Robert Norman Caddies’, Case Study 42, STAT.1000.001.0001_R at [19]-[20]; Exhibit 42-0001, ‘Letter from various Anglican laypersons to Royal Commission dated 13 April 2016’, Case Study 42, CORR.0220.001.0001_R (Tab 421 of Tender Bundle).
a. That Bishop Thompson did not report his alleged abuse in the 1970s at the time and only did so recently, ‘thus potentially exposing younger members of the Diocese to the danger involved’;

b. By failing to name the second clergyman who had abused him publicly (noting Bishop Thompson later disclosed that it was Canon Eric Barker), Bishop Thompson had created a climate of suspicion and speculation within the Diocese as to the potential identity of the second perpetrator; and

c. In light of the recent disclosures of the two clergy to the Diocesan Synod, there was a question as to whether Bishop Thompson had known of these allegations and whether he had taken any action, particularly as a Bishop in the Church since 2007, to protect children in the Diocese.

1246. Mr Caddies, Mr McNaughton AM and the other signatories to the letter to the Royal Commission sent similar letters to the Metropolitan of Sydney, Archbishop Glenn Davies, and the Primate of the Anglican Church. They wrote to Archbishop Davies that they were ‘gravely concerned’ that Bishop Thompson had ‘besmirched’ the good name of Bishop Shevill and that Bishop Shevill’s behaviour may have been ‘misinterpreted’. They criticised Bishop Thompson for publicly disclosing his abuse and appealing to victims to come forward. They said Bishop Thompson’s ‘ill-health’ appeared to be impairing his performance as Bishop.

1247. Mr Caddies, a co-signatory to these letters, told the Royal Commission that he regarded Bishop Thompson as a ‘damaged soul’. Mr John McNaughton also questioned Bishop Thompson’s mental health and fitness to continue as Bishop in light of his alleged abuse.

1248. Bishop Thompson told the Royal Commission that when he became aware of these letters, he felt publicly shamed and intimidated and also felt a ‘deep sense of betrayal’. In his statement to the Royal Commission, Bishop Thompson stated:

I found this criticism to be particularly disturbing in that my honesty and integrity were being questioned by them, in circumstances where it had taken me many years to come to terms with those events and to even be able to speak about them.

1249. Bishop Thompson said that these letters formed part of a pattern or practice of public harassment, intimidation and vandalism which he and his staff have experienced at the hands of people within the Diocese who were aggrieved by his leadership and the discipline of

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1235 Exhibit 42-0001, ‘Letter from various Anglican laypersons to Royal Commission dated 13 April 2016’, Case Study 42, CORR.0220.001.0001_R (Tab 421 of Tender Bundle); Exhibit 42-0099, ‘Statement of Robert Caddies’, Case Study 42, STAT.1000.001.0001_R at [27].


1238 Transcript of R Caddies, Case Study 42, 16 November 2016, 23196:29-31; Exhibit 42-0099, ‘Statement of Robert Caddies’, Case Study 42, STAT.1000.001.0001_R at [29].

1239 Exhibit 42-0179, ‘Statement of John McNaughton AM’, Case Study 42, STAT.1030.001.0001_R at [39].


1241 Exhibit 42-0129, ‘Supplementary Statement of Bishop Greg Thompson’, Case Study 42, STAT.1081.001.0001 at [21].
clergy. Bishop Thompson told the Royal Commission that this culture within the Diocese has sent him ‘a strong message’ that he was not safe in the Cathedral community.

1250. Mr Caddies told the Royal Commission that he and the other signatories ‘were desperately unhappy about the problems in the Diocese’, including the ‘unfair’ treatment of clergy. He said that Bishop Thompson’s approach of publicly disclosing his abuse to the media had ‘a negative impact on the Anglican community’ and damaged the ‘good reputation’ of Bishop Shevill, particularly with respect to his children. Mr John McNaughton expressed similar sentiments and described Bishop Thompson’s conduct as ‘disgraceful’ and ‘scandalous’.

1251. Mr Caddies agreed that he was one of the leaders of coordinated opposition to Bishop Thompson. However, he insisted that these letters were not ‘complaints’ but were ‘merely raising a question … for consideration’. He said that the matter of Bishop Thompson’s public disclosure was ‘a very small part of the concerns’ concerning the Bishop. These concerns included Bishop Thompson failing to meet with members of this group at their request, failing to attend church services and taking extended leave.

1252. Mr Caddies said that he and the other signatories did not approve of Bishop Thompson’s public disclosure but denied that they sought to keep such matters private within the Diocese. Mr Caddies said that they were ‘always anxious, even in the times of [CASM], for people who had been unfairly treated to come forward’.

1253. Mr Caddies agreed that it was a very serious allegation to make that by taking no action at the time of his abuse, Bishop Thompson had potentially exposed younger members of the Diocese to danger. He said that since April 2016, he has gained a better understanding of the experience of survivors. This was notwithstanding his 45 years’ experience as a lawyer and seven years’ experience as a member of CASM. He also said that having heard the evidence before the Royal Commission, and having experienced a similar incident himself at the same age, he accepted Bishop Thompson’s account of his abuse at the hands of Bishop Shevill.

1254. Mr Caddies conceded that certain comments in the letters were made on an untruthful or inaccurate basis. While denying throughout his oral evidence that the letters were indicative of a campaign to discredit Bishop Thompson, Mr Caddies ultimately conceded that

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2042 Transcript of G Thompson, Case Study 42, 24 November 2016, 23642:45-23644:30; Transcript of R Caddies, Case Study 42, 16 November 2016, 23111:4-22.

2043 Transcript of G Thompson, Case Study 42, 24 November 2016, 23642:45-23643:16.


2046 Exhibit 42-0179, ‘Statement of John McNaughton AM’, Case Study 42, STAT.1030.001.0001_R at [29]-[40].

2047 Transcript of R Caddies, Case Study 42, 16 November 2016, 17557:4-9.

2048 Transcript of R Caddies, Case Study 42, 16 November 2016, 23107:3-9, 23107:26-31, 23110:3-21.

2049 Transcript of R Caddies, Case Study 42, 16 November 2016, 23110:2-46; Exhibit 42-0001, ‘Letter from Various to Archbishop Glenn Davies dated 13 April 2016’, Case Study 42, ANG.0309.001.0000_R (Tab 420 of Tender Bundle).

2050 Transcript of R Caddies, Case Study 42, 16 November 2016, 23111:6-33.

2051 Transcript of R Caddies, Case Study 42, 16 November 2016, 23116:36-46.


2053 Transcript of R Caddies, Case Study 42, 16 November 2016, 23110:2-46.

2054 Transcript of R Caddies, Case Study 42, 16 November 2016, 23112:9-21.

2055 Transcript of R Caddies, Case Study 42, 16 November 2016, 23112:40-23114:3; Exhibit 42-0001, ‘Letter from Various to Archbishop Glenn Davies dated 13 April 2016’, Case Study 42, ANG.0309.001.0000_R at 0003_R (Tab 420 of Tender Bundle).
in sending these letters he had sought to criticise Bishop Thompson and challenge his credibility.\textsuperscript{2056} However, he emphatically denied that his conduct reflected an attitude which was ‘pro-perpetrator’ or prejudiced against Bishop Thompson.\textsuperscript{2057}

\subsection*{Available findings:}

\begin{tabular}{|p{1.0\textwidth}|}
\hline
\textbf{AF134} Following Bishop Thompson’s decision to publicly announce his alleged abuse at the hands of Bishop Shevill and another senior member of clergy in the 1970s, he experienced a backlash from sections within the Diocese, largely connected to the Cathedral, and this backlash included the making of complaints about Bishop Thompson to the Royal Commission, the then Primate of the Anglican Church, and the Metropolitan of the Anglican Diocese of Sydney.
\hline
\textbf{AF135} This group within the Diocese drove a process to discourage the Diocese from dealing with allegations of child sexual abuse and, in doing so, perpetuated a culture of cover up and denial.
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\end{tabular}

\subsection*{7.4 Dealings with Mr Keith Allen}

\subsection*{Warnings about Mr Allen from Arch Bishop Herft and Bishop Farran}

\subsection*{Mr Allen’s disclosures and attempts to taint the Royal Commission process}

\subsection*{7.4.1 Bishop Thompson told the Royal Commission that both then Archbishop Roger Herft and Bishop Farran had warned him when he first came to the Diocese that they had experienced issues with Mr Allen and that ‘he may have had his own agenda’.\textsuperscript{2058}}

Mr Allen accepted that each


\textsuperscript{2057} Transcript of R Caddies, Case Study 42, 16 November 2016, 23193:34-44.

\textsuperscript{2058} Exhibit 42-0001, ‘Supplementary Statement of Bishop Greg Thompson’, STAT.1081.001.0001_R at [72].

\textsuperscript{2059} Exhibit 42-0001, ‘Filenote by John Cleary of meeting with Keith Allen on 11 February 2015’, Case Study 42, ANG.0132.001.0014_R (Tab 392 of Tender Bundle); Exhibit 42-0001, ‘Filenote by John Cleary of meeting with Keith Allen and Bishop Greg Thompson on 18 February 2015’, Case Study 42, NPF.0018.001.0024_R (Tab 393 of Tender Bundle); Exhibit 42-0001, ‘Filenote of meeting between Keith Allen, John Cleary and Bishop Greg Thompson’, Case Study 42, ANG.0132.001.0008_R (Tab 400 of Tender Bundle).
of these conversations occurred. However, he disputed parts of what the filenotes indicated that he had said.

1258. This section deals with two issues that arose from Mr Allen’s disclosures to Bishop Thompson and Mr Cleary, being first, Mr Allen’s disclosures about the Diocese’s past practices in handling child sexual abuse allegations, and secondly, Mr Allen’s advice to the Diocese for dealing with this Royal Commission. Details of other disclosures made by Mr Allen are dealt with elsewhere in these submissions.

Mr Allen’s disclosures about the Diocese’s past handling of child sexual abuse allegations

1259. According to a filenote prepared by Mr Cleary, Mr Allen told him and Bishop Thompson that Bishop Holland had a ‘do nothing’ approach with respect to reports of child sexual abuse, and gave examples. Mr Allen confirmed in evidence that he had said this. Bishop Holland said he could not recall any person reporting child sexual abuse to him during his tenure as Bishop of Newcastle.

1260. Mr Allen also gave evidence confirming that he had told Bishop Thompson and Mr Cleary that he was on an informal committee that provided advice to Bishop Herft on professional standards matters. Mr Allen said that he and the other panel members had provided advice on matters the subject of yellow envelopes, without seeing the contents of the envelopes, and on a de-identified basis. Such advice included whether or not to go to the police.

1261. Mr Allen alleged that the other members of this informal panel were Mr James Helman, Mr Lawrence, Mr Caddies and Mr Peter Mitchell. However, Bishop Herft, Mr Lawrence, Mr Caddies, and Mr Mitchell all denied that such a panel, informal or otherwise, existed. In view of the fact that all other persons alleged to be on the panel deny the existence of such a panel (except Mr Helman who did not give evidence) and that Mr Allen was in some respects not a truthful witness, it is not open to find that such a panel existed.

1262. Mr Allen further confirmed in his oral evidence that he had told Bishop Thompson and Mr Cleary that during Bishop Herft’s episcopate, there was a culture of not reporting child sexual abuse matters to the police. He also said that the advisory panel on occasion ‘did nothing’ in response to child sexual abuse allegations and preferred to ‘let sleeping dogs lie’. Bishop Herft denied that there was such a culture.

2060 Exhibit 42-0001, ‘Filenote of meeting between Keith Allen, John Cleary and Bishop Greg Thompson’, Case Study 42, ANG.0132.001.0008_R at [12] (Tab 400 of Tender Bundle); Transcript of K Allen, 8 August 2016, 16715:4-16717:28.


2064 Transcript of P Mitchell, Case Study 42, 10 August 2016, 16935:7-15, 16941:3-10; Transcript of R Herft, Case Study 42, 12 August 2016, 17280:45-17281:3; Transcript of R Caddies, Case Study 42, 16 November 2016, 23128:38-23129:3; Transcript of G Lawrence, Case Study 42, 18 November 2016, 23407:18-24.

2065 Transcript of K Allen, Case Study 42, 8 August 2016, 16717:30-16718:22.

2066 Transcript of K Allen, Case Study 42, 8 August 2016, 16734:13-16735:36.

2067 Transcript of R Herft, Case Study 42, 12 August 2016, 17229:25-47.
Mr Allen’s advice for engaging with the Royal Commission

1263. Bishop Thompson and Mr Cleary alleged that during their conversations with Mr Allen, and consistent with Mr Cleary’s filenotes, Mr Allen suggested to them that the Diocese should obtain free legal counsel from the Attorney-General’s Department. They should then prepare ‘fixed statements’ on behalf of those members of the Diocese listed in the Royal Commission summons issued in May 2014.

1264. Mr Allen allegedly said that producing these statements to the Royal Commission would put the Diocese ‘in the driving seat’ as it would ‘reduce the likelihood of cross-examination’. Mr Allen indicated that his advice was based on his experiences assisting his wife, Dr Sandra Smith, who was a witness in the Royal Commission’s Case Study 21: Satyananda Yoga Ashram.2069

1265. In relation to his suggested preparation of ‘fixed statements’ for the Royal Commission, Mr Allen denied using that term and said that he had instead told Mr Cleary that the Diocese should make ‘full disclosure’.

1266. Mr Allen did not dispute that he had suggested the Diocese should pre-emptively prepare statements for the Royal Commission. That this was his advice is further supported by Mr Allen’s own actions: on 27 June 2016, Mr Allen produced a statement to the Royal Commission that contained limited detail, and which had not been requested by Royal Commission staff.2070

1267. Mr Cleary’s filenote recorded that on a number of occasions during Mr Allen’s conversations with Bishop Thompson and Mr Cleary, Mr Allen made the observation that producing such statements would minimise cross-examination. Mr Allen did not deny saying this. It was put to Mr Allen that in making this suggestion, Mr Allen was attempting to mislead the Commission. Mr Allen denied that this was his intention, but was not able to explain what his intention was in saying that preparing statements would minimise cross-examination.2071

1268. It is open to find that Mr Allen advised Bishop Thompson and Mr Cleary to prepare statements pre-emptively on behalf of members of the Diocese who were the subject of Royal Commission enquiries, and that he told them that this was for the purpose of minimising possible cross-examination.

Available findings:

AF136 On several occasions in 2014 and 2015, Mr Allen advised Bishop Thompson and Mr Cleary to pre-emptively prepare statements for the Royal Commission on behalf of members of the Diocese who were the subject of Commission enquiries.

AF137 Mr Allen told Bishop Thompson and Mr Cleary that the purpose of preparing these statements and producing them to the Royal Commission was to minimise possible cross-examination.

2068 Exhibit 42-0129, ‘Supplementary Statement of Bishop Greg Thompson’, STAT.1081.001.0001_R at [75]-[76].

2069 Royal Commission into Institutional Responses to Child Sexual Abuse, Report of Case Study No 21: The response of the Satyananda Yoga Ashram at Mangrove Mountain to allegations of child sexual abuse by the ashram’s former spiritual leader in the 1970s and 1980s, Sydney, 2016, p 60.

2070 Exhibit 42-0001, ‘Letter from Keith Allen to the Royal Commission dated 27 June 2016’, Case Study 42, IND.0466.001.0001_R (Tab 423 of Tender Bundle).

2071 Transcript of K Allen, Case Study 42, 8 August 2016, 16729:6-14.
1269. Bishop Thompson and Mr Cleary also gave evidence that during their conversations with Mr Allen in 2014 and 2015, he advised them that the best approach at the Royal Commission was to indicate that ‘you have no files or notes’ and ‘can only rely on your memory’, as this would prevent cross-examination.\textsuperscript{2072}

1270. During his oral evidence before the Royal Commission, Mr Allen repeatedly stated that he had no records and, as a consequence, that he did not have any clear recollection of a number of matters about which he was asked. Mr Allen accepted that he was following his own advice in answering questions this way.\textsuperscript{2073}

Mr Allen’s document holdings

1271. Mr Cleary and Bishop Thompson gave evidence of Mr Allen’s inconsistent accounts as to whether he possessed records relevant to child sexual abuse within the Diocese. In June 2014 and on 18 February 2015, Mr Allen told Bishop Thompson, variously, that he possessed professional standards files that the Diocese did not have, and that he had handed all files back to the Diocese.

1272. As a result of these conversations, Bishop Thompson wrote to Mr Allen on 9 March 2015 requesting such files.\textsuperscript{2074} At a subsequent meeting between Bishop Thompson, Mr Cleary and Mr Allen on 26 March 2015, Mr Allen gave a third account, which was that he had destroyed all of his files.\textsuperscript{2075}

1273. Mr Allen disputed that he used the word ‘file’ in his discussion with Bishop Thompson in June 2014. Mr Allen stated, ‘I don’t agree that the Bishop’s translation or the Bishop’s words in the letter are reflective of what was said. The Bishop talks about “files.” I don’t have any files.’\textsuperscript{2076}

1274. Mr Allen said that it was not correct that he passed documents to the Diocese, though he did not dispute that he had told Bishop Thompson that he had.\textsuperscript{2077}

1275. Under further examination, Mr Allen gave evidence that he did not have any documents in relation to professional standards matters at all, or any records or notes of his assistance to various bishops that would be of assistance to the Royal Commission.\textsuperscript{2078} Mr Allen said that the only ‘file’ he held was the file concerning CKC’s legal proceedings, which Mr Allen produced to the Royal Commission under summons.

1276. The Royal Commission should prefer the evidence of Bishop Thompson and Mr Cleary.

\textsuperscript{2072} Exhibit 42-0001, ‘Filenote of meeting between Keith Allen, John Cleary and Bishop Greg Thompson’, Case Study 42, ANG.0132.001.0008_R at [21] (\textit{Tab 400 of Tender Bundle}); Transcript of J Cleary, Case Study 42, 23 November 2016, 23559:37-23560:1; Transcript of G Thompson, Case Study 42, 24 November 2016, 23650:31-23651:18.

\textsuperscript{2073} Transcript of K Allen, Case Study 42, 8 August 2016, 16722:8-16723:8.

\textsuperscript{2074} Exhibit 42-0001, ‘Letter from Bishop Greg Thompson to Keith Allen in relation to the Royal Commission’, Case Study 42, ANG.0195.001.0038_R (\textit{Tab 397 of Tender Bundle}); Transcript of G Thompson, Case Study 42, 24 November 2016, 23651:45-23652:1

\textsuperscript{2075} Exhibit 42-0001, ‘Filenote of meeting between Keith Allen, John Cleary and Bishop Greg Thompson’, Case Study 42, ANG.0132.001.0008_R (\textit{Tab 400 of Tender Bundle}).

\textsuperscript{2076} Transcript of K Allen, Case Study 42, 8 August 2016, 16713:42-46.

\textsuperscript{2077} Transcript of K Allen, Case Study 42, 8 August 2016, 16713:38.

\textsuperscript{2078} Transcript of K Allen, Case Study 42, 8 August, 16711:37-16714:42.
Available finding:

AF138 Mr Allen provided inconsistent accounts to Bishop Thompson and Mr Cleary regarding whether he held professional standards files:

a. In June 2014, Mr Allen told Bishop Thompson that he held professional standards files that the Diocese did not have;

b. In February 2015, Mr Allen told Bishop Thompson and Mr Cleary that he did not hold such files;

c. In March 2015, Mr Allen told Bishop Thompson and Mr Cleary that he had destroyed all files.

Mr Allen’s involvement in CKM’s claim for redress

1277. On 11 February 2015, Mr Cleary attended a meeting with Mr Allen during which they discussed a civil claim that CKM would make against the Diocese for abuse allegedly perpetrated by CKN, a former CEBS youth leader. Mr Allen had previously acted for CKM in a criminal matter. At that time, CKM disclosed to him the allegations of abuse. In Mr Cleary’s 12 February 2015 filenote of the meeting he recorded that Mr Allen said the following:

Allen advised that the diocese will receive a claim soon from CKM through Solicitor Michael Daley … Allen advised he is good friends with Daley and often does locum work for Daley…

Allen advised that it will be a ‘small claim’ and that it will be resolved with a few letters. Allen advised he is assisting Michael Daley with this claim. …

Allen advised the claim settlement will ‘be easy’ with CKM and he will facilitate it through Daley.

1278. Mr Allen’s evidence about the accuracy of this filenote varied. Eventually he said that he could not remember whether he had said these things or not, and that it could have been said. Mr Cleary told the Royal Commission that he prepared the filenote when the matter was still fresh in his mind, and confirmed that he sought to ensure that his record was as accurate as possible. The Royal Commission should find that the filenote accurately records what Mr Allen said about settling the CKM claim.

Available findings:

AF139 On 11 February 2015, Mr Allen told Mr Cleary that he would assist solicitor Mr Michael Daley make a claim against the Diocese on behalf of CKM, that it would only be a small


2080 Exhibit 42-0033, ‘Letter from Keith Allen to John Cleary dated 5 July 2010’, Case Study 42, ANG.0048.001.6210_R.

2081 Exhibit 42-0001, ‘Filenote by John Cleary of meeting with Keith Allen on 11 February 2015’, ANG.0132.001.0014_R.


2083 Transcript of J Cleary, Case Study 42, 23 November 2016, 23554:34-23555:35.
The clear inference from Mr Allen’s statements was that he would work to ensure that CKM only made a small claim against the Diocese and the matter would be quickly settled.

Available finding:

In 2015, Mr Allen did discuss with solicitor Mr Daley the making of a claim on behalf of CKM against the Diocese for child sexual abuse CKM allegedly suffered as a child.
Available finding:

AF142 In discussing CKM’s redress claim against the Diocese both with CKM’s solicitor and with the Business Manager of the Diocese in 2015, Mr Allen placed himself in a position of conflict. This reflected poor judgment on Mr Allen’s part.

Standing down of Mr Allen under the Responsible Persons Ordinance in 2015

1284. Based on his dealings with Mr Allen, Bishop Thompson formed deep concerns about Mr Allen’s involvement in professional standards matters in the past. He exchanged a series of letters with Mr Allen between April 2015 and May 2015 requesting that Mr Allen stand down from all positions of authority within the Diocese. In his response, Mr Allen maintained that he held no such positions.

1285. Ultimately, on 4 May 2015, Bishop Thompson gave notice to Mr Allen that he was suspended from holding any position of Diocesan authority after having formed the view that Mr Allen was not a ‘responsible person’ within the meaning of the Responsible Persons Ordinance 2015.

1286. Between 19 May 2015 and 7 January 2016, Bishop Thompson and Mr Allen exchanged further letters in relation to the applicable ordinances and the deadline for Mr Allen to request a review of Bishop Thompson’s decision regarding his suspension.

1287. On 16 December 2015, Mr Allen wrote to Bishop Thompson alleging that he had not been afforded procedural fairness and pastoral care and denying the existence of any alleged conflict of interest or past behaviour constituting an offence defined as ‘examinable conduct’.

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2090 Exhibit 42-0001, ‘Letter from Bishop Greg Thompson to Keith Allen in relation to professional standards matters’, Case Study 42, ANG.0195.001.0109_R (Tab 401 of Tender Bundle).


2093 Exhibit 42-0001, ‘Responsible Persons Ordinance 2015’, Case Study 42, ANG.0195.001.0004 at 0005 (Tab 466 of Tender Bundle).

under the Responsible Persons Ordinance 2015.\(^{2095}\) In this same letter, Mr Allen referred to a file in his possession created in the CKC trial.\(^{2096}\)

1288. On 7 January 2016, Mr Cleary wrote to Mr Allen specifically seeking the file concerning CKC referred to in his letter to Bishop Thompson of 16 December 2015.\(^{2097}\) Mr Allen responded to Mr Cleary on 20 January 2016, refusing Mr Cleary’s request and proposing a meeting ‘on neutral ground’.\(^{2098}\)

1289. As at 23 November 2016, Mr Allen had not sought a review of the decision to suspend him from Diocesan offices. However, he maintained that his suspension in May 2016 did not preclude him from seeking office in his local parish.\(^{2099}\)

7.5 Responsible Persons Ordinance 2015

1290. In 2015, the Diocesan Council adopted the Responsible Persons Ordinance 2015. Bishop Thompson explained that a reason for this ordinance was because at this time, he had no power to stand people down from lay offices whom had failed in their duties to the Diocese.\(^{2100}\)

1291. The Responsible Persons Ordinance 2015 allows the Bishop to remove members of Diocesan governance bodies before the expiration of the member’s term of office in circumstances where the Bishop forms the view that a member is not fulfilling the duties of a responsible person, or that the member is not a fit and proper person to be a member.\(^{2101}\) Governance bodies include the Diocesan Council and the Trustees of church property.\(^{2102}\)

1292. Under section 4 of the Responsible Persons Ordinance 2015, a ‘responsible person’ shall ‘fulfil the duties of a responsible person as defined by the [Australian Charities and Not for Profits Commission]’, and comply with standards and expectations for behaviour set out in various Church rules.\(^{2103}\)

1293. The duties of a ‘responsible person’ are those set out in the Australian Charities and Not-for-profits Commission Regulation 2013 (Cth) in section 45.25(2), which states that a ‘responsible

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2098 Exhibit 42-0001, ‘Letter from Keith Allen to Bishop Greg Thompson dated 27 June 2016’, Case Study 42, ANG.0315.001.0001_R (Tab 422 of Tender Bundle);

2099 Transcript of G Thompson, Case Study 42, 23 November 2016, 23647:26-33.

2100 Transcript of G Thompson, Case Study 42, 24 November 2016, 23647:26-33.

2101 Exhibit 42-0001, ‘Responsible Persons Ordinance 2015’, Case Study 42, ANG.0195.001.0004 at 0005 (Tab 466 of Tender Bundle); Exhibit 42-0129, ‘Supplementary Statement of Bishop Greg Thompson’, STAT.1081.001.0001_R at [99]-[100].

2102 Exhibit 42-0001, ‘Responsible Persons Ordinance 2015’, Case Study 42, ANG.0195.001.0004 at [2] (Tab 466 of Tender Bundle).

2103 Exhibit 42-0001, ‘Responsible Persons Ordinance 2015’, Case Study 42, ANG.0195.001.0004 at [4] (Tab 466 of Tender Bundle).
entity [person] must, among other things, disclose any actual or perceived conflict of interest and must not misuse information obtained in performing duties.

### 7.6 Risk management of persons of concern

1294. This section considers the risk management steps taken in relation to CKC, Mr Lawrence and Mr Goyette since Bishop Thompson was enthroned.

#### CKC

1295. On 28 August 2014, Assistant Bishop Stuart forwarded an article about CKC to the Bishops of Bendigo and Ballarat, where, according to the article, CKC held Permissions to Officiate.\(^\text{2104}\)

1296. The following day the Bishop of Ballarat restricted CKC from exercising any authorised ministry.\(^\text{2105}\) On 2 September 2014, the Bishop of Ballarat also issued an Ad Clerum to clergy in his Diocese advising that CKC was the subject of police investigation and had been asked to step aside from any public exercise of his ministry until these matters were resolved.\(^\text{2106}\)

1297. Subsequently, the Bishop of Ballarat issued CKC a Permission to Officiate. However, on 4 March 2016, the Bishop of Ballarat denied CKC’s application for a further Permission to Officiate\(^\text{2107}\) on the basis that CKC gave a false date of birth on a police clearance form.\(^\text{2108}\)

1298. There were no documents in evidence concerning any response from the Diocese of Bendigo.

#### Mr Lawrence and Mr Goyette

1299. Bishop Thompson gave evidence that in early 2014 he met with Reverend Christopher Bird of the Adamstown Parish where Mr Lawrence and Mr Goyette worship about implementing a Safe Worship Agreement for them. Bishop Thompson said that Reverend Bird ‘didn’t believe that this was important, that this was a lot of fuss and there were a lot of other bad things happening in other organisations; why pick on the church?’\(^\text{2109}\)

1300. Reverend Bird said in a statement that from 1986 to 1989, he was the Minor Canon in Residence at the Cathedral under Mr Lawrence, who at that time was Dean of the Cathedral.\(^\text{2110}\) He did not acknowledge in his statement that he had a friendship with Mr

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\(^{2104}\) Exhibit 42-0001, ‘Email from Bishop Peter Stuart to Bishop of Bendigo and Bishop of Ballarat re CKC’, Case Study 42, ANG.0334.001.0138_R (Tab 387 of Tender Bundle)

\(^{2105}\) Exhibit 42-0001, ‘Letter from Bishop Garry Weatherill of Ballarat to Royal Commission regarding CKC’, Case Study 42, ANG.0334.001.0131_R (Tab 425 of Tender Bundle)

\(^{2106}\) Exhibit 42-0001, ‘Ad Clerum issued by Bishop Garry Weatherill of Ballarat regarding CKC’, Case Study 42, ANG.0334.001.0137_R (Tab 388 of Tender Bundle)

\(^{2107}\) Exhibit 42-0001, ‘Letter from Bishop Garry Weatherill to CKC’, Case Study 42, ANG.0334.001.0132_R (Tab 419 of Tender Bundle); Exhibit 42-0001, ‘Letter from Bishop Garry Weatherill of Ballarat to Royal Commission regarding CKC’, Case Study 42, ANG.0334.001.0131_R (Tab 425 of Tender Bundle).

\(^{2108}\) Exhibit 42-0001, ‘Letter from Garry Weatherill to Royal Commission dated 22 July 2016’, Case Study 42, ANG.0334.001.0131_R (Tab 425 of Tender Bundle).

\(^{2109}\) Transcript of G Thompson, Case Study 42, 24 November 2016, 23656:14-20.

\(^{2110}\) Exhibit 42-0133, ‘Statement of Christopher Bird’, Case Study 42, STAT.1100.001.0001 at [9].
Lawrence, only stating that ‘our relationship is one priest and parishioner’. On the other hand, Mr Lawrence said in oral evidence that Reverend Bird was a long-term friend of his.

1301. Throughout 2014, Mr Michael Elliott telephoned and wrote to Reverend Bird several times, without any response. Mr Michael Elliott gave evidence that he considered that Reverend Bird was ‘apathetic’ towards risk management, and that he did not take risk management of Mr Lawrence and Mr Goyette seriously.

1302. On 23 October 2014, Reverend Bird emailed Mr Michael Elliott nominating two parishioners to assist in the supervision of Mr Lawrence and Mr Goyette. Mr Michael Elliott interviewed them both and assessed them as suitable for the role.

1303. As already noted in Section 6 above, Mr Lawrence refused to sign a risk management plan as he regarded it as an ‘admission of guilt’. On 14 November 2014, Reverend Bird provided to Mr Michael Elliott a Safe Ministry Practice document that he had signed but which did not require the signatures of Mr Lawrence and Mr Goyette. The document stated that Reverend Bird ‘shall do all that I can to ensure’ certain expectations of Mr Lawrence and Mr Goyette while participating in parish life.

1304. In oral evidence, Mr Lawrence said he had never seen this document, and that he was not aware of what commitments Reverend Bird had made in respect of him. Mr Lawrence agreed that as he did not know what the restrictions on his conduct were, it was not a very effective risk management plan. Mr Lawrence acknowledged he was defrocked in September 2010 and could not account for why there was a delay until late 2014 in implementing a risk management plan in respect of him.

Available finding:

AF143 Reverend Bird was slow to implement a risk management plan in relation to Mr Lawrence and Mr Goyette who continued to worship in the Adamstown parish, and the plan eventually implemented was not very effective because its details were not made known to Mr Lawrence.

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2111 Exhibit 42-0133, ‘Statement of Christopher Bird’, Case Study 42, STAT.1100.001.0001 at [22].
2112 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23510:22-23.
2113 Transcript of M Elliott, Case Study 42, 11 August 2016, 17066:4-6; Transcript of M Elliott, Case Study 42, 12 August, 17199:35-40.
2114 Exhibit 42-0054, ‘Further Statement of Michael Elliott’, Case Study 42, STAT.1088.001.0001_R at [175].
2115 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23534:23-30.
2116 Exhibit 42-0054, ‘Further Statement of Michael Elliott’, Case Study 42, STAT.1088.001.0001_R at [176]; Exhibit 42-0001, ‘Safe Ministry Practice for Graeme Lawrence and Gregory Goyette’, Case Study 42, IND.0480.001.0567_R (Tab 390 of Tender Bundle).
2117 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23510:39 to 23511:6.
2118 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23511:29-39.
2119 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23512:4-18.
2120 Transcript of G Lawrence, Case Study 42, 23 November 2016, 23512:25-40.
7.7 Amendments to the Professional Standards Ordinance in 2015

1305. At the October 2015 Synod, amendments were made to the Professional Standards Ordinance 2012. Bishop Thompson told the Royal Commission that he allowed the amendments to be put forward following consultation with Mr Michael Elliott, Mr Cleary, and the Professional Standards Committee.

1306. One of the key amendments to the 2015 Ordinance was the removal of the section 77 requirement, introduced in 2012, that the Professional Standards Board give determinations and recommendations in private. Section 77 of Professional Standards Ordinance now provides that determinations and recommendations of the Professional Standards Board shall be announced in open sitting subject only to those matters having first been disclosed to the ‘Church Authority’.

1307. Relevantly, because the recommendations and determinations of the Board may now be made public, it will be open to the complainant, church members and any other parties to ascertain whether any decision by the Bishop or other Church Authority conforms or defers from the Board’s recommendations.

Available finding:

AF144  The amendments to the Professional Standards Ordinance made by the Diocesan Synod in October 2015 improved the transparency of the professional standards framework.

7.8 Redress policies within the Diocese from 2012 to 2016

1308. As noted in Section 6 above, on 28 April 2007, the Diocesan Council resolved to adopt the Pastoral Care and Assistance Scheme (PCAS) implemented by the Diocese of Sydney. The payment cap under the scheme was $75,000.

1309. In around May 2015, the cap under the scheme was increased to $150,000. Mr Cleary gave evidence that before the cap was increased, about 90% of claimants rejected a settlement under the PCAS. He said that doubling the cap to $150,000 has resulted a significant ‘take-up’ of redress offers under the scheme.

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2121 Exhibit 42-0001, ‘Professional Standards Ordinance 2012 (as amended in 2015)’, Case Study 42, ANG.0209.001.0001 (Tab 465 of Tender Bundle).

2122 Exhibit 42-0128, ‘Statement of Bishop Greg Thompson’, Case Study 42, STAT.1036.001.0001 at [97].

2123 Exhibit 42-0129, ‘Supplementary Statement of Bishop Greg Thompson’, Case Study 42, STAT.1081.001.0001 at [91].

2124 Exhibit 42-0001, ‘Professional Standards Ordinance 2012 (as amended in 2015)’, Case Study 42, ANG.0209.001.0001 at 0016 (Tab 465 of Tender Bundle).

2125 Exhibit 42-0001, ‘Diocesan Council Minutes’, Case Study 42, ANG.0048.001.1144 (Tab 153 of Tender Bundle).


1310. Mr Cleary said that around 40 to 50 alleged survivors of child sexual abuse had received redress from the Diocese, although not all of those settlements were reached within the framework of the PCAS.\textsuperscript{2128}

1311. In 2015, the Diocesan Claim Resolution Protocol was adopted to provide redress to those claimants who did not want to participate in the Pastoral Care and Assistance Scheme.\textsuperscript{2129} The Diocesan Business Manager managed those claims.\textsuperscript{2130}

1312. Bishop Thompson told the Royal Commission that under the current Pastoral Care and Assistance Scheme, claims are assessed by an assessment panel comprising the Diocesan Business Manager, the Diocesan Lawyer and the Chair of the Professional Standards Committee. The panel then determines and advises the Bishop on settlement, including its proposed sum of financial compensation. For all claims involving a financial redress payment, the Diocese requires the claimant to sign a deed of release.\textsuperscript{2131}

1313. The Diocese has established a special purpose fund to meet these payments.\textsuperscript{2132} Assistant Bishop Stuart told the Royal Commission that the Diocese has imposed levies on parishes and property sales, which included the sale of St John’s College in Morpeth, the proceeds of which go directly into the fund to ensure there is funding available for redress.\textsuperscript{2133}

1314. Bishop Thompson also said that all claimants are also offered an apology meeting, usually with him.\textsuperscript{2134} In 2015, the Diocese developed a Survivor Apology Meeting Facts Sheet, which outlined the practice and provided clear expectations.\textsuperscript{2135} Bishop Thompson said that he has provided a written or personal apology in all cases where a claimant has requested that he do so. He has also met a number of other survivors who did not seek financial redress from the Diocese but who wanted to meet with him to discuss their experiences.\textsuperscript{2136}

\section*{7.9 Reforms to culture}

Efforts to reform culture within the Diocese

1315. Bishop Thompson gave evidence of his efforts in leading cultural reform within the Diocese. In 2016, he commissioned a report on best practices and policies for responding to disclosures of child sexual abuse, which culminated in the Report on the Parish Recovery Model in June 2016.\textsuperscript{2137} Under the Parish Recovery Model, Bishop Thompson formed leadership teams

\begin{footnotes}
\item[2128] Transcript of J Cleary, Case Study 42, 23 November 2016, 23551:43 to 23552:13.
\item[2129] Exhibit 42-0001, ‘Anglican Diocese of Newcastle Claim Resolution Protocol’, Case Study 42, ANG.0206.001.0007 (Tab 430M of Tender Bundle).
\item[2130] Exhibit 42-0128, ‘Statement of Greg Thompson’, Case Study 42, STAT.1036.001.0001 at [173].
\item[2131] Exhibit 42-0128, ‘Statement of Greg Thompson’, Case Study 42, STAT.1036.001.0001 at [172]-[174].
\item[2132] Exhibit 42-0128, ‘Statement of Greg Thompson’, Case Study 42, STAT.1036.001.0001 at [172] and [174].
\item[2133] Transcript of P Stuart, Case Study 42, 18 November 2016, 23357:33-23358:2.
\item[2134] Exhibit 42-0128, ‘Statement of Greg Thompson’, Case Study 42, STAT.1036.001.0001 at [174].
\item[2135] Exhibit 42-0001, ‘Survivor Apology Meeting Facts Sheet’, Case Study 42, ANG.0208.001.0002 (Tab 391A of Tender Bundle).
\item[2136] Exhibit 42-0128, ‘Statement of Greg Thompson’, Case Study 42, STAT.1036.001.0001 at [174].
\item[2137] Exhibit 42-0129, ‘Supplementary Statement of Bishop Greg Thompson’, Case Study 42, STAT.1081.001.0001 at [60]; Exhibit 42-0001, ‘Guidelines for Parish Recovery in the event of allegations of sexual abuse affecting the parish’, Case Study 42, ANG.0324.001.0001 (Tab 467 of Tender Bundle).
\end{footnotes}
(known as the Bishop’s Response Team and Parish Recovery Team) to assist parishes in responding quickly and effectively to such disclosures. 2138

1316. As at July 2016, the Parish Recovery Model was used in response to three alleged offenders, including Reverend Michael Cooper and Canon Harold Marshall, and 11 parishes have received support. 2139

1317. Bishop Thompson also said that he had retained consulting firm KPMG to conduct a governance audit of the Diocese. 2140 In addition, he has convened an independent review of the professional standards and redress in the Diocese. 2141

Standing down of the Cathedral Parish Council in September 2016

1318. On 2 September 2016, Assistant Bishop Stuart, as Bishop Thompson’s delegate, stood down the five members of the Cathedral Parish Council, including Mr Caddies and Mr Greg Hansen, who were signatories to the letter to the Royal Commission discussed in Section 7.3 above. Some were also signatories to the letters to the Episcopal Standards Commission concerning Bishop Farran, which is discussed in Section 5.10 above.

1319. Assistant Bishop Stuart informed these office holders that in signing the letter to the Royal Commission, they had failed to fulfil the duties of a ‘responsible person’ (as defined in the Responsible Persons Ordinance 2015) and that such failure was of the ‘highest gravity’. He said that the letter challenged the credibility of Bishop Thompson and reflected division within the Diocese and ‘coordinated opposition’ to the Bishop. He notified them of their right to appeal the decision and invited them to consider making an apology. 2142

1320. Assistant Bishop Stuart said such ‘negative engagement’ with the Parish Council and the Cathedral community resulted from their ‘continued resistance … to accept the findings of misconduct in respect of Mr Lawrence.’ 2143

1321. Assistant Bishop Stuart said that he considered the various ways in which the matter could be dealt with as he was conscious of the work that had been done by the Parish Council. However, in the end, he ‘formed the view that the ministry of the church, the care of people and the reputation of the Diocese required those people no longer to be exercising a role or function’. 2144

1322. Assistant Bishop Stuart said that one of the signatories appealed his decision, however, his decision was unanimously upheld by the Diocesan Council. The Diocesan Council also

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2138 Exhibit 42-0129, ‘Supplementary Statement of Bishop Greg Thompson’, Case Study 42, STAT.1081.001.0001 at [61]-[62]; Exhibit 42-0001, ‘Guidelines for Parish Recovery in the event of allegations of sexual abuse affecting the parish’, Case Study 42, ANG.0324.001.0001 at 0005 and 0006 (Tab 467 of Tender Bundle).

2139 Exhibit 42-0129, ‘Supplementary Statement of Bishop Greg Thompson’, Case Study 42, STAT.1081.001.0001 at [65].

2140 Transcript of G Thompson, Case Study 42, 24 November 2016, 23645:36 to 23646:13.


2142 Exhibit 42-0001, ‘Letter from Bishop Stuart to William Scott’, Case Study 42, IND.0574.001.0022_R (Tab 425AAC of Tender Bundle).

2143 Exhibit 42-0114, ‘Supplementary Statement of Bishop Peter Stuart’, Case Study 42, STAT.1082.001.0001_R at [8.12].

2144 Transcript of P Stuart, Case Study 42, 18 November 2016, 23355:36-41.
approved Assistant Bishop Stuart’s proposal that the Parish Council’s decision-making authority was suspended until further notice.  

1323. Assistant Bishop Stuart said that the Cathedral community has ‘a lot of work to do’ to become ‘a church and a place that is welcoming and safe for all people’, including Bishop Thompson. He said that he would like them to ‘focus deeply’ on the impact of their conduct and ‘reflect on a different way of being’. Assistant Bishop Stuart told the Royal Commission that two of the signatories (not including Mr Caddies) had apologised to Bishop Thompson. 

1324. Bishop Thompson told the Royal Commission that dioceses which ‘afford respect and recognition to the Bishop and his responsibilities work well when there are not compromised systems and compromised leaders’. He said that people of influence and power provided a ‘protection racket’, which made it ‘very hard for any change to emerge in the period of their leadership’.

7.10 Concluding remarks

1325. Over the course of Bishop Thompson’s episcopate, Bishop Thompson has focused on identifying and addressing the nature and extent of systemic and cultural issues within the Diocese that have inhibited the Church’s ability to put in place effective child protection and professional standards measures within the Diocese.

1326. His evidence covered his own experiences of sexual abuse and the response of certain sections of the Diocese to his disclosures of that abuse. His evidence also covered his leadership of that same institution for the past three years.

1327. There was evidence of deep cultural division in the Diocese, which centred upon protecting the reputation of the Diocese and its former leaders, including Bishop Shevill, Rushton and Mr Lawrence.

1328. In particular, there was evidence of a faction of key Diocesan office holders and Cathedral parishioners who were highly critical of Bishop Thompson’s disclosure of his own abuse, thereby discouraging the Diocese from dealing with allegations of child sexual abuse and, in doing so, perpetuating a culture of cover up and denial.

1329. There was evidence that members of this faction were deeply loyal to the respondents of former disciplinary processes, and particularly Mr Lawrence. Such loyalty appears to have been based on personal friendships and long-standing pastoral relationships.

1330. Bishop Thompson has led significant efforts to reform the culture within the Diocese, including the creation and role of ‘parish recovery’ teams and listening processes. He has also successfully implemented the Responsible Persons Ordinance 2015, under which Mr Allen, Mr Caddies and other members of this divisive faction were removed from governance positions within the Diocese. The Royal Commission should find that such efforts were necessary in order to reduce impediments that existed within the Diocese for responding appropriately to child sexual abuse and related matters.

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2146 Transcript of P Stuart, Case Study 42, 18 November 2016, 23388:28-30, 23389:29-35.

2147 Transcript of G Thompson, Case Study 42, 24 November 2016, 23659:12-23.
8 Morpeth College

8.1 Introduction

1331. Morpeth College was an interdiocesan theological college opened in the Diocese in 1926. Traditionally, the Diocese trained its clergy at Morpeth College, but clergy from other dioceses trained there too. Morpeth College closed in 2007.

1332. The scope and purpose of this Case Study included an inquiry into the links between any institutional culture at Morpeth College and the perpetration of child sexual abuse.

1333. Some witnesses opined that a ‘paedophile ring’ may have operated from, originated in or was somehow connected to Morpeth College. Further, it was alleged that this ‘ring’ included Mr Lawrence and Rushton, each of whom attended Morpeth College in 1963. For example, Mr Michael Elliott told the Royal Commission that, in his opinion, there was a ‘powerful group of males with overt homosexual and extroverted tendencies at the College’, and that his assessment of what occurred at Morpeth is that the theological college was infiltrated by a number of offenders or enablers who became associates and consorted to continue to recruit like-minded offenders.

1334. Mr Michael Elliott’s observations appear to be based on the fact that a number of students who later were accused or convicted of sexual offending against children attended the College.

1335. This section of the submissions:

a. Examines the evidence of the incidence offending by students and graduates of Morpeth College;

b. Considers the available evidence as to whether a paedophile ring (or network) operated at or arose out of Morpeth College;

c. Discusses the screening processes undertaken in selecting students and graduates to attend Morpeth College; and

d. Explores the culture at Morpeth College and whether it may have been one that engendered particular attitudes to sexual offending against children.

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2150 Exhibit 42-0054, ‘Statement of Michael Elliott’, Case Study 42, STAT.1088.001.0001_R at [321]-[322].

2151 Exhibit 42-0054, ‘Statement of Michael Elliott’, Case Study 42, STAT.1088.001.0001_R at [323]-[326].
8.2 Offending by students and graduates of Morpeth College

Parkinson Report 2009

1336. In 2007, the Anglican Church engaged Professor Patrick Parkinson and Professor Kim Oates to report on the nature and extent of reported child sexual abuse within the Church since 1990. This report was finalised in May 2009.\(^{2152}\)

1337. Professor Parkinson provided a written statement to the Royal Commission in which he stated that his study identified 135 alleged perpetrators across 17 dioceses. Of these, 86 alleged perpetrators were either clergy or candidates for the clergy.\(^{2153}\)

1338. Professor Parkinson stated that of the 86 alleged perpetrators, 29 did not have their theological college identified. However, 14 (that is, 16%) were identified as having trained at Morpeth College. He saw this as a ‘troubling anomaly’ that warranted further inquiry to determine ‘whether there may have been some kind of network that had its origins’ at Morpeth.\(^{2154}\)

1339. Professor Parkinson’s draft report was discussed at the national bishops’ conference on 21 March 2009.\(^{2155}\) The bishops expressed concern about the statistical basis for the findings, given the total number of graduates from all colleges and particular colleges was not known.\(^{2156}\) Ultimately, Professor Parkinson did not include the findings about Morpeth College in the final report and said ‘there was neither budget nor scope for further investigation into Morpeth’.\(^{2157}\)

1340. On 24 June 2009, then Primate Phillip Aspinall sent a letter to the then Bishop of Newcastle, Bishop Brian Farran, regarding what Professor Parkinson had termed the ‘Morpeth Issue’.\(^{2158}\) Quoting the relevant section of Professor Parkinson’s draft Report, Primate Aspinall explained that he had been asked by the General Synod Standing Committee at its meeting on 13 June 2009 to draw this issue to Bishop Farran’s attention.\(^{2159}\) Primate Aspinall suggested that Bishop Farran may wish to consider whether it is appropriate or possible to take the matter further.

\(^{2152}\) Exhibit 42-0151, ‘Statement of Professor Patrick Parkinson AM’, Case Study 42, STAT.1095.001.0001_R at [6], [15].

\(^{2153}\) Exhibit 42-0151, ‘Statement of Professor Patrick Parkinson AM’, Case Study 42, STAT.1095.001.0001_R at [10].

\(^{2154}\) Exhibit 42-0001, ‘Letter from Professor Patrick Parkinson to Archbishop Phillip Aspinall dated 20 March 2009’, Case Study 42, USYD.9101.01003.0001 at 0004 (Tab 172 of Tender Bundle); Exhibit 42-0151, ‘Statement of Professor Patrick Parkinson AM’, Case Study 42, STAT.1095.001.0001_R at [10].

\(^{2155}\) Exhibit 42-0001, ‘Letter from Archbishop Phillip Aspinall to Professor Parker dated 8 April 2009’, Case Study 42, USYD.9101.01003.0006 (Tab 173 of Tender Bundle); Exhibit 42-0151, ‘Statement of Professor Patrick Parkinson AM’, Case Study 42, STAT.1095.001.0001_R at [11].

\(^{2156}\) Exhibit 42-0001, ‘Letter from Archbishop Phillip Aspinall to Professor Parker dated 8 April 2009’, Case Study 42, USYD.9101.01003.0006 at 0007 (Tab 173 of Tender Bundle).

\(^{2157}\) Exhibit 42-0151, ‘Statement of Professor Patrick Parkinson’, Case Study 42, STAT.1095.001.0001 at [14].

\(^{2158}\) Exhibit 42-0001, ‘Letter from Primate Phillip Aspinall to Bishop Brian Farran, Case Study 42, ANG.0050.005.6717 (Tab 176 of Tender Bundle).

\(^{2159}\) Exhibit 42-0001, ‘Letter from Primate Phillip Aspinall to Bishop Brian Farran, Case Study 42, ANG.0050.005.6717 at .6718 (Tab 176 of Tender Bundle).
1341. Bishop Farran told the Royal Commission that upon receiving the letter from the then Primate, he ‘hoped’ he had referred the matter to the Director of Professional Standards, Mr Michael Elliott. Mr Michael Elliott has conducted extensive investigations into sexual offending by clergy and other church workers in the Diocese. However, there is no evidence before the Royal Commission regarding whether any steps were taken by Mr Michael Elliott to determine links between offenders and Morpeth College. Bishop Farran said he took no further action in relation to the Primate’s letter because by that stage the college had been closed.

1342. Bishop Farran had also studied at Morpeth College, overlapping with Rushton, CKC, Kitchingman and Mr Lawrence. He gave evidence that it was ‘remarkable’ that so many students from Morpeth College had been convicted of child sexual abuse offences or had been accused of perpetrating such crimes. However, he said he did not see anything in the culture of Morpeth College that was supportive of sexual offending against children. He did observe that there were some homosexuals at the college but said that paedophilia was a very different thing to homosexuality.

Incidence of offending by current and former students at Morpeth College

1343. The inaugural class at Morpeth College in 1926 numbered 26 students. Students generally were enrolled for three years and during the war years, the number of students on campus was about 30. Enrolments peaked in the late 1950’s and early 1960s with approximately 70 students enrolled at any one time. By the mid-1990s, enrolments had dropped to an average of about six per year such that there was less than 20 students on campus.

1344. The Royal Commission received evidence of offending or alleged offending by a large number of people who had studied at Morpeth College over the course of at least three decades.

1345. The following six former students of Morpeth College have been convicted of child sexual abuse offences:

   a. Kitchingman, who was a student in residence in 1963;
b. Eric Griffith, who was a student in residence in 1967;\textsuperscript{2170}

c. Hatley Gray, who was a student in residence in 1972;\textsuperscript{2171}

d. Ellmore, who was a student in residence between 1974 and 1977;\textsuperscript{2172}

e. McLoughlin, who was a student in residence in 1977;\textsuperscript{2173}

f. Barrack, who was a student in residence in 1998. \textsuperscript{2174}

1346. The following 11 former students of Morpeth College have been accused of perpetrating child sexual abuse:

a. DBF, who was a student in residence in 1944;\textsuperscript{2175}

b. Rushton, who was a student in residence in 1963;

c. CKC, who was student in residence in 1963;\textsuperscript{2176}

d. Mr Lawrence, who was student in residence in 1963;\textsuperscript{2177}

e. Mr Hoare, who was a student in residence in 1971;\textsuperscript{2178}

f. Reverend Michael Cooper, who was a student in residence in 1967;\textsuperscript{2179}

g. Reverend Walter Ogle, who was a student in residence in 1968;\textsuperscript{2180}

h. DAL, who was a student in residence in 1972;\textsuperscript{2181}

\textsuperscript{2170} Exhibit 42-0001, ‘List of Students of St John’s College resident at Morpeth’, Case Study 42, ANG.0048.002.7637_R (Tab 18A of Tender Bundle).

\textsuperscript{2171} Exhibit 42-0001, ‘List of Students of St John’s College resident at Morpeth’, Case Study 42, ANG.0048.002.7637_R (Tab 18A of Tender Bundle).

\textsuperscript{2172} Exhibit 42-0001, ‘List of Students of St John’s College resident at Morpeth’, Case Study 42, ANG.0048.002.7637_R (Tab 18A of Tender Bundle).

\textsuperscript{2173} Exhibit 42-0001, ‘List of Students of St John’s College resident at Morpeth’, Case Study 42, ANG.0048.002.7637_R (Tab 18A of Tender Bundle).

\textsuperscript{2174} Exhibit 42-0026, ‘Statement of CKU’, Case Study 42, STAT.1086.001.0001_R at [12], [23].

\textsuperscript{2175} Exhibit 42-0001, ‘List of Students of St John’s College resident at Morpeth’, Case Study 42, ANG.0048.002.7637_R (Tab 18A of Tender Bundle).

\textsuperscript{2176} Exhibit 42-0001, ‘List of Students of St John’s College resident at Morpeth’, Case Study 42, ANG.0048.002.7637_R (Tab 18A of Tender Bundle).

\textsuperscript{2177} Exhibit 42-0001, ‘St John’s College, Morpeth, Students in Residence, Class of 1963’, Case Study 42, ANG.0041.001.0262 (Tab 1 of Tender Bundle).

\textsuperscript{2178} Exhibit 42-0001, ‘St John’s College, Morpeth, Students in Residence, Class of 1963’, Case Study 42, ANG.0041.001.0262 (Tab 1 of Tender Bundle).

\textsuperscript{2179} Exhibit 42-0001, ‘List of Students of St John’s College resident at Morpeth’, Case Study 42, ANG.0048.002.7637_R (Tab 18A of Tender Bundle).

\textsuperscript{2180} Exhibit 42-0001, ‘List of Students of St John’s College resident at Morpeth’, Case Study 42, ANG.0048.002.7637_R (Tab 18A of Tender Bundle).

\textsuperscript{2181} Exhibit 42-0001, ‘List of Students of St John’s College resident at Morpeth’, Case Study 42, ANG.0048.002.7637_R (Tab 18A of Tender Bundle).
i. DBJ, who was a student in residence in 1974;\textsuperscript{2182}

j. DNA, who was a student in residence in 1980;\textsuperscript{2183}

k. DCK, who was a student in residence in 1981.\textsuperscript{2184}

8.3 Evidence of a paedophile ring at or arising out of Morpeth College

1347. Of the above people, it is notable that Kitchingman, Rushton, CKC and Mr Lawrence were all students in residence at Morpeth College in 1963. Other than them, there was limited overlap in the periods of study of offenders or alleged offenders.

1348. However, the mere fact that a number of people lived at Morpeth College at the same time and were later accused of sexually offending against children does not prove that they were part of a paedophile ring at Morpeth College or subsequently.

1349. The evidence did establish some ongoing connections between these people and Mr Hoare, who attended Morpeth College from 1971 to 1973,\textsuperscript{2185} as follows:

a. Kitchingman sexually abused a boy in 1968, at a time when he was working very closely with CKC in the Diocese of Newcastle.\textsuperscript{2186} In 2001, after being convicted of further child sexual abuse offences occurring in 1975, Lawrence gave a reference for Kitchingman at his sentencing hearing in Newcastle.\textsuperscript{2187}

b. CKA gave evidence that Rushton and CKC were close friends. While CKA served as an altar boy between 1971 and 1975, CKA said Rushton regularly came over to CKA’s house with CKC. CKA said that occasionally Rushton would bring a child to CKA’s house and drop him off, and CKA’s mother would look after him.\textsuperscript{2188}

c. From 1984 when Mr Lawrence commenced as Dean of the Cathedral, until 2001 when Rushton retired, Mr Lawrence and Rushton worked together as part of the Diocesan leadership team under Bishop Holland and later Bishop Herft, including as members of the Panel of Triers. Both Rushton and Mr Lawrence, and Mr Hoare when he came to the Diocese, were senior members of the clergy with considerable influence.\textsuperscript{2189}

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\textsuperscript{2182} Exhibit 42-0093, 'Yellow Envelope No. 27', Case Study 42, ANG.0354.027.0001_R (Bundle of Yellow Envelopes); Exhibit 42-0001, 'List of Students of St John’s College resident at Morpeth', Case Study 42, ANG.0048.002.7637 (Tab 1B of Tender Bundle).

\textsuperscript{2183} Exhibit 42-0093, 'Yellow Envelope No. 9', Case Study 42, ANG.0354.009.0001_R (Bundle of Yellow Envelopes); Exhibit 42-0001, 'List of Students of St John’s College resident at Morpeth', Case Study 42, ANG.0048.002.7637 (Tab 1B of Tender Bundle).

\textsuperscript{2184} Exhibit 42-0093, 'Yellow Envelope No. 19', Case Study 42, ANG.0354.019.0001_R (Bundle of Yellow Envelopes); Exhibit 42-0001, 'List of Students of St John’s College resident at Morpeth', Case Study 42, ANG.0048.002.7637 (Tab 1B of Tender Bundle).

\textsuperscript{2185} Exhibit 42-0147, 'Statement of Bruce Hoare', Case Study 42, STAT.1063.001.0001_R at [6].

\textsuperscript{2186} Exhibit 42-0001, ‘Letter from Alan Kitchingman to Bishop Housden’, Case Study 42, ANG.9320.01500.0101_R at 0011_R (Tab 1B of Tender Bundle).

\textsuperscript{2187} Exhibit 42-0001, 'R v Alan Kitchingman - transcript of sentencing', Case Study 42, ANG.9320.01113.0047_R at 0053_R (Tab 112AA of Tender Bundle).

\textsuperscript{2188} Exhibit 42-0023, ‘Statement of [CKA]’, Case Study 42, STAT.1093.001.0001_R at [11].

\textsuperscript{2189} Exhibit 42-0137, 'Statement of Bishop George Browning', Case Study 42, STAT.1105.001.0001 at [9].
Lawrence and Mr Hoare denied that that they had any knowledge of Rushton’s sexual offending against children until the allegations against him were made public.2190

d. Mr Lawrence and Mr Hoare, who attended Morpeth College but at different times,2191 formed their connection when Mr Hoare trained under Mr Lawrence between 1975 and 1977 in the Diocese of Riverina.2192 Mr Lawrence and Mr Hoare were defrocked in September 2012 following an alleged group sex incident in 1984 with CKH.2193

1350. However, this evidence is not also sufficient to establish that any or all of the people operated as a ‘paedophile ring’.

8.4 Screening of Morpeth College students and graduates

Screening of candidates for Morpeth College

1351. Reverend Johnston, whose two daughters were sexually abused by Ellmore at Morpeth College, gave evidence of ‘a serious problem with screening of candidates at Morpeth College’.2194 He said there was an incorrect perception among Anglicans that students of Morpeth College had been screened by the College.2195 Bishop Farran also said the selection processes were ‘very poor’.2196

1352. In fact, students enrolled in Morpeth College were nominated or sponsored by the Bishop of a diocese (except in one or two cases where students self-nominated).2197 Once students were nominated by their diocese, they were enrolled at Morpeth College as a matter of course. The nominating diocese would then pay the students’ college fees throughout their studies.2198 There were no interview or screening processes undertaken by Morpeth College itself to determine the suitability of candidates for study or ordination. This was considered to be the responsibility of the nominating diocese.

1353. Prior to its close, the majority of students attending Morpeth College came from the Diocese of Newcastle and were sent to local parishes within the Diocese following the completion of their studies and ordination.2199 Bishop Alfred Holland told the Royal Commission that this connection created ‘a strong sense of fellowship among [Morpeth College’s] alumni.’2200

2190 Exhibit 42-0116, ‘Statement of Graeme Lawrence’, Case Study 42, STAT.1079.001.0001_R at 0003_R; Exhibit 42-0147, ‘Statement of Bruce Hoare’, Case Study 42, STAT.1063.001.0001_R at 0005_R.

2191 Exhibit 42-0147, ‘Statement of Bruce Hoare’, Case Study 42, STAT.1063.001.0001_R at [6].

2192 Transcript of G Lawrence, Case Study 42, 18 November 2016, 23402:21-29.

2193 Exhibit 42-0001, ‘Statement of Bishop Brian Farran in relation to Graeme Lawrence et al ’, Case Study 42, IND.0019.001.0012 (Tab 337 of Tender Bundle).

2194 Exhibit 42-0089, ‘Statement of Lance Johnston’, Case Study 42, STAT.1111.001.0001_R at [6].

2195 Exhibit 42-0089, ‘Statement of Lance Johnston’, Case Study 42, STAT.1111.001.0001_R at [6].

2196 Transcript of B Farran, Case Study 42, 17 November 2016, 23267:36-37.

2197 Exhibit 42-0089, ‘Statement of Lance Johnston’, Case Study 42, STAT.1111.001.0001_R at [3].

2198 Exhibit 42-0089, ‘Statement of Lance Johnston’, Case Study 42, STAT.1111.001.0001_R at [3].

2199 Exhibit 42-0011, ‘Statement of Alfred Holland’, Case Study 42, STAT.1061.001.0001_R at 0012_R.

2200 Exhibit 42-0011, ‘Statement of Alfred Holland’, Case Study 42, STAT.1061.001.0001_R at 0012_R.
1354. Bishop Appleby could not explain how unsuitable candidates who misconducted themselves at Morpeth College were not ‘weeded out’. However, he accepted that some of the bishops who sent candidates for ordination to Morpeth College had ‘fairly lax’ processes whereby they accepted students after interviewing them without seeking support from others who knew them for those students’ candidature. Bishop Appleby gave evidence that this resulted in some unsuitable students being accepted for ordination with ‘catastrophic’ results.\(^{2201}\)

1355. The Royal Commission heard evidence that from 1979 onwards, Morpeth College implemented more thorough selection procedures for prospective students, including requiring candidates to provide a referral from the relevant Parish Rector and to undergo an interview with the Archdeacon and then the Bishop or Assistant Bishop of the nominating diocese.\(^{2202}\) If approved at this stage, the candidate would then be invited to a Residential Selection Conference Weekend to undergo a psychiatric assessment and review by three clerical and three lay persons who then made nominations to the Bishop based on suitability for ordination.\(^{2203}\)

**Ongoing screening of Morpeth College students and graduates**

1356. While at Morpeth College, students had heavy involvement in parish activities, and additional activities were arranged between clergy and students directly. Reverend Johnston gave evidence that it ‘would have been comparatively easy for any priest with certain proclivities to affect or involve students in their personal activities’.\(^{2204}\)

1357. At least during Reverend Johnston’s tenure, it was the practice of Morpeth College staff to provide progress reports for each student of the College to the Bishop of their nominating Diocese twice a year. Each report was prepared by one of three full time staff of Morpeth College and contained material which reflected the views of all three staff members.\(^{2205}\)

1358. Reverend Johnston stated that, during his term as Principal of Morpeth College, he insisted that the students should read their progress reports and be given an opportunity to respond before they were sent to their Bishop.\(^{2206}\) However, the effectiveness of reporting procedures implemented by staff of Morpeth College was entirely dependent on their reception by the nominating Bishop. Once a student of Morpeth College had completed his or her studies, the decision as to whether or not to ordain that student was a matter solely for the Bishop of the nominating diocese.\(^{2207}\)

1359. Reverend Johnston gave evidence that the staff of Morpeth College normally received very little feedback from Bishops in the way of correspondence or even verbal commentary in response to the progress reports for their nominated students.\(^{2208}\) He observed times when

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2201 Transcript of R Appleby, Case Study 42, 4 August 2016, 16509:24-36.
2202 Exhibit 42-0011, ‘Statement of Alfred Holland’, Case Study 42, STAT.1061.001.0001_R at 0012_R.
2203 Exhibit 42-0011, ‘Statement of Alfred Holland’, Case Study 42, STAT.1061.001.0001_R at 0012_R to 0013_R.
2204 Exhibit 42-0089, ‘Statement of Lance Johnston’, Case Study 42, STAT.1111.001.0001_R at [8].
2205 Exhibit 42-0089, ‘Statement of Lance Johnston’, Case Study 42, STAT.1111.001.0001_R at [6] to [7].
2206 Exhibit 42-0089, ‘Statement of Lance Johnston’, Case Study 42, STAT.1111.001.0001_R at [4].
2207 Exhibit 42-0089, ‘Statement of Lance Johnston’, Case Study 42, STAT.1111.001.0001_R at [5].
2208 Exhibit 42-0089, ‘Statement of Lance Johnston’, Case Study 42, STAT.1111.001.0001_R at [7].
students who failed academically and received unfavourable reports still went on to be ordained.\(^{2209}\)

1360. Reverend Johnston gave evidence that it was the responsibility of the nominating diocese to conduct any further checks at the completion of a student’s study and prior to ordination.\(^{2210}\)

The example of Robert Ellmore

1361. Reverend Johnston gave evidence of his specific experiences in relation to Ellmore, a student who lived at Morpeth College when Reverend Johnston was residing there as Principal along with his wife and two daughters from 1974 until 1977.\(^{2211}\)

1362. Ellmore had been nominated as a student at Morpeth College by the then Bishop of Bathurst, Kenneth Leslie, in 1974 following a recommendation by the then Dean of Sydney, Bishop Hulme-Moir.\(^{2212}\) Despite the College providing regular reports to Bishop Leslie informing him that Ellmore was failing most if not all of his theological examinations and that the College had serious reservations about his character, Bishop Leslie proceeded to ordain Ellmore in 1977.\(^{2213}\)

1363. In 1999, Ellmore was convicted of child sexual abuse offences including offences committed against Reverend Johnston’s two young daughters in 1976 while he was a student at Morpeth College.\(^{2214}\) During the criminal proceedings, Reverend Johnston became aware that Ellmore had been convicted of child sexual abuse offences in 1957 and had been charged but not convicted of other sexual offences against children in 1967.\(^{2215}\) He also came to know that Bishop Leslie had recommended Ellmore to Morpeth College at least in part because he had been recommended by the Dean of Sydney and another senior member of the clergy.\(^{2216}\)

1364. On the basis of his observations, Reverend Johnston formed the view that no screening had been undertaken by the Bishop of Bathurst prior to Ellmore being nominated for Morpeth College. He also concluded that very little weight had been given to the progress reports and recommendations of the staff of Morpeth College and that too much weight was given to the intuition of the Bishop as to whether Ellmore was of good character.\(^{2217}\)

8.5 Culture at Morpeth College

1365. This section of the submissions explores the culture at Morpeth College, and whether there was a connection between such culture and the prevalence of sexual offending against children by people who were students of the College.

\(^{2209}\) Exhibit 42-0089, ‘Statement of Lance Johnston’, Case Study 42, STAT.1111.001.0001_R at [5].

\(^{2210}\) Exhibit 42-0089, ‘Statement of Lance Johnston’, Case Study 42, STAT.1111.001.0001_R at [6] to [7].


\(^{2213}\) Exhibit 42-0089, ‘Statement of Lance Johnston’, Case Study 42, STAT.1111.001.0001_R at [15] and [20].

\(^{2214}\) Exhibit 42-0089, ‘Statement of Lance Johnston’, Case Study 42, STAT.1111.001.0001_R at [19].

\(^{2215}\) Exhibit 42-0089, ‘Statement of Lance Johnston’, Case Study 42, STAT.1111.001.0001_R at [19].

\(^{2216}\) Exhibit 42-0089, ‘Statement of Lance Johnston’, Case Study 42, STAT.1111.001.0001_R at [23].

\(^{2217}\) Exhibit 42-0089, ‘Statement of Lance Johnston’, Case Study 42, STAT.1111.001.0001_R at [7].
1366. Morpeth College allowed students to live onsite, including with their families. Bishop Richard Appleby told the Royal Commission that, from the 1960s the number of unmarried students declined and students were more often married and residing on site with their families. The College community was therefore made up of both staff and student families and some unmarried students. 2218

1367. Reverend Johnston, the Principal of Morpeth College from 1975 to 1979, told the Royal Commission that staff and students lived together as a community and members of the community were trusted. 2219

1368. Bishop Holland, 2220 Reverend Colin Ford, 2221 Bishop Appleby, 2222 Bishop George Browning, 2223 Reverend Johnston 2224 and Bishop Farran 2225 all gave evidence that they were not aware of any rumours, behaviour or culture at Morpeth College that would suggest that any ordinands or priests there had a sexual predilection for children or that there was a paedophile ring.

1369. CKR also gave evidence, discussed in Section 4 above, that when she came to live at Morpeth College in 1997 she initially had no concerns about her son CKU spending time with Barrack, a fellow ordination student, as it was a Christian community. 2226

1370. However, the Royal Commission received accounts from several witnesses that, since at least the 1970s, Morpeth College was the subject of rumours concerning sexualised behaviour among its students. 2227

1371. CKR told the Royal Commission that, despite her later trust in the community at Morpeth College, in 1979 when she previously lived at the College with her then husband, she heard a lot of rumours concerning homosexual activity among people on campus and also ‘about certain priests who might fancy little boys’. She said all the gay clergy appeared to live at Robinson House. 2228 She said one of the people who was said to prefer ‘youngsters’ and ‘little boys’ was Rushton. 2229

1372. Ms Noelle Freeman gave a statement to the Royal Commission. In the 1970s for a period of eight years, she was the Secretary and Treasurer of the ‘Friends of St John’s Theological College, Morpeth’, which was a group that undertook fundraising for the benefit of Morpeth College. 2230 She said that Morpeth College was known as ‘Satan’s playground’. She was aware

2218 Exhibit 42-0025, ‘Statement of Richard Appleby, Case Study 42, STAT.1085.001.0001_R at [89].
2219 Exhibit 42-0089, ‘Statement of Lance Johnston’, Case Study 42, STAT.1111.001.0001_R at [10].
2220 Transcript of A Holland, Case Study 42, 3 August 2016, 16397:29-39.
2221 Transcript of C Ford, Case Study 42, 4 August 2016, 16428:29-39.
2222 Transcript of R Appleby, Case Study 42, 4 August 2016, 16507:40-16509:16.
2223 Exhibit 42-0137, ‘Statement of Bishop George Browning’, Case Study 42, STAT.1105.001.0001 at [2].
2224 Exhibit 42-0089, ‘Statement of Lance Johnston’, Case Study 42, STAT.1111.001.0001 at [10].
2225 Exhibit 42-0107, ‘Statement of Bishop Brian Farran’, Case Study 42, STAT.1072.001.0001_R at [403]-[404].
2226 Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [15].
2227 Exhibit 42-0080, ‘Statement of Noelle Freeman’, Case Study 42, STAT.1112.001.0001 at [6]; Transcript of R Appleby, Case Study 42, 4 August 2016, 16510:3-17; Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001_R at [7].
2228 Exhibit 42-0080, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001 at [7]; Transcript of CKR, Case Study 42, 5 August 2016, 16600:41 to 16601:11.
2230 Exhibit 42-0080, ‘Statement of Noelle Freeman’, Case Study 42, STAT.1112.001.0001_R at [6].
that ‘a lot of homosexual and sexualised behaviour’ took place at Morpeth College at this time.\textsuperscript{2231}

\textbf{1373.} McLoughlin, who was recently convicted of child sexual abuse offences, told the Royal Commission in a written statement that he was sexually harassed and propositioned by a senior student when he was at Morpeth College. He said that he told a friend who reported this to Reverend Johnston, the Principal, but was not believed.\textsuperscript{2232}

\textbf{1374.} CKR said that she raised her concerns about rumours of sexualised behaviour with the then principal of Morpeth College, Reverend Johnston, who told her that when the people were ordained they would have to take a ‘vow of celibacy’ but while they were at the college they did not.\textsuperscript{2233}

\textbf{1375.} Reverend Johnston was not asked to address these issues in his written statements.

\textbf{1376.} Bishop Browning, who studied at Morpeth College from 1963 to 1965, offered the following opinion:

\begin{quote}
If a ring existed I am more inclined to the view it existed within a small group who shared the same ecclesial and theological perspective and that their passage through St John’s Morpeth as students was not in itself germane to their predatory behaviour.\textsuperscript{2234}
\end{quote}

\textbf{1377.} Bishop Browning explained in his statement that there are two main streams in 20\textsuperscript{th} century Anglicanism, namely Anglo Catholicism and Evangelicalism. He said the former can be identified in dioceses like Newcastle, Ballarat and Riverina, and the latter in Sydney and Armidale.\textsuperscript{2235} Bishop Herft told the Royal Commission that Morpeth College was seen as the primary place of priestly formation and training for Anglo-Catholics.\textsuperscript{2236}

\textbf{1378.} Bishop Browning, himself a student in residence at Morpeth College in 1963 and Acting Principal at the College in 1974, gave evidence that Anglo-Catholicism, ‘at its worst’, is authoritarian, opposed to the ordination of women, exalts the authority of the priest and makes an ‘unhealthy separation between clergy and lay people’.\textsuperscript{2237} Bishop Browning said that this ‘unhealthy aspect’ of Anglo Catholicism ‘appears to have driven a group of clergy within the Diocese of Newcastle and also Bishop Ian Shevill’.\textsuperscript{2238} Bishop Browning described witnessing Bishop Shevill once describe to a new ordinand that he was now ‘ontologically different’, because of his ordination.\textsuperscript{2239}

\begin{footnotesize}
\begin{enumerate}
\item Exhibit 42-0080, ‘Statement of Noelle Freeman’, Case Study 42, STAT.1112.001.0001\_R at [6].
\item Exhibit 42-0148, ‘Statement of Lindsay McLoughlin’, Case Study 42, STAT.1115.001.0001\_R at [10].
\item Exhibit 42-0080, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001 at [8]; Transcript of CKR, Case Study 42, 5 August 2016, 16001-18-42.
\item Exhibit 42-0137, ‘Statement of Bishop George Browning’, Case Study 42, STAT.1105.001.0001 at [2].
\item Exhibit 42-0137, ‘Statement of Bishop George Browning’, Case Study 42, STAT.1105.001.0001 at [3].
\item Exhibit 42-0075, ‘Supplementary Statement of Archbishop Roger Herft’, Case Study 42, STAT.1094.001.0001\_R at [257].
\item Exhibit 42-0137, ‘Statement of Bishop George Browning’, Case Study 42, STAT.1105.001.0001 at [4] and [5].
\item Exhibit 42-0137, ‘Statement of Bishop George Browning’, Case Study 42, STAT.1105.001.0001 at [5].
\item Exhibit 42-0137, ‘Statement of Bishop George Browning’, Case Study 42, STAT.1105.001.0001 at [5(a)].
\end{enumerate}
\end{footnotesize}
1379. Bishop Herft also gave evidence of a ‘Father knows best’ culture in the Anglo-Catholic community in Diocese, which was challenged by the ordination of women and the push to have lay persons trained in ministry.2240

1380. There was evidence that CKC,2241 Rushton,2242 Kitchingman and Mr Lawrence2243 were part of an Anglo-Catholic cohort at Morpeth College who followed this particular brand of Anglo-Catholicism described by Bishop Browning. That is, they actively promulgated the notion of the priest as ‘superior’ to non-ordained people. They were portrayed, by themselves and others, as a direct link to God.2244 They were also purportedly charismatic and charming.2245

8.6 Concluding remarks

1381. Drawing on this section and elsewhere in these submissions, the key points concerning the culture at Morpeth College and its connection, if any, to the perpetration of sexual abuse against children, are as follows:

   a. There are a number of students and graduates from Morpeth College between the 1960s and the early 2000s who perpetrated child sexual abuse or who are alleged to have done so. The rate of offending at Morpeth College as compared to other Anglican theological colleges has not been determined;

   b. The mere fact that a number of people who were known to each other at Morpeth College were later convicted of or accused of child sexual abuse does not of itself illustrate any coordinated offending or shared knowledge of offending;

   c. There was no evidence of any sort of ‘recruitment’ process at Morpeth College in the stark terms suggested by Mr Michael Elliott;

   d. The organisational structure of Morpeth College gave rise to opportunities for offenders to have access to children, in that students were allowed to live onsite with their families. In the context of a culture where there was a heightened sense of trust among persons within the community, such access extended to increased opportunities for offenders to pursue close relationships with children without criticism.

1382. On this basis, there is insufficient evidence before the Royal Commission to support a finding that a paedophile ring operated out of, or originated from, Morpeth College. Further, there is at this time insufficient evidence to support a finding that Morpeth College was the cause or catalyst for sexual offending against children, or that the environment at Morpeth College

2240 Exhibit 42-0075, ‘Supplementary Statement of Archbishop Roger Herft’, Case Study 42, STAT.1094.001.0001_R at [257] and [259]; Transcript of B Farran, Case Study 42, 16 November 2016, 23212:34-36.

2241 Exhibit 42-0075, ‘Supplementary Statement of Archbishop Roger Herft’, Case Study 42, STAT.1094.001.0001_R at [154].

2242 Exhibit 42-0075, ‘Supplementary Statement of Archbishop Roger Herft’, Case Study 42, STAT.1094.001.0001_R at [207]; Exhibit 42-0137, ‘Statement of Bishop George Browning’, Case Study 42, STAT.1105.001.0001 at [9].

2243 Exhibit 42-0137, ‘Statement of Bishop George Browning’, Case Study 42, STAT.1105.001.0001 at [9].

2244 See evidence of survivors CKA, CKB and Paul Gray in section 2.3 above; Exhibit 42-0137, ‘Statement of Bishop George Browning’, Case Study 42, STAT. 1105.001.0001 at [5]; Exhibit 42-0143, ‘Statement of Christopher Hall’, Case Study 42, STAT.1213.001.0001_R at [8]; Exhibit 42-0144, ‘Statement of Valerie Hall’, Case Study 42, STAT.1214.001.0001_R at [8]; Transcript of C Ford, Case Study 42, 4 August 2016, 16423:25 – 16424:28; Transcript of R Herft, Case Study 42, 12 August 2016, 17229:4-11; Exhibit 42-0107, ‘Statement of Bishop Brian Farran’, Case Study 42, STAT.1072.001.0001_R at [270].

2245 Transcript of [CKA], Case Study 42, 4 August 2016, 16441:5-8; Transcript of B Farran, Case Study 42, 16 November 2016, 23209:14-22; Exhibit 42-0021, ‘Statement of Archdeacon Colvin Ford’, Case Study 42, STAT.1096.001.0001 at [20].
inculcated in some people an attitude that sexual offending against children was permissible and acceptable.

1383. There is insufficient evidence before the Royal Commission to find that the behaviour of Morpeth College graduates who became perpetrators can be directly attributable to a particular interpretation of Anglo-Catholicism. There are a vast many Anglo-Catholics, including those who graduated from Morpeth College, who have not abused children.

1384. Further, without more specific research into the years of offending by those who studies at Morpeth College and the causes of such offending, Professor Parkinson’s initial findings regarding Morpeth College are a useful starting point for further research but are not in themselves capable of proving that a paedophile ring originated at Morpeth College.

1385. In 2017, the Royal Commission will hold a public hearing in relation to the Anglican Church which, among other things, will reflect upon how the core tenants of the Church’s beliefs can be taught and practised without fostering a culture that encourages an inherently dangerous power imbalance between priests and Church members.
9 Links between Rushton and other perpetrators

1386. This section explores the connections between Rushton and other known and alleged perpetrators identified in this case study.

9.1 Evidence of connections between Rushton and others

1387. As discussed elsewhere in these submissions, Rushton allegedly sexually abused at least 12 boys between 1961 and 1984.2246 Three of the alleged victims were residents at the St Alban’s Home for Boys in Cessnock (St Alban’s).

1388. Brown was in a sexual and a close professional relationship with Rushton.2247 The evidence suggests that Brown’s close association with Rushton elevated him to roles at St Alban’s and churches within the Diocese. Brown was convicted of sexually abusing 20 victims between 1974 and 1996. Eleven of his victims were residents at St Alban’s, or were boys whom he met as a result of his parish youth work. Both of his roles were obtained through Rushton.2248

1389. The Royal Commission also heard evidence that Reverend Michael Cooper, who was licensed in the Diocese, gained access to boys at St Alban’s through Rushton. Mr D’Ammond gave evidence of being sexually abused by Brown, Rushton and Cooper.2249

1390. Further, based on the evidence of Mr Gray, Mr D’Ammond and CKG, by at least 1966, Rushton had commenced coordinating the sexual abuse of children at St Alban’s by a number of other men as well (not all of whom were identified in the evidence).2250 For example, Mr Gray gave evidence of being abused on one occasion at St Alban’s, where up to eight men were in the room.2251

1391. Rushton and McLoughlin, also licensed in the Diocese, were also in a sexual relationship for about four years.2252 McLoughlin was recently convicted of child sexual abuse offences, one of which occurred at Rushton’s residence in Wallsend in the early 1980s.2253

2246 Exhibit 42-0130, ‘Reports of Abuse Allegedly Perpetrated by Father Peter Rushton’, Case Study 42, ANG.0367.001.0001.


2249 Exhibit 42-0004, ‘Statement of Phillip D’Ammond’, Case Study 42, STAT.1080.001.0001_R at [16]-[26].


2251 Exhibit 42-0002, ‘Statement of Paul Gray’, Case Study 42, STAT.1067.001.0001_R at [22].

2252 Exhibit 42-0148, ‘Statement of Lindsay McLoughlin’, Case Study 42, STAT.1115.001.0001_R.

1392. CKA gave evidence that Rushton and CKC were close friends. While CKA served as an altar boy between 1971 and 1975, CKA said Rushton regularly came over to CKA’s house with CKC. CKA said that occasionally Rushton would bring a child to CKA’s house and drop him off, and CKA’s mother would look after him. CKA also gave evidence that on one occasion during this period, CKC took CKA to a church at the Entrance. When they got there, the priest of that church allegedly joked with CKC, ‘[i]t’s not like you to share, CKC’.

1393. Kitchingman sexually abused a boy in 1968, while working at the Wallsend Parish where Rushton would become the Rector in 1973. At that time, Kitchingman was also working closely with CKC in the Diocese. In 2001, after being convicted of further child sexual abuse offences occurring in 1975, Mr Lawrence gave a reference for Kitchingman at his sentencing hearing in Newcastle. It is open to find that there was a network of perpetrators operating in the Diocese of Newcastle, from at least the early 1960s, of which Rushton was a central figure. In some cases, there was evidence of complicity and knowledge of each other’s offending.

### Available findings:

- **AF145** There was a network of perpetrators operating in the Diocese of Newcastle between at least the early 1960s and late 1980s, of which Rushton was a central figure. In some cases, there was evidence of complicity and knowledge of each other’s offending.

- **AF146** Rushton facilitated access to boys by Brown, Cooper, McLoughlin, and other unidentified men for the purpose of sexually abusing them.

### 9.2 Evidence that the Church community knew of Rushton’s network

1394. In 2015, Mr Keith Allen told Mr John Cleary that there were concerns about Rushton’s activities on the Central Coast including sexual liaisons with children from a particular family and that Rushton lived in Maitland with a child. Mr Allen also told Mr Cleary that Rushton and other clergy, including Father James Brown, were part of a ‘boys crew’ in the Cessnock area and a ‘hanky panky group’ at Wallsend.

1395. Mrs Jean Sanders told the Royal Commission that after she became the Chairperson of CASM in 2001, she received anonymous phone calls from women telling her their sons had been abused by priests when they were boys.

1396. There was also evidence of an awareness among the altar servers about Rushton’s activities. COE recalled when he was an altar server in 1979 being in the change room after a church service by Rushton. The older servers were changing out of their robes in a panic. One boy...

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2254 Exhibit 42-0092, ‘Statement of CKB’, Case Study 42, STAT.1109.001.0001_R at [11], [13] and [16].

2255 Exhibit 42-0001, ‘Letter from Alan Kitchingman to Bishop Housden’, Case Study 42, ANG.9320.01500.0010_R at 0011_R (Tab 1B of Tender Bundle).

2256 Exhibit 42-0001, ‘R v Alan Kitchingman - transcript of sentencing’, Case Study 42, ANG.9320.01113.0047_R at 0053_R (Tab 112AA of Tender Bundle).

2257 Exhibit 42-0001, ‘Fil enote by John Cleary of meeting with Keith Allen on 11 February 2015’, Case Study 42, ANG.0132.001.0014_R (Tab 392 of Tender Bundle).

2258 Exhibit 42-0042, ‘Statement of Jean Sanders’, Case Study 42, STAT.1104.001.0001_R at [20].
came running in yelling ‘Quick, quick, he’s coming!’ and the other servers ran out the door leaving him behind. Rushton shortly entered the room.  

1397. Another former altar boy in the Diocese reported to the Diocese of Sydney in 2003 that he had concerns about Rushton’s relationships with young boys in 1976 when he was 15. The complainant’s own observations as well as comments by another priest at the time led him to believe that Rushton had ‘his own group of boys.’

1398. CKA told the Royal Commission that it was common knowledge among the altar servers that Rushton was molesting boys. CKA, by the time he was 12 years old, had formed the view that Rushton was abusing boys because of jokes circulating amongst the altar servers at servers’ guild meetings.

1399. As recounted in section 8 above, CKR said that when she lived at Morpeth College in 1979 she heard rumours that one of the people said to prefer ‘youngsters’ and ‘little boys’ was Rushton.

1400. As discussed in section 3 above, numerous people made Bishop Holland aware in 1979 and 1980 of allegations that Rushton sexually abused boys.

1401. CKA gave evidence he told Assistant Bishop Appleby in 1984 about Rushton, Father James Brown and another priest abusing boys. Assistant Bishop Appleby said he would ‘look into it’.

Available finding:

AF147 There was a general level of awareness about allegations against Rushton in sections of the Diocese during the period in which he was sexually abusing children.

\[2259\] Exhibit 42-0157, ‘Statement of COE’, Case Study 42, STAT.1261.001.0001_R at [15].

\[2260\] Exhibit 42-0093, ‘Yellow Envelope No 27’, Case Study 42, ANG.0354.027.0001_R at 0013_R.

\[2261\] Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [31].

\[2262\] Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [15], [31].

\[2263\] Exhibit 42-0027, ‘Statement of CKR’, Case Study 42, STAT.1073.001.0001 at [7]; Transcript of CKR, Case Study 42, 5 August 2016, 16602:39-45.

\[2264\] Exhibit 42-0023, ‘Statement of CKA’, Case Study 42, STAT.1093.001.0001_R at [29].
10 Systemic issues

1402. In this Case Study, the Royal Commission considered the historical and contemporary responses of the Anglican Diocese of Newcastle to instances and allegations of child sexual abuse. In examining the responses under each episcopate from 1973 to 2016, this Case Study offered significant insights into systemic issues within the Diocese.

1403. The evidence showed that Mrs Jean Sanders, Mr John Cleary, Mr Michael Elliott and Bishop Gregory Thompson in particular have been dedicated and diligent in uncovering child sexual abuse in the Diocese and in providing support to survivors.

1404. Several systemic issues appear to have been less prevalent since the successive appointments of Mr Cleary, Mr Elliott and Bishop Thompson between 2007 and 2014. Prior to this period, the following historical systemic issues were identified in the evidence:

   a. Those who reported allegations of child sexual abuse to senior clergy were treated as if they had fabricated the allegations, and were sometimes threatened with legal action;
   
   b. Allegations of child sexual abuse and related offences were not consistently or regularly reported to the police;
   
   c. Record-keeping about complaints was not consistent;
   
   d. There was a lack of awareness of, or policies on, avoiding conflicts of interest in responding to child sexual abuse matters;
   
   e. There was a lack of turnover of those in positions of governance within the Diocese, leading to entrenched positions, conflicts of interest and a narrowed pool of expertise;
   
   f. There was permissive and timid leadership by successive bishops; and
   
   g. There was an over-reliance on the perceived honesty of alleged perpetrators when confronted with allegations.

1405. A number of systemic issues were identified which are both historical and current. It is clear that many of these apply more broadly than to the Diocesan hierarchy alone. As evident from the backlash among an element of Church members towards Bishop Farran and Bishop Thompson, the Diocese is an institution where some members hold significant influence.

1406. These historical and contemporary systemic issues are as follows:

   a. Minimising the nature and impact of the offending;
   
   b. A reluctance among some clergy to implement risk management strategies for accused or convicted clergy, where those clergy shared long-standing professional or personal relationships;
   
   c. A focus on protecting the reputation of the Church and of individual members of the Church, particularly those in positions of power and influence; and
   
   d. A misrepresentation of abusive and predatory sexual relationships as consensual homosexual relationships.
1407. A cumulative effect of each of these systemic issues was that a network of perpetrators was allowed to operate within the Diocese for over 30 years.
11 Summary of available findings

The following available findings are open on the evidence:

AF1 In the 1970s, the disciplinary framework was limited. Nevertheless, a framework did exist which would have permitted Bishop Shevill to take disciplinary action if allegations that clergy had perpetrated child sexual abuse were made known to him.

AF2 In the 1970s, Bishop Shevill was made aware of allegations that Canon Harold Marshall had sexually abused two girls while he was the parish priest at St Peter’s in East Maitland.

AF3 Bishop Shevill did not take any formal disciplinary steps against Canon Marshall.

AF4 Bishop Shevill chose not to take any formal disciplinary steps because he was concerned to protect the reputation of the Church.

AF5 CKA and CKB’s mother attended Bishop Shevill’s home in around 1975 and disclosed to him that her boys had been sexually abused by CKC. She was not satisfied with Bishop Shevill’s response to her disclosures.

AF6 There is no evidence that Bishop Shevill took any action in relation to CKL’s disclosures of alleged sexual abuse on the part of CKC.

AF7 In around 1975 when Mr Greg Thompson (as he then was) was about 19 years old, Canon Eric Barker, who was then a senior figure in the Diocese, made repeated sexual advances to him and told him that they needed to have a relationship if Mr Thompson wished to ‘get into the Ministry’.

AF8 In around 1975 when Mr Thompson was about 19 years old, Canon Eric Barker and Bishop Shevill took him to the movies and both groped him in the genital area including at the same time.

AF9 Bishop Holland requested Assistant Bishop Appleby to secure Hatley Gray’s immediate resignation in February 1990.

AF10 Bishop Holland was aware in 1990 that Hatley Gray was prosecuted for sexually assaulting a boy.

AF11 Bishop Appleby was aware in 1990 that Hatley Gray was prosecuted for sexually assaulting a boy.

AF12 Bishop Holland’s evidence to the Royal Commission denying that he had known that Hatley Gray was prosecuted for sexually assaulting a boy should not be accepted.

AF13 Bishop Appleby’s evidence to the Royal Commission denying that he had known that Hatley Gray was prosecuted for sexually assaulting a boy should not be accepted.

AF14 Hatley Gray sexually assaulted a boy on 12 February 1990 and wrote a resignation after this offence at the request or suggestion of either Bishop Holland, Assistant Bishop Appleby or both.

AF15 Mr Allen falsified Hatley Gray’s letter of resignation to make it appear that he had resigned before committing the offence.

AF16 Mr Allen did so to allow Hatley Gray to remain in good standing with the Diocese and to protect the reputation of the Diocese.
AF17 The Newcastle Diocese Year Book of 1990 falsely represented that Hatley Gray had resigned on 11 February 1990, which was before he had committed the offence.

AF18 Bishop Holland failed to take any steps to warn other dioceses that Hatley Gray had been convicted of sexually abusing a child.

AF19 The lack of any response of the Diocese following Hatley Gray’s conduct enabled him to work in another diocese, including as a youth worker, where he had access to children.

AF20 In around 1979, Bishop Holland spoke with Ms Aslin on the telephone and she told him about Brown’s advances towards her son, that Brown and Rushton were fostering boys from the St Alban’s Boys’ Home and that they planned to go on a ‘sex trip’ to Europe together.

AF21 Bishop Holland took no steps in response to being made aware of these matters.

AF22 Bishop Holland was informed in 1980 by COC and COA that Rushton had sexually abused their young son.

AF23 Bishop Holland failed to take any action against Rushton once he was made aware of the allegation that Rushton had sexually abused a young boy.

AF24 Bishop Appleby met with a youth worker and another man in 1987 and at that meeting:

a. It was acknowledged to the youth worker that a young man had disclosed to her his allegation that he had been sexually abused by Brown as a boy;

b. The youth worker was told that Brown would be moved to the Maitland parish; and

c. The youth worker was asked not to discuss the allegations against Brown with anyone.

AF25 Then Assistant Bishop Appleby met with CKA at Assistant Bishop Appleby’s home on 13 August 1984. At that meeting, CKA disclosed to Assistant Bishop Appleby that he had been sexually abused by CKC when he was a boy.

AF26 Then Assistant Bishop Appleby took no steps to report or risk manage CKC after he was advised in 1984 that CKC had sexually abused a child many years earlier. CKC remained licensed as a priest in the Diocese.

AF27 At the 13 August 1984 meeting between CKA and Assistant Bishop Appleby, CKA told him that Rushton sexually abused children.

AF28 Then Assistant Bishop Appleby took no steps to report or risk manage Rushton following CKA’s allegations made in 1984, and Rushton remained an Archdeacon in the Diocese.

AF29 Bishop Holland’s inaction in relation to allegations that Rushton was a perpetrator of child sexual abuse placed children in the Diocese at risk of harm. There are allegations that three children were abused by Rushton after the allegations were made known to Bishop Holland in 1979 and 1980.

AF30 Bishop Holland’s inaction in relation to allegations made in 1979 that Brown was a perpetrator of child sexual abuse placed children in the Diocese at risk of harm from Brown. Brown was later convicted of sexually offending against 13 children after 1979.

AF31 Bishop Appleby’s inaction in relation to allegations made in February 1987 that Brown was a perpetrator of child sexual abuse placed children in the Diocese at risk of harm from Brown. Brown was later convicted of sexually offending against seven children after February 1987.
AF32 Bishop Appleby’s inaction in relation to allegations in 1984 that CKC was a perpetrator of child sexual abuse placed children in the Diocese at risk of harm from CKC.

AF33 Bishop Appleby’s inaction in relation to allegations made in 1984 that Rushton was a perpetrator of child sexual abuse placed children in the Diocese at risk of harm from Rushton.

AF34 Bishop Holland and then Assistant Bishop Appleby:

a. When able to ignore disclosures of allegations of sexual abuse, chose to do so;

b. When unable to ignore allegations, either because of the people involved or police prosecution, responded in a manner to protect the reputation of the Diocese in preference to the proper investigation of the allegations, the taking of any steps to prevent further abuse and the interests of the alleged or ultimately proven victim;

c. By their acts or omissions, enabled alleged or convicted perpetrators to continue working with access to children and without alerting other members of the clergy to the disclosed allegations.

AF35 The Diocese’s ‘Principles and Procedures for Dealing with Sexual Harassment by Ministers in the Diocese of Newcastle’ introduced in 1993, and amended in 1995, was an inadequate and unsuitable framework in which to manage allegations that clergy and those associated with the Diocese had perpetrated child sexual abuse, including because those policies focused on conciliating complaints and required the complainant to identify themselves to their alleged abuser before their complaint could progress.

AF36 Prior to the introduction of the ‘Guidelines for Care in Working with Children and Youth in the Anglican Diocese of Newcastle’ in 1995, the Diocese did not have a written policy in place for reporting allegations of child sexual abuse to the police or child protection authorities.

AF37 During his tenure as Bishop of Newcastle, Bishop Herft understood that he was responsible for managing the risk posed to children by clergy if there were allegations of child sexual abuse made against them.

AF38 Bishop Herft’s informal policy of not progressing a complaint of child sexual abuse unless it was recorded in writing and unless the complainant’s name was known left children at risk.

AF39 In 1998, Mr Rosser QC in his capacity as Deputy Chancellor advised Bishop Roger Herft to avoid receiving disclosures of child sexual abuse in order to avoid putting himself in a situation where he was obliged to report the alleged conduct to the police.

AF40 The effect of this advice was that Bishop Herft should remain wilfully blind to allegations of child sexual abuse.

AF41 The record keeping system in relation to allegations of sexual abuse over the period of Bishop Herft’s episcopate was inadequate as it failed to accurately, consistently and centrally record all complaints of child sexual abuse made to the Diocese, and the Diocesan response.

AF42 The effect of this inadequate system, while not necessarily deliberate, was detrimental to the quality and quantity of available evidence in relation to allegations of sexual abuse to assist in the investigation of complaints.
AF43 Bishop Herft was made aware on three separate occasions of allegations that Mr Lawrence had sexually abused children. Firstly, he was told by Mr Robert Wall and his wife in 1995 that two boys had separately approached him and alleged that Mr Lawrence had sexually abused them. Secondly, he was told by then Archbishop Goodhew in around 1996 that there were allegations that Mr Lawrence had engaged in sexual activity with young boys. Thirdly, he was told by Bishop Clark in 1999 that there was an allegation that whilst in Griffith, Mr Lawrence had been a perpetrator of child sexual abuse.

AF44 Bishop Herft’s evidence that he has no recollection of any of these disclosures should not be accepted.

AF45 Bishop Herft made no record of the disclosures he received in relation to Mr Lawrence.

AF46 Bishop Herft’s response to the disclosures was unsatisfactory by any standard. Even if he did speak with Mr Lawrence about the allegations of sexual abuse, he did not take any further action in relation to the allegations. He did not report them to the police. He did not conduct any kind of investigation. Nor did he implement any kind of risk management strategy with respect to Mr Lawrence.

AF47 In accepting the brief to appear for Brown at the committal in 1997, Mr Rosser QC gave no consideration to the fact that, by virtue of the fact that he held the position of Deputy Chancellor, it could reasonably be perceived by members of the public and the alleged victim that the Diocese was supporting the alleged perpetrator and disbelieving the alleged victim.

AF48 In 1998, removalists located child pornography at Rushton’s home as they prepared to move him to a new address.

AF49 Bishop Herft did not confirm directly with the removalists who had seen the material at Rushton’s home that there was no child pornography.

AF50 Instead Bishop Herft relied upon Mr Rushton’s own legal adviser to conduct his own investigation and advise the Diocese of the outcome.

AF51 The investigation conducted by the Diocese through Bishop Herft was inadequate as it relied on Rushton to make disclosures that may have been against his interest.

AF52 Bishop Herft did not take action to discipline Rushton in the aftermath of the pornography allegations in part because Rushton threatened to take legal proceedings against the Diocese.

AF53 On 15 October 2002, Reverend Jackson informed Bishop Herft of allegations that Rushton had sexually abused a boy in the 1980s. Bishop Herft said there was little he could do if no formal complaint was made by the victim.

AF54 After receiving this allegation, Bishop Herft took no steps to further investigate the matter or withdraw Rushton’s permission to officiate in the Diocese.

AF55 In February 2003, Bishop Herft was made aware of an allegation that Rushton had abused the son of a priest and another boy in or about 1979.

AF56 In February 2003, Bishop Herft was also made aware that a complaint had been made against four clergy from the Diocese, one of whom was Rushton. He was made aware that the complaint against Rushton was that he had ‘his own group of boys’ and was aware that this was an allegation of sexual impropriety.

AF57 After receiving these allegations, Bishop Herft took no steps to further investigate the allegations, implement any risk management procedures or withdraw Rushton’s permission to officiate in the Diocese.
AF58 Bishop Herft’s continued licensing of Rushton, notwithstanding his knowledge of the various allegations made against Rushton by 2002, demonstrated poor judgment by Bishop Herft.

AF59 By the end of February 2003, Bishop Herft could have been in no doubt that there was a history of behaviour with regard to Rushton that required further investigation.

AF60 Bishop Herft did not report the 2002 and 2003 allegations against Rushton to the NSW police and he should have done so.

AF61 Bishop Herft did not ensure that any proper investigation and disciplinary action was taken against Rushton, and accepted that he should have done so.

AF62 Bishop Herft’s inaction contributed to the systematic failure of the Diocese to make perpetrators accountable for their conduct.

AF63 CKA contacted Mr Lawrence and made a disclosure of sexual abuse in 1996 because at the time Mr Lawrence was the Commissary of the Diocese.

AF64 Following CKA’s telephone call to then Dean Lawrence in April 1996, then Dean Lawrence was aware that it was alleged that CKC had sexually abused two boys in 1970.

AF65 In around May 1996, then Dean Lawrence informed Bishop Herft of the allegation that a priest had sexually abused two boys in 1970 but he did not name that priest.

AF66 Neither Bishop Herft nor then Dean Lawrence informed the police of the allegations or took any other steps in relation to the allegations. In failing to inform the police, Bishop Herft and then Dean Lawrence did not act in accordance with the Diocesan policy that allegations of child sexual abuse be reported to the police.

AF67 Neither Bishop Herft nor then Dean Lawrence informed the Diocese of Ballarat of the allegations against CKC despite the fact that CKC was licensed as a priest in the Diocese of Ballarat in 1996.

AF68 Following the 1999 disclosures of CKA, neither Bishop Herft nor then Dean Lawrence informed the police of the allegations or took any other steps in relation to the allegations.

AF69 By not informing the police, Bishop Herft and then Dean Lawrence failed to act in accordance with the Diocesan policy that allegations of child sexual abuse be reported to the police.

AF70 Following the 1999 disclosures by CKA, neither Bishop Herft nor then Dean Lawrence informed the Diocese of Ballarat of the allegations against CKC despite the fact that CKC was licensed as a priest in the Diocese of Ballarat in 1999 and may have had access to children.

AF71 Mr Rosser QC, then the Deputy Chancellor of the Diocese, provided advice to the Diocese on how to deal with CKA’s allegations and settled a letter to CKA in which CKA was advised that the Church would offer as much help as the circumstances required.

AF72 Mr Mitchell was aware by at least the end of 1999 that CKA had alleged that he had been sexually abused by CKC as a child.

AF73 Mr Mitchell adopted a deliberately obstructive approach when police enquired of the Diocesan Registry as to CKC’s current whereabouts.

AF74 Then Dean Lawrence adopted a deliberately obstructive approach when police enquired of the Deanery as to CKC’s current whereabouts.
AF75  Then Dean Lawrence failed to honour the assurance he provided to CKA in his 22 January 1999 letter that the Church was ‘prepared to offer as much help as the circumstances require’.

AF76  Mr Mitchell and then Dean Lawrence kept each other informed of police enquiries relating to CKC.

AF77  Mr Allen did not consider whether it was appropriate to act for CKC in a criminal prosecution given the various governance roles he held in the Diocese at the time. Mr Allen accepted that by acting for CKC, he may have given CKA and CKB the impression that the Church was supporting CKC over them. Mr Allen’s decision to act for CKC represented poor judgment on his part.

AF78  Mr Rosser QC was not a barrister at the time he accepted instructions from CKC and the ‘cab rank’ rule did not apply. Mr Rosser QC was in fact an employed solicitor at the time. His decision to accept instructions from CKC was outside the course of his ordinary work at that time.

AF79  Mr Rosser QC had provided advice to the Diocese on how to handle allegations made by CKA against CKC and settled a letter to CKA in which the Diocese offered him ‘as much help as the circumstances require’. Mr Rosser QC subsequently accepted instructions to appear for CKC at the criminal prosecution for offences against CKA and his brother. This was a clear conflict of interest. In his capacity of Deputy Chancellor, he was involved in sending a message to CKA that the Church would help him. In his capacity as CKC’s legal representation, he was involved in undermining CKA’s allegations.

AF80  Mr Rosser QC did not consider whether it was appropriate to act for CKC in a criminal prosecution despite the fact that he was the Deputy Chancellor of the Diocese at the time. By acting for CKC at the time he was Deputy Chancellor, a reasonably open perception of CKA and CKB and the public generally was that the Church was supporting CKC and disbelieving CKA and CKB. Mr Rosser QC’s decision to act for CKC represented poor judgment on his part.

AF81  At all material times, Bishop Herft was aware that Mr Allen and Mr Rosser QC were acting for CKC in his criminal prosecution.

AF82  At no time did Bishop Herft raise with either Mr Allen or Mr Rosser QC the propriety of them acting for CKC in view of the positions they held within the Diocese.

AF83  In not raising any objection with Mr Allen or Mr Rosser QC about their representation of CKC in criminal proceedings, Bishop Herft signalled to CKA and CKB that the Church did not support them or believe their allegations.

AF84  The Deanery adopted a deliberately obstructive attitude towards police enquiries regarding the date that CKC was licensed at the relevant parish by not providing information that (a) was readily available to the Diocese and the Deanery and (b) had been already provided to CKC’s defence team.
In answering an April 2001 subpoena to the Registry seeking ‘any notes, letters, correspondence or copy in possession of the Bishop or Diocese relating to any complaint of sexual misconduct by any person against CKA and CKB’, Mr Mitchell failed to produce a letter that he had written to Mr Allen in February 2000 which set out the dates upon which CKC held licences to at various parishes. The letter properly fell within the scope of the subpoena and ought to have been produced.

Mr Allen telephoned COH and asked her to bring the Register of Services to Court. She came to Court and gave the Register of Services to Mr Mitchell. Mr Mitchell in turn provided the Register of Services to Mr Rosser QC who showed it to the Crown. No subpoena was issued requiring the production of the Register of Services.

The article Mr Mitchell published in the October 2001 edition of the Anglican Encounter about the prosecution of CKC was defensive and critical of CKA and CKB, and contained a number of factually inaccurate assertions, including that CKC had no case to answer.

Mr Mitchell accepted that his article was compassionless.

In writing this article, Mr Mitchell gave no consideration to the fact that it could reasonably be perceived by members of the public and the alleged victims that the Diocese, represented by its Registrar, was ‘closing ranks’ in support of CKC.

Mr Mitchell made untruthful statements in his 16 October 2001 letter to CKA in saying that the Church did not provide records to CKC’s legal representatives except under compulsory processes.

The Diocese, under the leadership of Bishop Herft, showed no compassion towards, and provided no support to, CKA and CKB in relation to their allegations that CKC had sexually abused them as children. Rather, officers in the Diocese, including Mr Mitchell, Mr Allen and Mr Rosser QC actively sought to undermine them. Bishop Herft was aware of this undermining conduct.

The anguish of CKA and CKB was compounded by the approach taken by the Diocese in CKC’s criminal proceedings.

Bishop Herft understood that he had a pastoral responsibility to CKA and CKB.

CKA and CKB were shown no compassion by Bishop Herft. They received no effective acknowledgement, support or redress from Bishop Herft. Bishop Herft failed to meet his pastoral responsibilities to these two complainants.

Bishop Herft was not made aware of allegations against Barrack until April 1999.

By contacting DOCS, Bishop Herft took appropriate action in responding to the disclosures that were made to him about Barrack in around April 1999.

After being notified that Barrack had sexually abused CKU as a child, Bishop Herft should have taken more active steps to ensure that appropriate pastoral care and support were provided to CKU and his mother, CKR.

Bishop Herft did not inform the Chair of CASM of the allegations against Barrack and should have done so. As a result, CASM could not maintain a complete record in relation to complaints about sexual misconduct by Barrack and could not act to see that appropriate pastoral support was provided to CKU and CKR.
There were significant developments in the policies for handling sexual abuse allegations during Bishop Herft’s tenure in the Diocese. However, in the following respects the Diocese’s practices did not live up to its disciplinary and policy framework expectations and requirements in handling allegations of child sexual abuse:

a. No member of the clergy in respect of whom allegations of child sexual abuse were made was formally disciplined;

b. Where the alleged perpetrator had moved to another diocese, that diocese was generally not warned of the allegations;

c. Survivors were not offered timely or compassionate pastoral care and support; and

d. Allegations that members of the clergy had sexually abused children were routinely not reported to the NSW police.

While Bishop Herft gave evidence that it was always the policy of the Diocese to report allegations of child sexual abuse to the police, this policy was fettered in many respects. Bishop Herft considered it was only necessary to report such allegations to the police where the complaints were identified by name, where there was a complaint in writing and where the complaint had some ‘substance’.

Bishop Herft mishandled the allegations of child sexual abuse made against two of the most senior and domineering priests in the Diocese – the Dean of the Cathedral, Mr Lawrence, and the one time Archdeacon of Maitland, Rushton. His response was weak, ineffectual, and showed no regard for the need to protect children from the risk that they would be preyed upon. It was a failure of leadership.

During Bishop Herft’s tenure there was a network of long term Diocesan ‘insiders’ – the Dean Lawrence, Mr Mitchell, Mr Allen and Mr Rosser QC – who worked together to frustrate efforts by other leaders, including the Bishop, to deal with the sexual abuse of children by priests and others within the Diocese.

It was remiss of Bishop Herft to not make Bishop Farran aware that Mr Lawrence and Rushton, who had been two of the most senior priests in the Diocese, had both been accused of sexually abusing children.

The Diocese failed to provide consistent pastoral care and support to CKU and CKR during the Barrack criminal proceedings as required by the Diocese’s Principles and Procedures for Dealing with Allegations of Sexual Misconduct.

Reverend Dyer first raised his concerns about allegations that Rushton had sexually abused boys with Mr Michael Elliot in mid-2009 and with Bishop Farran by late 2009 at the latest.

Bishop Holland implied to Bishop Farran that he had no prior knowledge of allegations that Rushton had sexually abused children. This representation was not correct.

Bishop Appleby implied to Bishop Farran that he had no prior knowledge of allegations that Rushton had sexually abused children. This representation was not correct.

Bishop Herft implied to Bishop Farran that he had no prior knowledge of allegations that Rushton had sexually abused children. This representation was not correct.
AF109 It was not appropriate for Mr Rosser QC, as the Chancellor of the Diocese, to propose motions relating to the Professional Standards Committee independently of instructions to do so from the Bishop. In doing so, Mr Rosser QC exceeded the proper role of Chancellor, which is to advise the Bishop when advice is requested.

AF110 Despite being of the strong suspicion that his trainee priest Mr Duncan was having sex with a 15 year old boy, Mr Lawrence, then a senior priest in the Diocese of Riverina, did not report the matter to the police or to the Bishop of the Diocese of Riverina. This was seriously remiss of Mr Lawrence.

AF111 It was seriously inappropriate for the Dean of the Cathedral, Mr Lawrence, to send a highly sexualised card to a 19 year old man who until recently had been his parishioner and altar boy for a number of years.

AF112 In 1981, Mr Lawrence, then a senior priest in the Diocese of Riverina, commenced a sexual relationship with CKH who was then 16 years old.

AF113 Mr Goyette commenced a sexual relationship with CKH when CKH was 17 years old.

AF114 Mr Goyette and Mr Lawrence continued to have a sexual relationship with CKH until around 1985, when CKH was 19 years old.

AF115 At all material times, Mr Lawrence was aware that Mr Goyette and CKH were having a sexual relationship.

AF116 Mr Lawrence occupied key positions in the early disciplinary framework in the Diocese, and was involved at a national level in developing the model professional standards framework that the Diocese then implemented. However, Mr Lawrence refused to submit himself to the new professional standards framework when a complaint was made against him.

AF117 Following Bishop Farran’s decision to make public the allegations that Rushton was a perpetrator of child sexual abuse, and his decision to take interim measures against Mr Lawrence and others pending a disciplinary proceeding, Bishop Farran experienced a backlash from elements of the Diocese.

AF118 This backlash included the making of complaints about Bishop Farran to the then Primate of the Anglican Church and the Episcopal Standards Commission.

AF119 A group within the Diocese, largely situated within the Cathedral, took action, including the making of complaints, to discourage the Diocese from dealing with allegations of child sexual abuse and perpetuated a culture of cover up and denial.

AF120 Mr Rosser QC acted as counsel for Brown in his prosecution for historical child sexual abuse offences committed at a time that Brown was a youth worker and lay preacher in the Diocese. At the same, Mr Rosser QC held the office of Chancellor of the Diocese. Performing these two separate roles at the same time could reasonably engender in the minds of the public and in the minds of survivors of Brown’s abuse that it was the Diocese, and not Mr Rosser QC the private individual, who was defending Brown.

AF121 In accepting the brief to appear for Brown in 2010, Mr Rosser QC showed poor judgment.

AF122 Mr Rosser QC adopted an activist role within the Diocese at the time when he was Chancellor which was inconsistent with the function of the office of Chancellor, which was to advise the Bishop when the Bishop sought advice. In adopting this activist position Mr Rosser QC showed poor judgment.
AF123 Bishop Farran did not unreasonably delay in taking action on the Professional Standards Board’s recommendations for Mr Lawrence, Mr Hoare, Duncan, Mr Sturt and Mr Goyette.

AF124 To the extent that there was any delay, Bishop Farran had taken adequate steps in suspending the licenses of Mr Lawrence, Mr Hoare, Mr Sturt and Mr Duncan to minimise any risk those persons posed to children and other vulnerable church members.

AF125 The amendments to the Professional Standards Ordinance made by the Diocesan Synod in October 2012 undermined the transparency and integrity of the professional standards framework.

AF126 Between 2009 and 2012, there was a faction of the Diocese whose strong support for the respondents in professional standards matters resulted in determined opposition to the professional standards framework more broadly.

AF127 This opposition culminated in a number of actions that had the effect of testing, challenging, amending and then circumventing the professional standards process in turn. Specifically, these actions were:

a. Engagement of Professor Patrick Parkinson to review the outcome and process by which the Professional Standards Ordinance 2005 was applied to COJ and Mr Gumbley;

b. A Supreme Court challenge by Mr Lawrence and Mr Sturt to the Professional Standards Board findings and the validity of the Professional Standards Ordinance 2005;

c. Amendment and later replacement of the Professional Standards Ordinance 2005; and

d. Ongoing public and private pressure exerted on members of the Diocese, particularly Bishop Farran and Mr Michael Elliott, to not implement the Professional Standards Board recommendations and, ultimately, to resign.

AF128 Between December 2012 and February 2014, Administrator Bishop Stuart oversaw the implementation of four key professional standards policies:

a. The Professional Standards Protocol (March 2013);

b. The Conflict of Interest Policy (March 2013);

c. New Working With Children’s Checks processes as part of the Safe Ministry Policy (May 2013); and

d. The Claim Resolution Protocol (September 2013).

AF129 In developing these four policies, there was an appropriate level of consultation with the Professional Standards Director and the Professional Standards Committee.

AF130 There was continued resistance in some quarters of the Diocese to implementing a risk management policy to manage the presence of persons charged or convicted of serious sexual misconduct who wished to worship in parishes in the Diocese.

AF131 The delay in enacting a risk management policy within the Diocese resulted in unreasonable delays in the implementation of risk management plans for Mr Lawrence, Mr Goyette and Kitchingman.

AF132 Reverend Bird, the priest at St Stephen’s in Adamstown where Mr Lawrence and Mr Goyette worshipped, did not initially cooperate in the implementation of risk management plans for Mr Lawrence and Mr Goyette.
Assistant Bishop Stuart, while Administrator of the Diocese, acted appropriately in directing that a review be conducted of past cases of child sexual abuse in the Diocese and in disclosing to the NSW Police past instances of clergy misconduct which may have involved illegal conduct.

Following Bishop Thompson’s decision to publicly announce his alleged abuse at the hands of Bishop Shevill and another senior member of clergy in the 1970s, he experienced a backlash from sections within the Diocese, largely connected to the Cathedral, and this backlash included the making of numerous complaints about Bishop Thompson to the Royal Commission, the then Primate of the Anglican Church, and the Metropolitan of the Anglican Diocese of Sydney.

This group within the Diocese drove a process to discourage the Diocese from dealing with allegations of child sexual abuse and, in doing so, perpetuated a culture of cover up and denial.

On several occasions in 2014 and 2015, Mr Allen advised Bishop Thompson and Mr Cleary to pre-emptively prepare statements for the Royal Commission on behalf of members of the Diocese who were the subject of Commission enquiries.

Mr Allen told Bishop Thompson and Mr Cleary that the purpose of preparing these statements and producing them to the Royal Commission was to minimise possible cross-examination.

Mr Allen provided inconsistent accounts to Bishop Thompson and Mr Cleary regarding whether he held professional standards files:

a. In June 2014, Mr Allen told Bishop Thompson that he held professional standards files that the Diocese did not have;

b. In February 2015, Mr Allen told Bishop Thompson and Mr Cleary that he did not hold such files;

c. In March 2015, Mr Allen told Bishop Thompson and Mr Cleary that he had destroyed all files.

On 11 February 2015, Mr Allen told Mr Cleary that he would assist solicitor Mr Michael Daley make a claim against the Diocese on behalf of CKM, that it would only be a small claim, that it would be settled through exchanging a few letters and that settlement would be ‘easy’.

The clear inference from Mr Allen’s statements was that he would work to ensure that CKM only made a small claim against the Diocese and the matter would be quickly settled.

In 2015, Mr Allen did discuss with solicitor Mr Daley the making of a claim on behalf of CKM against the Diocese for child sexual abuse CKM allegedly suffered as a child.

In discussing CKM’s redress claim against the Diocese both with CKM’s solicitor and with the Business Manager of the Diocese in 2015, Mr Allen placed himself in a position of conflict. This reflected poor judgment on Mr Allen’s part.

Reverend Bird was slow to implement a risk management plan in relation to Mr Lawrence and Mr Goyette who continued to worship in the Adamstown parish, and the plan eventually implemented was not very effective because its details were not made known to Mr Lawrence.

The amendments to the Professional Standards Ordinance made by the Diocesan Synod in October 2015 improved the transparency of the professional standards framework.
AF145 There was a network of perpetrators operating in the Diocese of Newcastle between at least the early 1960s and late 1980s, of which Rushton was a central figure. In some cases, there was evidence of complicity and knowledge of each other’s offending.

AF146 Rushton facilitated access to boys by Brown, Cooper, McLoughlin, and other unidentified men for the purpose of sexually abusing them.

AF147 There was a general level of awareness about allegations against Rushton in sections of the Diocese during the period in which he was sexually abusing children.

Naomi Sharp, Counsel Assisting the Royal Commission

22 December 2016