

**Special Commission of Inquiry into matters relating to the
Police Investigation of certain child sexual abuse allegations in
the Catholic Diocese of Maitland-Newcastle**

**STATEMENT OF
BISHOP MICHAEL MALONE
OF 151 SCENIC HIGHWAY, TERRIGAL IN THE STATE OF NEW SOUTH WALES
STATES ON OATH:-**

I provide this statement in accordance with the provisions of the Special Commissions of Inquiries Act, 1983.

In providing the answers in this statement I have adopted the questions which have been posed to me by the Special Counsel for the Inquiry and contained within letters dated 18 February, 2013 and 1 March, 2013.

1. *Bishop Malone's knowledge regarding any processes, policies, protocols or guidelines for dealing with allegations of child sexual abuse within the Catholic Church, including the history and evolution of such policies/protocols (to the best of his knowledge)*

1.1 In November, 1994 I was appointed Coadjutor Bishop of the Diocese of Maitland.

1.2 On 15 February, 1995 I was ordained as Coadjutor Bishop and in November, 1995 I became Bishop of the Diocese of Maitland.

1.3 I became aware that there had been an advice which had been delivered to Bishops which gave some details in respect of how Bishops should respond to allegations of abuse.

1.4 In 1996 the bishops of Australia and the congregational leaders produced a document known as "Towards Healing". That document dealt with the procedures surrounding the protocols for the dealing with physical and emotional abuse by members of the clergy. The abuse included sexual abuse.

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- 1.5 Since that time "Towards Healing" has been revised with the most recent revision in 2010. There was a revision in the intervening period between 1996 and 2010.
- 1.6 The Diocese of Maitland-Newcastle accepted the recommendations of "Towards Healing" and implemented its policies and procedures.
- 1.7 Over time I reviewed the systems and procedures within the Diocese.
- 1.8 I developed a group which was the forerunner of the Child Protection Unit for the Diocese. The Child Protection Unit later became known as Zimmerman House and is now known as Zimmerman Services.
- 1.9 When I first established Zimmerman House I located it at Carrington away from the administrative centre of the Diocese. The first Director of the unit was Helen Keevers, who was appointed via a merit process. Ms Keevers was not Catholic and it was not part of the criteria for the selection process that the successful applicant be Catholic.

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2.2 As I indicated in response to question 1, I did create within the Diocese a group with which I had regular contact as this group was the forerunner of Zimmerman House.

2.3 I had regular contact with John Daveron who was previously in charge of the New South Wales Professional Standards Group in respect of professional standards issues. I mean by the words "professional standards issues" professional standards issues as defined in "Towards Healing". I would not necessarily record such contacts other than occasionally making a note if I believed the matter was of some significance. Such notes would be contained within the records of the Diocese. The notes are not in my possession.

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2.4 I did speak with John Daveron in relation to the Father Fletcher and **AH** matter and also the matter of Father McAlinden. I refer to that in more detail below.

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3. *When Bishop Malone first became aware of any reports, complaints or suspicions of child sexual abuse by Fr Denis McAlinden*

3.1 I first became aware of reports regarding the activities of Father Denis McAlinden when I was commissioned by Bishop Leo Clarke to commence the process of laicisation in respect of Father McAlinden. Prior to joining the Diocese of Maitland-Newcastle I was not aware of any of the matters. At the point of commencing the process I was only aware of one abuse allegation involving Father McAlinden. The allegation was by **AK, AL** who were at the time adults.

4. *The steps taken by Bishop Malone upon becoming aware of such report, complaint or suspicion in relation to Fr McAlinden*

4.1 Father McAlinden had been stood down from the activities of a Parish Priest for a period of approximately two years before I commenced as Coadjutor Bishop. I had never met Father McAlinden.

4.2 The initial steps taken by me were to write to Father McAlinden indicating that steps were being undertaken in respect of the withdrawal of his privileges and the commencement of the process of laicisation in accordance with Canon Law.

4.3 I was informed by Bishop Clarke that **AK, AL** did not want any involvement by the Police and that they wanted Father McAlinden's ability to be a Priest taken away from him.

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4.4 When I became aware of subsequent complaints concerning the activities of Father McAlinden I would meet with the complainants, listen to their stories, arrange counselling for them and I referred them to Zimmerman House if they had not made initial contact with Zimmerman House.

4.5 I telephoned John Daveron, Director of New South Wales Professional Standards Office, in or about 2001 or 2002 and asked him to notify the Police of the additional allegations of abuse that had been made against Father McAlinden. John Daveron had previously indicated to the Bishops of New South Wales, at one of our meetings, that he could be utilised for the purpose of making contact with Police for the purpose of Police enquiries being made.

5. *When Bishop Malone first became aware of any reports, complaints or suspicions of child sexual abuse by Fr James Fletcher*

5.1 In answering this question I have had access to a report of the New South Wales Ombudsman (in redacted form) and in particular pages 18 – 19 of that report; however, I have not had access to any of the documents which are the subject of a notation in the report including my Statement to Police made on 21 May, 2003. Those pages would indicate that I was given information about father Fletcher as early as 1997. I do not have an independent recollection of those events and my memory commences with the airing of a 60 Minutes programme on 2 June, 2002.

5.2 The 60 Minutes programme contained an interview with Cardinal George Pell, the Archbishop of Sydney. Following that interview. **BI** who was came to see me in my office. There were no other persons present at the meeting. The meeting took place on or about 3 June, 2002.

5.3 **BI** said to me works to the effect, "**AH** says he's been abused by Jim Fletcher. **REDACTED**"

5.4 **BI** indicated that **AH** had had a number of issues at home including excessive drinking and erratic behaviour.

5.5 I do not recall the actual words that I said, but I said words to the effect:

"I'm sorry to hear that. If he claims it happens, it's got to be listened to."

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5.6 I did not make any recommendation in respect of making any complaint to the Police as I thought that this had been done on the basis that **BI** indicated to me that **AH** had reported the matter to Police.

6. *The steps taken by Bishop Malone upon becoming aware of any such report, complaint or suspicion in relation to Fr Fletcher*

6.1 I reiterate what I have said above in answer to question 5 as to my memory of these matters prior to the 60 Minutes program on 2nd June, 2002.

6.2 I have accessed the Ombudsman's report and that has prompted the following recollection as to the chronology of events. I must say however that I have consulted my diary for the relevant time and the chronology which follows seems to be somewhat at odds with respect to the initial visit to Father Fletcher. Nevertheless, doing the best I can with the material that I have the following occurred:

- i. 2nd June, 2002 – 60 Minutes program in which Cardinal Pell gave an interview about sexual abuse in the Catholic Church.
- ii. 3rd June, 2002 – I was contacted by **BI** in relation to his son.
- iii. On or about 4th June, 2002 - I travelled to Branxton with my Vicar General, Father Jim Saunders and visited Father Fletcher. I had thought that confronting Father Fletcher with the allegation might trigger a response of an admission of inappropriate behaviour if that indeed had occurred. Instead the response was immediate denial of any wrongdoing.
- iv. 20th June, 2002 – I was visited by Detective Fox. Father Saunders was also present. Detective Fox indicated that it was his view that Father Fletcher should be stood down from his role as Parish Priest.
- v. 20th June, 2002 – I telephoned John Daveron, who was the then Director of the Professional Standards Office and sought his advice as to whether I should stand Father Fletcher down. His reply was, words to this effect:

"Father Fletcher does not have to be stood down at this point as there is a presumption of innocence in these matters. This is an allegation only. You don't have to stand him down at his time."

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- vi. 20th June, 2002 – I travelled to Branxton again to visit Father Fletcher with Father Jim Saunders. We arrived there at about 1.15pm. I indicated to Father Fletcher that he was under investigation in relation to serious sex offences and I believed he should stand down as Parish Priest. Father Fletcher replied, words to this effect:

"I would rather not have this happen as my friends are in the Parish and I would have more support here throughout this difficult time. Please don't stand me down."

Father Fletcher again categorically denied the allegations.

- vii. 20th June, 2002 at about 2.00pm I left the meeting and went to the primary school to see Will Callinan, who was the Principal of St Brigid's Primary School, Branxton. The conversation included, inter alia, words to the following:

Bishop Malone: ***"Did you know that allegations have been made against Jim Fletcher?"***

Will Callinan: ***Yes, he told me. I don't believe it. He wouldn't be capable of such things. Someone's out to get him.***

Bishop Malone: ***The Police are launching an investigation. I have asked Jim to consider standing down, but he would rather stay here where he has the support of parishioners until after the investigation is completed. You will need to be careful while this is going on. He shouldn't be alone with kids and should stay away from the school."***

As Will Callinan shared a friendship with Father Fletcher I stressed the need to be vigilant in his supervision of him. Upon leaving the school grounds I

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returned to the presbytery and met again with Father Jim Fletcher and Father Saunders. I returned then to the Chancery and made notes in my diary as to the visit to Branxton.

viii. 18th March, 2003 – Father Fletcher stood down.

ix. 19th March, 2003 – Further discussion between Bishop Malone and Will Callinan.

7. *What Police Investigations and inquiries Bishop Malone was aware of with respect to Fr McAlinden and when he became aware of them*

7.1 During my time as Bishop of the Diocese of Maitland-Newcastle I was not aware of any investigation by Police in respect of the activities of Father McAlinden. I become aware of the investigations of Strike Force Lantle in or about early December, 2011 when I was contacted by Detective Little from the Strike Force. I participated in an interview with Police and I was told that my interview was confidential and I have not been provided with a copy of my interview. I have maintained confidentiality in respect of the interview other than to this Special Commission and to my legal advisors.

8. *What Police Investigations and inquiries Bishop Malone was aware of with respect to Fr Fletcher and when he became aware of them*

8.1 Subject to my qualification set out in question 5 above my first recollection of a Police investigation regarding Father Fletcher when I was spoken to by Detective Peter Fox on the 20th of June, 2002.

8.2 I understood from what BI had told me that Att had already reported the matter involving Father Fletcher to the Police

9. *Whether Bishop Malone communicated or met with any member of the NSW Police Force in relation to either Fr McAlinden or Fr Fletcher, and if so, when and the details of those communications or meetings*

9.1 I have had no contact or communication with any member of New South Wales Police Force in relation to Father McAlinden other than my contact with Strike Force Lantle.

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9.2 In respect of Father Fletcher, the only member that I have had contact with is Detective Fox. I met with Detective Fox on 20 June, 2002 as I have detailed above. I subsequently met with Detective Fox at Maitland Police Station for the purpose of providing a statement to Police. I signed the statement to Police and a copy of the statement would be within the records of Police. I have not retained a copy of the statement, but I believe that I may have been given a copy of the statement and the statement would be within the records of the Diocese. The statement should be within the file known as "The Fletcher File".

10. *Whether Bishop Malone considers that he co-operated with the Police Investigation(s) and if so, please provide details as to the nature of that cooperation.*

10.1 I believe that I have cooperated fully with Police. I have provided to Detective Fox any information that he required. I did not seek to hinder or obstruct any investigation.

11. *Whether Bishop Malone is aware of any instance in which he may have impeded or obstructed any Police Investigation into Fr McAlinden and/or Fr Fletcher – and, if so, the nature of such impediment or obstruction.*

11.1 I do not believe that I have ever impeded or obstructed any investigation in respect of Father McAlinden and Father Fletcher.

12. *Bishop Malone's views as to whether the Church, as an institution, could or should have dealt with the McAlinden and/or Fletcher matters differently or better than it did, including how things might have been dealt with differently or better.*

12.1 By the time I became Bishop Father McAlinden had left the jurisdiction and he had left the Diocese. I was aware also of the desire which had been expressed by ~~AK & AL~~ that Police not be involved in the matter and that the action requested by ~~AK & AL~~ was that Father McAlinden's entitlement to practice as a priest be taken away from him.

12.2 As to the Fletcher matter, I acknowledge that the matters should have been reported to the Ombudsman's Office. With the benefit of hindsight I would now have done so and as a response to that shortcoming I ensured that Zimmerman House was established.

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12.3 As to the events of 20 June, 2002, I believe that I would have travelled to Branxton and spoken with Father Fletcher, but at that time I would not have accepted his request to remain within the ministry at Branxton and I would have withdrawn his entitlement to practice as a minister.

12.4 As to matters of abuse within the church generally I believe that I have sought to influence and improve the way that the church deals with these matters. I have previously called upon the pope to make an apology to victims of abuse from members of the church during the pope's visit to Australia in 2008 for the World Youth Conference.

13. *The circumstances in which Bishop Malone became aware of the allegations that Fr James Fletcher had sexually abused AB, including details of any communications (whether oral and/or in writing) with persons within Catholic Diocese of Maitland-Newcastle concerning that matter;*

13.1 I became aware of allegations that Father James Fletcher had sexually abused AB at some time during 2004 or 2005. I was aware that Father Fletcher had been under investigation and by that time charged by Police in relation to AH. The details would be contained within the file which is maintained at the Diocese concerning Father Jim Fletcher. I have not had access to that file for the purpose of preparing this response.

13.2 I recall at the time that Helen Keevers was employed by the Diocese.

13.3 I became aware of the allegation by two means. Firstly, AB's sister, BG had contacted the Diocese and had spoken with Helen Keevers. BG had details that AB had made a disclosure to his family that he had been abused by Father Fletcher.

13.4 I personally became aware of the abuse as I was telephoned by Glen Walsh, who was a priest at the Diocese. I think at the time that I became aware of the matter Glen was doing some relief work in the Branxton or Aberglasslyn area. Glen contacted me at about the same time as I was being informed by Helen Keevers of the contact that she had received from BG :

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13.8 From discussions with Helen Keevers I became aware that **AB** did not want the matter investigated by Police as he considered the matter to be private in nature for reasons that were personal to him.

14. *The steps taken by Bishop Malone on becoming aware of such matter, including any contact made by Bishop Malone with any relevant authority;*

14.1 I had no contact with any relevant authority, such as the Police or the Office of the Ombudsman.

14.2 I believed:-

- i. Father Fletcher had been charged by the Police and his conduct was under scrutiny.
- ii. That **AB** did not want the matter investigated by the Police.
- iii. Another person, Peter Gogarty, had been in contact with Police about allegations of abuse by Father Fletcher.
- iv. That Pastoral support was being offered to **AB** and his family by Helen Keevers and her group. **REDACTED**
- v. I did not need to intrude on the steps being taken by Helen Keevers and her group which was specifically designed for such a purpose.
- vi. That **AB** and Gogarty knew the situation of each other and preferred to wait and see the outcome of the Fletcher prosecution and to assist the Police with a further prosecution if the prosecution in respect of the **AT** matter failed.

14.3 Helen Keevers, via Zimmerman House, provided excellent pastoral support for the family. I subsequently married **BS** and her husband and I met with **AB** ; when he was the sponsor for his niece at a confirmation. I did not discuss the abuse allegations with **AB** at that time.

14.4 I believed at all times that the matter was being appropriately dealt with by Helen Keevers and the staff of Zimmerman House. I did not believe ~~that~~

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needed to interfere with any steps that they were taking in respect of the matter. I was aware that **AB** knew of the abuse which had been perpetrated upon Peter Gogarty and also upon **At** and that he was ready, willing and able to come forward to authorities if required to prevent Father Fletcher from being released from prison if he was convicted of any sexual abuse offence.

15. Any further matters, not otherwise covered the matters listed in my letter of 18 February 2013 or this letter, which Bishop Malone regards as relevant to the Inquiry.

15.1 I do not believe that there are any further matters which were not covered in my previous response to the inquiry of 18 February, 2013.

Sworn at Newcastle on 8 July, 2013

Signature of Deponent Signed

Name of witness David Ian Jones

Address of Witness Level 5, 384 Hunter Street Newcastle

Capacity of Witness Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

1. I saw the face of the deponent.
2. I have known the deponent for at least 12 months.

Signature of witness

Signed

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