



TRIAL BY COMMITTEE

An examination of the Professional Standards Committee of the Anglican Church of Australia, Sydney diocese: an unjust design unjustly executed.

Figtree Anglican Church v. the Dobbs family

In 2006, Sydney diocese of the Anglican Church of Australia adopted the Discipline Ordinance 2006 ('the 2006 Ordinance') as a replacement for the Church Discipline Ordinance 2002 ('the 2002 Ordinance'). Both versions set up the Professional Standards Committee (the PSC) which exercised certain functions in the process of dealing with complaints to the Professional Standards Unit (the PSU).

*But there was one significant change: under the 2002 Ordinance the PSC was consulted by the Director PSU **before** a complaint was referred to an investigator, but under the 2006 Ordinance the PSC was only consulted **after** the investigation had been completed. It acquired a quasi-judicial function to make 'findings' and to make recommendations to the Archbishop, if they were accepted by the respondent, as to what, if any, further action should be taken.*

As this article will show, the exercise of either of these functions was fraught with difficulties relating to the violation of issues of truth, evidence and the principles of natural justice, all three violations giving rise to appalling injustice that was perpetrated by the particular PSC members in several cases I have examined. In particular, the operation of the PSC in the case of Figtree Anglican Church and the Dobbs family was disgraceful.

TRIAL BY COMMITTEE

An examination of the limitations on competence, power and authority of the Professional Standards Committee of the Anglican Church of Australia Sydney diocese under the Discipline Ordinance 2006.

By Louise Greentree¹

Introduction

I have been examining the processes of the Professional Standards Unit (PSU) of Sydney diocese of the Anglican church of Australia and the processes set up in relation to sexual abuse cases within the church in a series of articles which are concerned with three case studies. The first case study (John's Story) came under the operation of the PSU and processes of the Church Discipline Ordinance 2002 ('the 2002 Ordinance') while the second concerning the Dobbs family and Figtree Anglican church and the third concerning Drew and Pippa have come under the operation of the ordinance that replaced it, the Discipline Ordinance 2006 ('the 2006 Ordinance').

In these cases, under the two different ordinances, a committee was set up, called the Professional Standards Committee (PSC) and given functions in the process of dealing with complaints made under each Ordinance against both parish clergy and other 'church workers' – that is, people in positions of leadership in the church (as defined by each Ordinance) who are not parish clergy, including certain lay leaders, such as wardens and members of the parish council.

Under the 2002 Ordinance the operation of Committee came into play **before** a matter was referred to an investigator, after which the documents were referred to a 'senior lawyer' for an opinion as to whether they disclosed an offence.

Under the 2006 Ordinance the PSC's involvement in the process comes **after** the investigation has been completed. The main effect of this alteration to the function of the Committee was to take it from exercising an advisory function after considering the prima facie 'case' at the stage where, normally, the only documents available for consideration should have been the statutory declaration of the complainant, and the respondent's statutory declaration in reply, to giving it, under the 2006 Ordinance, a quasi-judicial function to make 'findings' on the documents of the completed investigation and to make recommendations as to whether the matter should go forward to a Tribunal hearing, or that certain sanctions should be adopted by the Archbishop, if these are accepted by the respondent within 14 days of being served with a copy of the PSC report.

The exercise of either of these functions was fraught with difficulties relating to issues of truth and the evidence and the principles of natural justice, issues that were ignored by the particular PSC members in each case.

The operation of the PSC under the 2002 Ordinance was bad enough, mainly because of the inadequacy of legal competence among the members of the committee. But the operation of the PSC under the 2006 Ordinance far exceeded what was just and proper and gave rise to serious injustice, not least because its recommendations were treated and disseminated as if they had arisen out of a judicial process considering all the evidence for complainant and respondent, only after it had been proved and tested by a process that complied with the rules of natural justice. But this was far from the case.

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***What is happening now at the end of 2017 that has raised the issue of the problem with the PSC?
The Dobbs case has been raised with the present Archbishop of Sydney.***

For new readers (readers who are familiar with the story can skip this bit): Document 1 at the end of this article is an edited version of the article 'A Thumbnail Introduction to "the Figtree Matter"' which appears on www.churchdispute.com).

The following is a brief resume of facts relevant to this article:

It is now over 11 years after Emma Nicholls, in the second half of 2006, started to behave in an unacceptable manner in the home of Dr. and Mrs. Dobbs, making unwelcome advances towards Dr. Dobbs and generally making a nuisance of herself, blatantly seeking him out and constantly telephoning and asking to speak to him. As a matter of fairness, it is appropriate to say that Emma Nicholls was a very unwell 20-year-old young woman, coping unsuccessfully with Obsessive Compulsive Disorder, depression and other suspected psychiatric issues when she became infatuated with Dr. Dobbs without the slightest encouragement or rational basis for her belief that he was in love with her.

Dr. and Machele Dobbs and their 6 children were all devoted and enthusiastic parishioners of Figtree Anglican church (FAC) and had been attending for up to 12 years. At the time of these events, the eldest child was aged 20 and the youngest 10.

On 1st and 4th January 2017, Emma's mother, Lee Nicholls, made a complaint to the FAC Children's Minister Yvonne Gunning alleging child and adult sex abuse of her daughter by Dr. Dobbs. As a result, the members of the whole family were banned from coming to the church; other churches in the area were 'warned' not to allow the family to worship there; Mrs. Dobbs and the children were treated to shunning behaviour from members of the Figtree leadership and parishioners, and even by teachers in the local Anglican school where two of the children were pupils.

It is a few months short of 11 years when, on 3rd May 2007, the Figtree leadership decided to ban the whole family from coming to church even though by then the clergy knew that the case had no merit. Eventually the case collapsed. The official cause of the collapse of the case was the lack of any evidence that Dr. Dobbs was a 'church worker' (which was required so that the parish and the diocesan Professional Standards Unit (PSU) had the power and authority to accept and act on the complaint) and therefore all their actions had been in breach of church law. This was particularly unfortunate because the actual complaints, by then reduced from over 15 to just 5 by the investigator, and another discarded by the PSC and all denied by Dr. Dobbs, were never tested in a tribunal hearing.

The tribunal recommended to the then Archbishop of Sydney, Dr. Peter Jensen, that the case be withdrawn and dismissed. Certain recommendations were made in addition, intended to repair the harm done to the family by the actions of the parish leadership and the PSU (and avoid civil litigation for defamation): these included one that required the then Bishop for Wollongong, Al Stewart, to make a video recording of an announcement to be shown to the congregations at each service at Figtree Anglican church one Sunday. This never happened because both Bishop Al Stewart and the new senior minister, the reverend Ian Barnett, refused the Archbishop of Sydney's request that they cooperate with the recommendation.

Another recommendation was that the reverend Ian Barnett specifically withdraw the terms of a letter signed by his predecessor the reverend Rod Irvine banning the family from coming to church, and the announcement was expected to report this to the congregation.

This also he refused to do.

Now in 2017, the present Archbishop of Sydney, Dr. Glenn Davies, accepting that a grave injustice has been done to the Dobbs family by the parish and the PSU, has been moved to do his part to repair that harm, by paving the way for an announcement to be made to the Figtree Anglican

Church congregation by him in person, containing his personal apology for the treatment that was meted out to the family. He has met Dr. and Mrs. Dobbs and he has agreed to meet each of the Dobbs young people to gain an understanding of the effect that this appalling treatment has had on them.

There is clearly resistance within the diocesan organisation and the parish to him doing all or any of these things.

First, he was told that there were 5 ‘charges’ that Dr. Dobbs would have had to face in a tribunal hearing and would have been convicted of if there had not been the issue of the lack of power and authority for the case to be dealt with because Dr. Dobbs was not a church worker. I demolished this argument in the article ‘*Emma’s Remaining Allegations*’ published on my website, pointing out the insuperable difficulties the promoter (PSU director Phillip Gerber) would have faced as Emma was the sole witness (even when there were many possible witnesses), not least because, (a) there are major contradictions within her own evidence and, (b) contradictions between her evidence and some of her emails, let alone, (c) between her evidence and with the evidence of her mother Lee Nicholls and Yvonne Gunning of what they said that she had told each of them, and, (d) there are also fatal contradictions between Lee Nicholl’s and Yvonne Gunning’s evidence.

Then there are the practical problems with Emma as the only witness, arising from the fact that, (a) Emma never made the complaint, (b) she did not want to, (c) she was forced to make a statement after a 3-hour interview with Yvonne Gunning after the parish was told they had to have her evidence or the case could not go forward, and, (d) she wanted to withdraw, (e) she told her doctor Dr. Richard Schloeffel that she was afraid of being interrogated by ‘men in suits’ in a court hearing, and, (f) she almost certainly would not have been allowed by her doctor to attend a hearing because of the adverse effect on her already fragile mental state: all these added to the prospect of any hearing of the substantive case falling over before it began, even apart from case’s lack of any foundation in truth.

Now, Archbishop Davies has been told that there is a difficulty with the fact that the PSC had decided that there was still a case against Dr. Dobbs in relation to 4 allegations meaning, according to his informant/s, that Dr. Dobbs has been found guilty of the allegations by the PSC.

It is to examine the difficulties of accepting anything that the PSC stated in their report as having any foundation in truth and fact that this article has been written.

The problem with the PSC

The problem with relying on ‘findings’ and recommendations of the PSC is two-fold: the first relates to the poor design of the process, and the second to the application of that process, taking as a case study the PSC’s behaviour, ‘findings’ and recommendations in the case of Figtree Anglican Church vs. the Dobbs family.

The problem with design.

If a pronouncement of the PSC is to be regarded as having any validity, then it needs to have exercised its’ function in a quasi-judicial fashion, as if it was a civil court. If it’s findings and recommendations are to be treated as quasi-judicial, that is, that it is making ‘findings’ of fact based on evidence and applying the law to them, then it is a fatally flawed process: it is not a judicial process held in open ‘court’ or tribunal, nor is it conducted in the time-honoured fashion applied in secular courts and tribunals, which allow, even require, representation by/on behalf of the respondent, testing the evidence on both sides by cross-examination, and providing for an avenue of appeal.

Instead, the operations of the PSC involve -

Little or no notice to the respondent of when the meeting is to be held:

It is fundamental to the civil and criminal justice system that a respondent or defendant is notified the date that the case is to be considered by the court or tribunal, giving ample notice for him or her to prepare.

In the case of Drew and Pippa (see my website) they were not told when, or even that, a meeting of the PSC was being held. In the Dobbs case, the Chair of the Committee, then Archdeacon Deryck Howell, told Dr. Dobbs a date, but his objection to the PSC meeting at all until his claims of their lack of jurisdiction had been properly addressed was ignored. (He was only offered a determination 'on the papers' by a senior barrister nominated by the President of the NSW Bar Association. However, as this process did not allow for the rev. Rod Irvine and the rev. Bruce Clarke to be forced to make statutory declarations, which would have revealed that there was no ground for jurisdiction, it would have been just as futile as Justice Peter Grogan's disastrous 'finding', on the basis of no evidence, that he was 'comfortable' that there was jurisdiction. His 'comfort' is not a ground for such a finding.)

Not that this is a major concern in relation to the PSC because the meeting, whenever held, is -

A secret meeting:

It is fundamental to the civil and criminal justice system that a respondent or defendant is allowed to attend the meeting or hearing where the case is to be discussed and findings and recommendations made.

In the case of the PSC it is a secret meeting between the PSC members and the director PSU only, who can present to them, and they can accept as 'evidence', whatever he likes and there is no-one to challenge this: this is a 'kangaroo court';

Held in the absence of the respondent:

The respondent is not allowed to attend or be represented nor to make any form of submissions – not even written – about anything, whether as to facts or as to the application of the law to those facts: this is a denial of natural justice;

The evidence of which is secret from the respondent:

The respondent is not allowed to know what was said and what documents were presented to the members: this is also a denial of natural justice;

Denying the respondent the right to challenge the evidence and present evidence for the defence:

The respondent cannot challenge the written material as to accuracy or relevance (or hearsay being treated erroneously as an eye-witness account, or just vile gossip by people with an axe to grind being accepted as weighty evidence against the respondent): again, this is a denial of natural justice;

Denying the respondent the right to make submissions:

The respondent does not have a right to know what was said and to present submissions on what was said, including correcting innocent misrepresentation as well as false and misleading statements: the PSC meetings do not produce a transcript which can be subjected to proper

scrutiny to ensure that the members are not being led astray and to enable to respondent to answer what was said;

The decision-making is mostly by untrained persons:

The members may include a lawyer but otherwise they come from a variety of backgrounds without legal training, and yet they are applying principles of analysis of evidence, particularly in the light of the major and important rules of evidence such as relevance, opinion outside expertise and hearsay, and legislative interpretation, that they are not equipped to do; and

There is no avenue of appeal:

Nor can there be because there is no transcript and it is not possible to know how the members arrived at their decision (they cannot be cross-examined about what they said and how they decided), and whatever reasons they do give are uninformative: the next step is either to accept the recommendations or refuse to accept them and have the Archbishop to refer the case to the Diocesan or Disciplinary Tribunals or to go to the Supreme Court of NSW for an order preventing the PSC from publishing recommendations due to its' violation of the principles of natural justice.

Who are the current members at any given time?

It is also difficult to find out who are members of the PSC. There is no 'transparent' list of the members of this and other committees, including Standing Committee, without having to trawl through the Minutes of Standing Committee over a period of several years to trace the appointments and resignations to arrive at the current membership. This needs to change in the interests of transparency of dealings with parishioners and outside persons, such as lawyers consulted by persons whose cases are being dealt with in secret by the PSC.

Its' lack of independence.

It is a rubberstamp for the recommendations of the director PSU and any investigator who may have been engaged (there has been a reduction in the referrals to an investigator due to cost cutting to the PSU, and in some more recent cases the director PSU has carried out the investigation, which has proved to be cursory.) The members are appointees of Standing Committee of Sydney diocese. It has no power or authority to go behind whatever documents or reports of investigation that the director PSU chooses to put in front of it. It would be less of a risk to the truth and justice of its' deliberations and resulting report if the director PSU was truly objective, but in the cases I have looked at this has not been the case. Instead, the director PSU at the time was very much engaged in trying to cover up his ignorance of the law (church, civil and criminal), incompetence and subjectivity.

What use is the PSC?

Thus, to mistake any utterance by the PSU as having in any way been based on fair process and an understanding of and a finding on the evidence – all the evidence on which each party wishes to rely that has been appropriately tested for reliability - is to misunderstand the basics of the State and Federal system of administration of justice. For the PSC to make and publish any comment about the case is a denial of natural justice – the denial of the right of the respondent to defend him or herself. It is no answer to say that all that is said in the report is that this is the 'charge' and they make recommendations: there is no point to the report at all. That is because they have not considered everything relevant to the case, because the investigation that they rely on has not

considered everything relevant and has not had the power to test the 'evidence' of the various people interviewed.

It is also a disgrace for an organisation of Christians to have such a process in place.

The ONLY proper function of the PSC is to make recommendations: however, as it does not have the power or ability or process to test evidence and to act in accordance with the principles of natural justice, it should be involved in the process, if at all, ONLY when the complaint has been admitted in full and without any challenge to any part of the evidence for the complainant, AND the respondent has been given the opportunity to address the PSC (in some way or another) with details of mitigating factors which would affect the issue of 'sentencing' (which is what the recommendations are in reality).

This is not the case with the way this process is used in the Anglican Church of Australia, Sydney diocese, and it was not the case with Dr. and Mrs. Dobbs and their family. Instead the process was and is used to bludgeon anyone who dares to challenge the system, and to cover up the failures in the PSU, both of process and competence.

In the Dobbs case, it was used to bully the family once again with the spread of lies and misrepresentation in an attempt to cover up the appalling incompetence of the then director PSU Phillip Gerber who was apparently helpless and spineless in resisting the pressure brought by Helen Irvine to bring the University of Wollongong lies into the parish to protect the reputation of the University's Faculty of Business and the reputations of its' academic staff including Helen herself.

If my readers look at Document 2: *'Open Letter to Archdeacon Deryck Howell and the members of the Professional Standards Committee in the matter of Figtree Anglican Church and the Dobbs family dated 12 April 2008'* they will see that the PSC was warned about at least some of the difficulties of their position making it unwise, at the very least, to try to deal with the matter at all.

The PSC chose to ignore this warning, hence the assessment of the result of their deliberations in very unflattering terms. Because they attempted to just push the case through, they continued to commit the diocese, the PSU and the Parish to more expense and to a conclusion to the case that resulted in a clear justification of Dr. Dobbs' original warning: none of the parish, the PSU, the PSC, and the Disciplinary Tribunal had any jurisdiction. In particular, the sole lawyer member of the PSC at the time bears in my view a heavy responsibility for taking this unprofessional course of action, and failing to guide his fellow-members with wisdom and objectivity.

**The case study of the PSC's unjust design unjustly executed.
Figtree Anglican Church and the PSU v the Dobbs family.**

What happened in the PSC in the Dobbs case (see Document 3 *'A Cautionary Tale – the cover up begins. Executive Summary'* and Document 4 *the PSC Report and recommendations*):

The PSC rejected child sex abuse (well they had to, really, because all of the 'evidence' that Yonne Gunning had put together to justify 'child sex abuse' was rejected), but they then changed the 'charge':

After rejecting the age-16 hug (the age 14 hug and the age 19 compliment had already been rejected by the investigator) and many of the allegations of stunning triviality relating to just 2 months over December 2006 - January 2007 when Emma Nicholls was aged 20, and, according to her doctor, still a virgin (excluding any suggestion of any sexual relationship), the PSC moved the goalposts from the widely disseminated allegations of child and adult actual sex abuse to, in their words, 'low-level sexual harassment of an adult single woman by a married man or sexual exploitation.'

The respondent was not given the opportunity to argue the application of the law (civil, quasi-criminal and ecclesiastical) to the facts. This was a denial of natural justice. And, as shown below, this conclusion ignored a vast quantity of evidence that made a nonsense of acceptance of such a charge, quite apart from the fact that the marital status of the man or the woman is not mentioned in any definition of sexual harassment and nor is it relevant.

The PSC made two perverse findings: that is, the findings were not supported by the evidence.

ONE: on jurisdiction:

What the PSC said in their report:

'Such ministry can in the opinion of the PSC comfortably be construed as ... either an 'office' or 'an appointment by a Rector, curate-in-charge, churchwarden or parish council or by any delegate or agent of such person or body or persons' or 'an appointment under clause 43(Part 6) of the Church Administration Ordinance 1990.'

Well, no, none of the above, comfortably or not. And having a 'ministry', an overworked word which is often applied misleadingly to doing anything in the church whether cleaning the toilets or pulling a few weeds out of the church garden (contrary to a dictionary definition), here being applied to making and serving espresso coffee, is not the issue: the issue, as discussed below is whether it is a position of leadership. Try that idea on with the barista at the local 'hole-in-the-wall cafe' for fast espresso take-away!

What the Definition of 'church worker' says:

The fundamental and overriding concept of the definition in Chapter 1 clause 2 of the Discipline Ordinance 2006 applicable to all persons who are not ordained clergy is that they must be or have been in a **position of leadership** in the parish or church organisation, whether paid or as a volunteer. The definition interprets this concept with a number of specific examples, without closing the definition to any other form of 'position of leadership' that might exist but which has not been anticipated by the legislators (that is, by diocesan Synod). An example of volunteers who are in positions of leadership (who are actually enumerated in the list in the definition) is a person who puts themselves forward for election or appointment as a warden or election as members of parish council.

Dr. Dobbs has never been a member of the ordained clergy. That precluded proceedings under sub-clause (a) of the definition.

Nor had he held any position in a diocesan organisation nor exercised any function, and that precluded proceedings under sub-clauses (b)(i)-(vi) of the definition.

Nor had he been an officer under Part 6 of the Church Administration Ordinance 1990 (which was applicable at the time)ⁱ which precluded proceedings under sub-clause (b)(vii) of the definition.

Nor had he been appointed to any position of leadership (or anything, really) by a curate-in-charge, wardens, or Parish council or a delegate, agent or representative of these, which precluded proceedings under part of sub-clause (b)(viii).

Mr. Gerber admitted in his first submissions to the Disciplinary Tribunal that none of the above categories of church worker were applicable to Dr. Dobbs.

Therefore, finally, Mr. Gerber could only rely on one of two parts of the definition –

- (i) An appointment to a position of leadership by a rector or his delegate referred to in part of sub-clause (b)(viii); or

- (ii) A general interpretation of the words ‘position of leadership’ in the light of the facts of the particular situation in the absence of an appointment by a Rector or his delegate.

Right from the start Dr. Dobbs said he had never been appointed to a position of leadership by the Rector or a delegate of the Rector. And he very much doubted that making and handing around cups of espresso coffee constituted a position of leadership in any interpretation of that phrase.

The PSU put forward their justification for claiming jurisdiction without addressing Dr. Dobbs’ detailed arguments. Nor did they acknowledge the fundamental requirement of the definition: that for non-clergy it must be proved that the person held (or had held) a position of leadership.

As for the contorted reasoning (if that is the word) that caused them to promote the idea that making and serving espresso coffee to the congregation was ‘an office’ or being a barista was being an officer performing ‘an office’ under Part 6 - Other Officers, Offices and Organisations of the Church Administration Ordinance 1990, this is even more bizarre. This Part applies to the following appointments:

Organist, Choirmaster and Choir: appointed by the minister.

Secretary of Parish Council: elected by the other members of parish council.

Treasurer, Accountant or Bookkeeper: appointed by the churchwardens from among themselves, or, if someone else is wanted, by them with the concurrence of the minister.

Verger, Cleaner, Gardener, or other person to perform duties in or about the church: appointed by the churchwardens with the concurrence of the minister.

Clearly Dr. Dobbs was not performing any of these functions, not even as an ‘other person to perform duties around the church’ (necessarily of a similar nature to a verger, cleaner or gardener), and even if by some grotesque stretch of the imagination making and serving espresso coffee was deemed to be covered by one of these activities, he was not appointed by the wardens, the parish council members, or the minister to any of them.

When you turn to cl43 of the Church Administration Ordinance 2002 which the PSU said might apply, the lack of discernible rational thought is just as great. This is what the clause says:

Offices Within Groups and Organisations

43. (1) Subject to the powers of the Archbishop, the minister has control of the policy, organisation and affairs of any Sunday school, bible class, study group, youth fellowship, guild or other organisation of the parish or any church of the parish and for those purposes may appoint and, subject to clause 45, remove such superintendents, teachers, leaders or other officers as he thinks fit.

(2) The minister may delegate all or any of the powers conferred by subclause (1).

How it is that one person assisted by his son to make and serve espresso coffee is an organisation (I do not think they meant that he was a Sunday School, bible class, study group, youth fellowship or guild) and that he is an officer of that organisation (I do not think they meant that he was a superintendent, teacher or leader)? They would have failed Legal Interpretation 101.

And they did not have any evidence on the file or in the investigator’s report that the rev. Rod Irvine or anyone to whom this power had been delegated had appointed Dr. Dobbs to anything. All they did have was Yvonne Gunning’s assertion in her signed statement that ‘the staff’ had appointed Dr. Dobbs to a ‘coffee ministry’. Church staff do not have authority under the Church

Administration Ordinance 1990 to appoint anyone to anything, quite apart from the fact that a 'coffee ministry' is not a position of leadership. In a later statutory declaration she also tried to claim that she was an 'agent' of the Senior Minister. This also, even if true, was irrelevant. In addition, the investigator had found that Yvonne Gunning was 'a passionate advocate in Emma Nicholls' cause': basically, this meant that her evidence needed to be treated with caution as infected with bias. All this in itself should have alerted at least the barrister member of the PSC, let alone the other members, that there was no evidence on which to base their 'finding'.

When the Tribunal ordered Phillip Gerber to produce statutory declarations by both the FAC Senior Minister Rev. Rod Irvine and his 'delegate' FAC Executive Minister the Rev. Bruce Clarke concerning when and by whom such an appointment was made to a position of leadership in the parish, neither could say that they had appointed Dr. Dobbs to anything. Bruce Clarke made some comment about some form of spontaneous raising up of leaders in the parish (which I rubbished in another article as 'the levitation' theory of appointment).

Therefore Phillip Gerber did not have jurisdiction to accept the complaint; he did not have authority to expend diocesan funds on an investigation (judging by the vast quantity of mainly irrelevant material the investigator gathered, that cost would have been in the tens of thousands of dollars); there was no authority to refer the case to the PSC and the PSC did not have jurisdiction to consider the case, issue a report and make recommendations to the Archbishop, which he did not have the authority to accept.

Had Phillip Gerber, a solicitor with a current practicing certificate, insisted on this evidence being obtained BEFORE accepting the complaint, much grief would have been avoided. And yet, checking on jurisdiction is Legal Practice 101. For further discussion of the PSU's failure to establish jurisdiction, see '*Leadership, Ministry & a Coffee Machine*'. Had the then Chancellor of the Diocese (Acting Judge Peter Grogan QC) and at least the barrister member of the PSC (Alan Lucas) taken Phillip Gerber aside and said, '*put your evidence in order*' so that it was proved from early in the conduct of the case that there was no evidence to support a finding of jurisdiction, then they and the members of the PSC would have been saved from making fools of themselves on the issue of jurisdiction.

What this says to me is that Phillip Gerber knew there was a problem from the outset: a problem with jurisdiction, especially when Dr. Dobbs raised it in carefully argued submissions (Dr. Dobbs is a lawyer as well as an accountant); and a problem with the case, at the latest when he read Dr. Dobbs' statutory declaration dated 12th March 2007. Everything that happened after that was nothing more than an attempt to cover-up the initial errors, including his own, that were made by everyone who had a hand in concocting attempts to blacken Dr. Dobbs' reputation, destroy his marriage and to try to destroy the Christian faith of his children.

"If anyone causes one of these little ones—those who believe in me—to stumble, it would be better for them to have a large millstone hung around their neck and to be drowned in the depths of the sea." Matthew 18:6 and Mark 9:42

TWO: On 'sexual harassment or sexual exploitation' of a single adult woman by a married man.

The first thing to say is that no definition of either of those concepts refers to the marital status of the parties. Error #1 indicating a lack of understanding of even the basics of the definitions.

A. Legal and church definitions of 'sexual harassment':

The legal test for sexual harassment 'has three essential elements' according to material published by the Human Rights Commission:

- (i) 'the behaviour must be **unwelcome**;
- (ii) it must be of a **sexual nature**;

- (iii) it must be such that a **reasonable** person would anticipate in the circumstances that the person who was harassed would be **offended, humiliated and/or intimidated.**'

The Human Rights Commission's publication gives examples of what can constitute sexual harassment, which includes behaviour that can involve:

- *unwelcome touching, hugging or kissing*
- *staring or leering*
- *suggestive comments or jokes*
- *sexually explicit pictures, screen savers or posters*
- *unwanted invitations to go out on dates or requests for sex*
- *intrusive questions about an employee's private life or body*
- *unnecessary familiarity, such as deliberately brushing up against someone*
- *insults or taunts of a sexual nature*
- *sexually explicit emails or SMS messages*
- *accessing sexually explicit internet sites*

and behaviour which would also be an offence under the criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

Specifically, 'sexual harassment' is **not** sexual interaction, flirtation, attraction or friendship which is invited, mutual, consensual or reciprocated.'

The sources in Sydney Anglican church law of the definition of sexual harassment of an adult and sexual exploitation are the Code of Conduct 'Faithfulness in Service' and the Discipline Ordinance 2006 of Sydney diocese. The Discipline Ordinance 2006 says that sexual abuse of an adult has the same meaning as in Faithfulness in Service.

The Code of Conduct says sexual abuse of an adult means sexual assault, sexual exploitation or sexual harassment of an adult. In the Code –

'sexual harassment means unwelcome conduct of a sexual nature, whether intended or not, in relation to an adult where the person reasonably feels in all circumstances offended, belittled or threatened. Such behaviour may consist of a single incident or several incidents over a period of time.'

'sexual exploitation refers to any form of sexual contact or invitation to sexual contact with an adult, with whom there is a pastoral or supervisory relationship, whether or not there is consent and regardless of who initiated the contact or invitation. It does not include such contact or invitation within a marriage.'

B. The state of the 'evidence' in documents before the PSC:

1. *In relation to the definitions of 'sexual harassment'. The definition sets out descriptions of behaviour that are included in this definition. Looking at these: is there anything in the signed statements that indicate contact between Emma Nicholls and Dr. Dobbs that fall within them?*

- asking a person for sex; NO
- giving a person to understand that you would like sexual favours from them; NO
- making any gesture, action or comment of a sexual nature to a person directly or making a comment of a sexual nature about them in their presence; NO

- making jokes containing sexual references or innuendo using any form of communication; NO
- exposing a person to any form of sexually explicit or suggestive material; NO
- making unwelcome physical contact such as touching, pinching, or patting; NO, *as appears below, even if the PSC had accepted the sexed-up versions of Lee Nicholls and Yvonne Gunning, even though these were repudiated by Emma Nicholls in her interview and second signed statement, Emma's ecstatic and delusional frame of mind, as revealed in her email to SanDee (Sandra Hardwig) indicates clearly that not only was such contact as there was, was initiated by her, but that any actions would have been welcome. Also, when Emma went into Dr. Dobbs' study it was she who caressed his hand and his hair, as she admits in her email to SanDee and in her interview and second signed statement (as to caressing his hair). That this was unwelcome to Dr. Dobbs is indicated by him leaping up and running from the room when he realised it was Emma there with him.*
- making unwelcome or unnecessary inquiries about or attempts to discuss personal matters of a sexual nature; NO
- deliberately intruding on an individual's personal space; NO: *quite the reverse. Firstly, it was Emma who kept getting in the way of Dr. Dobbs and his son trying to serve coffee to the large evening congregation, so that both of them had to push past her and there was evidence before the PSC that she would not leave them alone even when asked to move away. In addition, when Emma went into Dr. Dobbs' study, uninvited and unwelcome, she leant over him, invading his personal space and then caressed his hand and his hair.*
- staring at or secretly watching a person for the purpose of sexual stimulation or gratification; NO
and
- stalking a person.' NO.

To sum up: there are no instances of Dr. Dobbs' behaviour falling into any of these descriptions; however, in two out of 4 (only) occasions giving rise to the allegations, it is Emma's behaviour in deliberately invading Dr. Dobbs' personal space without invitation, and touching him in a manner that was intended be her to be intimate, but which was unwelcome to Dr. Dobbs, that satisfies parts of the definition.

2. *In relation to the definition of sexual exploitation.* There are two key components of the definition: (A) the behaviour has to be '**any form of sexual contact or invitation to sexual contact**' and (B) it has to occur by one person to '**an adult, with whom there is a pastoral or supervisory relationship**'.

- (A) Is there any evidence that there has there been any form of sexual contact or invitation to sexual contact between Dr. Dobbs and Emma (on Dr. Dobbs' part)? NO.
- (B) Is there any evidence that there is a pastoral or supervisory relationship between Dr. Dobbs and Emma? NO.

To sum up: there is no evidence to prove the two essential components of the definition of sexual exploitation.

What is in the evidence?

Material contained in the 330+ pages that was the investigator's report and other documents from Mr. Gerber's file indicates that -

Emma Nicholls at age 20 initiated ALL contact with Dr. Dobbs: she had only been alone with him twice, both at her instigation. She did not have to see him or be in the same room as him; she did not need to come to the house and she did not need to come to church and go over to where he was, to deliberately engage him in conversation and hang around him while he and his son are trying to serve coffee to the parishioners. The significance of this is that she consented to her contact with him. If she did not like what was happening she had only to walk away. In neither case did she do so, on her own evidence.

She did not need to be in his company: she was not in a position of employment by him, nor any other relationship which placed on her any obligation to be in his company at all.

She did not need to see the Dobbs' daughters: his eldest daughter was 4 years younger than her, and therefore she needed to look for friends among people of her own age - which was what Dr. Schloeffel, her doctor, advised her to do, as appears in his signed statement.

She did not need to go to the Dobbs house. The reality was that she was using them: she admitted that she only went back to spending a lot of time with the Dobbs family – re-initiating contact via emailing the eldest daughter – when she was having fights and trouble at home.

Not only did she never complain to him, but she continued to seek him out (and get in his way), and she wrote him a little note in which she apologised for her behaviour, and sought him out again, getting her mother to drive her to the church for that express purpose.

Her allegations about anything that happened in the study (denied by him) was commented on unfavourably by the investigator, who said that even if she had been intending to call him to dinner or had been asked to call him for dinner (her later interview and statement withdraws both versions of that fallacious excuse) then she did not need to go into the master bedroom and through it to his study, she could have stood at the door and called out to him.

Yvonne Gunning says Emma wanted to have a sexual relationship with Dr. Dobbs: she said that Emma had told her that she had decided to seek him out alone so that she could have a sexual encounter with him. This raises again the issue of her consent.

But, there was no evidence that he had encouraged her in any way to think that he was interested in her. His evidence was that she had become such a nuisance on the house that he needed to make sure he was not alone with her and always took one or more of his daughters with him whenever he drove her home. She had to sneak away from the family and friends gathering for dinner and go into and through private parts of the house without invitation to seek him out to be alone with him.

There was no evidence of grooming: three ludicrous allegations, one when she was aged 14, and 2 years later when she was aged 16 (each a hug, but as she said, 'all the family hugs like that') and the totally irrational complaint about a compliment in front of Dobbs daughters when she was aged 19 had been rejected as grounds for complaint. Thus, all grounds for claiming that she had been groomed had collapsed by the time the members of the PSC made their report. *(The fact that these had been put forwards as complaints also indicates incompetence if not outright malice in people like Yvonne Gunning and Lee Nicholls in concocting the complaint, and bringing it without Emma's knowledge let alone her consent.)*

Her rhapsodic email to SanDee dated 5th December 2006 (written when she was aged 20) confirms both her delusional interpretation of his relationship with her saying that since she was aged 14 that there had always been ‘this weird chemistry’ between them, ‘unless he’s like that with everyone else ... but I don’t think so’ and her delusional interpretation of whatever happened as confirmation of her fantasy infatuation with him.

The expert medical opinion of Dr. Schloeffel, her GP specialist in anxiety disorders like OCD was that she could be delusional about the meaning of ordinary things.

Emma did not give any evidence at all that she had been offended, humiliated or intimidated, with the exception of answering two leading questions from the investigator inciting her to say that she found him intimidating. She did not respond unprompted to these questions and her own actions continually seeking him out gives a lie to the prompted answer she gave – she did not need to go near Dr. Dobbs again, and yet she did right up to and including the evening of her last allegations. Hardly the actions of a woman who was intimidated. Also, her evidence does not indicate what part of the alleged actions not only intimidated her but also were of the nature that a reasonable person would anticipate that she would be intimidated. Thus the requirements of the definitions (church and State) were not satisfied.

Mrs. Goodhew, wife of former Archbishop, Harry Goodhew talked in her initial statement to the rev. Bruce Clarke, and again in her interview with Ken Taylor the investigator and her signed statement based on that about Machel’s concerns about Emma’s behaviour, especially how she went into one of the son’s bedrooms late at night and was found there the next morning, and the way Emma was constantly ringing up and asking the Dobbs family to pick her up, take her to church, wanting to stay overnight even though her home was a mere 10 minutes away: Mrs. Goodhew described the Dobbs’ family as trying to cope with Emma ‘in their own weary way’. This was evidence from a respected churchwoman that confirmed Emma’s strange behaviour, but also that Emma Nicholls had not ceased forcing herself into the Dobbs family and their home, clearly in contradiction of any prompted statement by Emma that she was intimidated by Dr. Dobbs and confirming her consent.

All of the above assertions are based on the evidence of the statutory declarations, signed statements and other documents submitted with the investigator’s report. These were given to the members of the PSC and the contents would have to have been resolutely ignored in order for the PSC members to have come to the conclusion that they did.

There was in front of the PSC members ***abundant evidence*** of (a) Emma’s consent and her precipitation of incidents later complained of; and (b) that whatever happened (on her interpretation) was welcome. But there was also ***no evidence*** (c) of which of the allegations that in fact she found intimidating and which were of a nature that a reasonable person would anticipate she would find intimidating; nor (d) that she was humiliated or offended, in the wording of the Human Rights Commission definition, nor (e) that she even claimed that she ***‘reasonably feels in all the circumstances offended, belittled or threatened’*** to quote the definition in Faithfulness in Service.

Therefore: there was not only no evidence on which the PSC could come to the conclusion of sexual harassment or sexual exploitation, there was ample evidence, even from Emma herself, that contradicted the essential elements of each ‘offence’.

On the ‘facts’ of the case

There was evidence of Emma lying: Emma made an initial statement that Machel would not allow her to stay overnight during SummerFest (which puts a lie to her story about the supposed hug on 22nd January 2007, having changed the venue from the church lounge where he had been serving coffee, to the Dobbs’ house later in the day after she had stayed

overnight). This should have alerted the members of the PSC that there were instances where Emma's evidence did not 'add up'.

Emma gave contradictory evidence, even within the one document: the PSC did not indicate which version, as opposed to any of the other versions, they preferred to accept and why.

Emma was the only witness of fact: this has two consequences as regards her evidence. The first is the point above – how does one choose which of her several versions to believe? Second: all the other material is irrelevant to proving the 'charges', especially including the sexed up overblown statements of Lee Nicholls and Yvonne Gunning which themselves are only useful for cross-examination because all that these two women can say is what Emma told them, as they did not themselves witness anything. There are very strange contradictions, internal and external in these statements. (See my article '*Emma's remaining Allegations*'.)

All of Emma's allegations are comprehensively denied. This means that as the PSC has no power or process to test the evidence, it cannot make any findings of fact on which to base the application of the law. The only body with that power is the tribunal.

How could the PSC have made any recommendations which were in the teeth of the evidence that was in the documents in front of them, even without witnesses for the respondent?

I really do not know and no-one outside the committee members knows what Phillip Gerber said to them in the secret meeting. Nor do we know whether they even read all of the 330+ pages that comprised the report, the signed statements and all the other documents including the earlier statutory declarations by Emma and by Dr. Dobbs and some other material that Dr. Dobbs did not receive until just before the tribunal hearings. No-one knows whether they actually read Dr. Dobbs' lengthy examination of the issues of jurisdiction and took note that there was no evidence on the file supporting the claim for jurisdiction or whether they just relied on Phillip Gerber's account of his claim for jurisdiction (which was unsupported by any evidence of fact and had to be biased because of his lengthy involvement in the case and his need to be justified in accepting the complaint and then proceeding with it after he had already given his written opinion that there was no merit in it).

In all, each PSC member (with the exception of Dr. Debra Tattersall who did not sign the report) stands accused of carrying out an amateurish attempt to stifle a truthful and appropriate, for a Christian organisation, examination of the facts and the law on which they purported to make recommendations of 'punishment' when the facts did not establish that there was reliable evidence on which to base this, quite the contrary: there was NO reliable evidence on which to base this.

In this they did far less justice than the secular justice system, whereas, as self-described Christians, they should have been more scrupulous to do justice.

Shame on them.

Postscript

At the time of the Dobbs matter, the Discipline Ordinance 2006 prescribed a process whereby the PSC's 'findings', the reasons and the recommendations, were given to the respondent who had 14 days in which to accept them in writing. If he did not do so the Archbishop of Sydney was required to refer the case to the Diocesan Tribunal for parish clergy or the Disciplinary Tribunal for other 'church workers' – namely, people in positions of leadership in the church, as defined by the Discipline Ordinance 2006.

Dr. Dobbs received a copy of the Investigator's report and signed statements and a huge quantity of ancillary material from Phillip Gerber in January 2008 about a month after he had received it from the Investigator Ken Taylor employed by Kelly & Associates. Dr. Dobbs had refused to cooperate with the investigation (nor was he obliged to do so by the Discipline Ordinance 2006

then, nor as later amended) on the basis that his challenge to jurisdiction had not been properly dealt with.

In the words of the Chair of the Committee Archdeacon Howell in his letter dated 6 June 2008 to Dr. Dobbs: *'I also notify you that if you do not accept the Professional Standards Committee's recommendations within fourteen days of the date of this letter, proceedings will be taken against you in accordance with clause 36.'* Thus, after **20 June 2008** in this case, under clause 36(4) the Archbishop was required to appoint a person to bring the complaint before the diocesan Disciplinary Tribunal for a proper hearing of the relevant evidence in accordance with the rules of procedural fairness (*clause 71*).

Dr. Dobbs did not accept the report. To accept it, he had to write to say so. He did not do so.

Bishop Al Stewart videos a statement to the Figtree congregations even though Dr. Dobbs had not accepted the PSC report and recommendations.

On **29th June 2008**, at all three services at Figtree Anglican church Bishop Al Stewart addressed the congregation by video giving details of the 'charge' – sexual harassment or sexual exploitation of an adult - and all but one of the recommendations of the PSC, as if Dr. Dobbs had accepted these and was guilty as charged. Except that he hadn't and wasn't.

He failed to say that, if Dr. Dobbs accepted being admonished (*for having a mentally unwell young woman deluded into thinking that her 'love' was returned*), and agreed to counselling as to self-awareness of the effect he has on other people no matter how good his intentions (*but what does this mean - that he is not allowed to just be himself but has to be constantly on the lookout for other mentally unwell delusional women? Shades of George Orwell's dystopian world in '1984'*) then the PSC recommended that no further action be taken.

He failed to say that the PSC process could not make a valid recommendation on the evidence because (a) the evidence before them was internally contradictory, (b) everything had been denied by Dr. Dobbs and (c) he had the choice to reject the PSC report in which case there would be a hearing at which Dr. Dobbs' evidence would be considered.

Bishop Al Stewart praised the Figtree leadership for their handling of the case: thus, banishing children from church and subjecting them to shunning and humiliation in front of their friends and at school and on the beach and in the streets of Wollongong has official approval from the senior clergy of the time from Dr. Peter Jensen as Archbishop downwards via Bishop Stewart and Archdeacon Howell. (See Document 5 "*Sex Lies and Videotape*" revised 2017, which was distributed around the parish, and Document 6 for the text of the announcements).

On 26th June 2008 (3 days *before* the video announcement was shown to the congregations at all three services) Dr. Selden added to the statement, saying that it had been recorded before Bishop Stewart left for overseas, that Dr. Dobbs did not accept the PSC report and recommendations and that "*there may be further diocesan processes and determinations at a Diocesan level*" whatever he meant by that instead of just saying that the next step was a hearing of Dr. Dobbs' challenge to jurisdiction by the Disciplinary Tribunal!

He also endorsed the actions of the Figtree leadership. So, the diocesan secretariat was also implicated in approving the abuse of Mabelle and the children of the Dobbs family.

Bishop Stewart's statement clearly did not envision that there would be further proceedings.

Dr. Dobbs was supposed to accept the flawed 'reasoning' behind their claim to have jurisdiction which was made on the basis of no evidence, gratefully accept that he could slink away under an admonishment and counselling, and forget about the fact that he and his whole family remained the subject of an unlawful ban from attending the church and an unlawful

excommunication and that they had all been brutally dealt with by their brothers and sisters in Christ.

As Dr. Selden's statement shows, the parish and diocesan personnel knew before the video announcement was made that it was false and misleading.

It should NOT have been shown. The damage was done by the implication of guilt contained in the video that Dr. Selden's statement could not undo.

The announcement was made without warning:

Without even saying something to the Dobbs family about it being made; without consulting with Dr. Dobbs to ensure that the congregation was not misled. It was made with indecent haste.

There was no suggestion or recommendation concerning how the Dobbs family were to be welcomed back into the congregation

now that the PSC had come back with an assessment of 'low level' sexual harassment or sexual exploitation, and to off-set the gossip generated by Yvonne Gunning and the rev Bruce Clarke, in particular, alleging child sex abuse and an inappropriate sexualised culture on the Dobbs family home. It was as if the PSC members, the secretariat represented by Philip Selden, PSU director Phillip Gerber, and the parish leadership, having tried so hard to destroy Dr. Dobbs' reputation, his marriage and his family life now wanted to cover-up the many ways in which the complaint from Lee Nicholls had been generated and so mishandled.

Supporters of the Dobbs family still remaining in the congregation were outraged when they realised that Dr. Dobbs had not been found guilty and he was pushing the Archbishop to refer the case to the Tribunal.

Then what happened.

After a lapse of time, Dr. Dobbs wrote to the Archbishop of Sydney Dr. Peter Jensen to remind him that he was now obliged to refer the matter to the Disciplinary Tribunal and to appoint a promoter of charges. This eventually happened, and he appointed Mr. Gerber as Promoter, which effectively meant that no-one looked at the case with fresh, objective and competent eyes even at this late stage.

Mr. Gerber hastily tried to get Dr. Dobbs to agree to mediation. Dr. Dobbs refused because this was a case where truth mattered. Mr. Gerber tried to get Dr. Dobbs to sign consent to the case being discontinued. Dr. Dobbs refused.

In the end, when Phillip Gerber was forced by direction of the tribunal to produce statutory declarations to support his claim to jurisdiction it was clear the Dr. Dobbs was correct: there was no evidence to support the claim of jurisdiction because he was not a church worker.

So, the PSC report and recommendations were exposed as a sham based on a lie.

The members of the PSC who considered the Dobbs case.

Signatories to the report and recommendations:

Archdeacon Deryck Howell (Chair)

Mr. Alan Lucas, Barrister

Prof. Kim Oates

Mrs. Collette Reid

Mrs. Emma Collett

Non-signatory:

Dr. Debra Tattersall

Articles and documents published on www.churchdispute.com about the case which are referred to in this article.

A Cautionary Tale – the cover-up begins.

A Thumbnail Introduction to “the Figtree Matter”.

Emma’s remaining Allegations.

Leadership, Ministry and a Coffee Machine.

The Evolution of a Lie.

The Documents in the Case Document 1

A Thumbnail Introduction to “the Figtree Matter”. (revised December 2017)

By Louise Greentree

About Figtree Anglican Church & the Dobbs family:

Figtree is a suburb of Wollongong NSW. After a consolidation of four churches in the district, Figtree Anglican Church (FAC) became one of the super-large parishes of Sydney Diocese during the 20-year incumbency of Rev. Rod Irvine. Its website used to boast 11 ordained and lay ministers and 4 administrative staff. Rod retired early in 2008 and moved back to Brisbane diocese with his wife Helen.

Dr. Dobbs and Machel Dobbs and their six children, aged at the time from 10 to 20, had attended FAC for a total of 12 years when in 2007 they were all thrown out of the church. For their youngest daughter, it was the only church she had ever known. As the children had been home schooled in their primary years, for the youngest ones all their friends were at that church. The children were prohibited from attending any of the children’s and youth programs at FAC. You might well ask: why? What sort of people in a Christian church would behave like that towards such strongly Christian children and young adults?

It is a strange story.

Dr. Dobbs, like Socrates and like the prophets in the Bible, is a gadfly.

In 2005 when he found a soft-marking and attempted bribery for and among overseas students running in the University of Wollongong department where he and Helen Irvine the senior minister’s wife worked: he made it known that he would blow the whistle – and he ended up without a job, due to a totally fabricated ‘complaint’ from a student he had never known beyond her attendance in his seminars, among 16 or so other students in the second half of 1999. This student was allowed to make an ‘informal complaint’ by the director of the university’s EEDU the day before Dr. Dobbs’ application for permanent employment was dealt with, and it bypassed the university’s Code of Conduct for such complaints so that, firstly, Dr. Dobbs never was told about its’ existence, let alone given a chance to defend himself; and, second, the terms of the complaint were never subjected to proper scrutiny, and they would not have stood up to that.

In 2006 when the young people playing in the church bands wanted a spokesman to express their concerns about the music chosen by the parish staff music leadership team Dr. Dobbs went and spoke up for them even though the church culture was one of unquestioning obedience to the leaders – and he was expelled from the meeting.

In January 2007, when Bruce Clarke the “executive minister” ignored the attempted rape of a 14-year girl and physical assault on her mother at a church function: Dr. Dobbs went to Bruce and strongly put the point that Bruce’s behaviour had been inadequate and unacceptable. The perpetrator should have been reported to the Police who would have escorted him from the church premises.

There is also evidence of open hostility by Rod and Helen Irvine, and Bruce Clarke towards this whole family prior to the events to which we now turn.

Helen Irvine, the Senior minister's wife brought false gossip and fabricated complaints from the university to FAC.

False gossip appears to have been circulated in the parish to the effect that Dr. Dobbs had lost his job at Wollongong University for sexually abusing young women. This was not true: the one complaint, fabricated for the purpose of denying Dr. Dobbs his application for permanent employment, had no sexual element to it by any stretch of the imagination.

Not only that, Helen Irvine was responsible for the spread of this lie, augmenting it, by going around the faculty to try to drum up more complaints which, at her worst, referred falsely to some 4 students, although one of them, as Helen well knew, did not complain of sexual abuse, but sexual discrimination in a complaint quickly withdrawn, and one was insistent on remaining anonymous and therefore highly suspect. (See '*The First Stone Revisited*' and '*The Evolution of a Lie*' on www.churchdispute.com)

By at least **mid-December 2006 (and almost certainly much earlier than this)** this gossip had reached Lee Nicholls through the agency of Yvonne Gunning, Figtree's Children's Minister and child protection officer, who admits she heard it from Helen Irvine. Lee knew Yvonne Gunning because she had attended a day-seminar on child protection run by Yvonne, not once but five times within the year.

About Emma Nicholls.

Lee's daughter Emma had for six years been friendly with the Dobbs girls and frequented the Dobbs home, not all the time but for a while at different periods of time, since she was aged 14.

This young woman Emma, a 20-year-old (in 2006) with mental and physical health problems was a "lame duck" that Dr. Dobbs' daughters had tried to help, even though she was 4 years older than the oldest daughter. In late 2006 they had got her to start coming to the FAC evening service with them. She had a crush on Dr. Dobbs which she was manifesting in unacceptable behaviour in late 2006. It was an understandable girlish crush. Dr. Dobbs is handsome and charismatic. It was a totally unrequited crush. Dr. Dobbs' wife Mabelle is a picture-book beauty, and they are totally devoted to each other and their family of beautiful Christian children. (See '*A Cautionary Tale*' and '*The Evolution of a Lie*' on www.churchdispute.com)

Neither Lee Nicholls nor Emma Nicholls were parishioners of Figtree Anglican Church. This is important because it removed the case from the parish's responsibility, especially because Dr. Dobbs was not employed by or in any leadership position in the parish. He had not met Emma at the church; he met her when his daughters befriended her through the home-schooling movement.

It is noteworthy that all the incidents rated as "sustained" by the diocesan Professional Standards Committee in May 2008 were alleged to have occurred from early December 2006 over a space of a mere 2 months to 28th January 2007, and ALL of them involved the 20-year-old Emma deliberately and with forethought pushing herself into a position where she could get Dr. Dobbs alone with her.

It is clear from her writings, and the comments of her medical practitioner Dr. Richard Schloeffel, that Emma had developed a delusion (consistent with Obsessive Compulsive Disorder and other suspected mental issues that blighted her life) that, just as *she* had "fallen in love" with Dr. Dobbs, he had fallen in love with her, and all that was needed was for her to give him the chance to tell her so. Not only did he not do this, he fled from her presence when she barged in on him when he was alone in his study looking at his computer screen in the darkened room, stood up close, leaned over him to look at the computer screen also, and, she says, held one of his hands on her waist with one hand and patted his hair with her other hand.

Lee Nicholls and her complaint of behalf of her 20-year-old daughter.

On 1st February and 4th February 2007 Lee Nicholls had two 'official' interviews with Yvonne Gunning in her role as child protection officer for the parish which resulted in Lee and Yvonne

together laying ecclesiastical charges against Dr. Dobbs alleging offences against Emma. Emma declined to be a party to these charges. It took a three-hour conference with Yvonne Gunning to force her give a statement after Bruce Clarke had been told that, despite her refusal to make a complaint, she was needed if the case against Dr. Dobbs was to go ahead.

It should be stated here that there was **no** allegation that Dr. Dobbs had sex with Emma (whose doctor said was still a virgin at age 20) and Lee's and Yvonne's lurid 'sexing up' of several allegations of touching were thoroughly contradicted by Emma herself. There were no witnesses supporting her allegations, even when it was alleged that the incidents complained of took place in front of witnesses, including, once, her mother. See the article '*Emma's remaining allegations*' for a discussion of the impossibility of the PSU proceeding to, or succeeding in prosecuting the charges on www.churchdispute.com .

The assessment of the case by Phillip Gerber, director PSU as early as March 2007.

PSU director Phillip Gerber wrote to Dr. Dobbs in April 2007 quoting from a letter he had already sent to the parish on 22nd March 2007:

*"It seems to me that what the church wardens, parish council, Bruce Clarke and Rod Irvine had was evidence that you have a particular understanding of boundaries ... which at best are capable of being misunderstood They did **not** (Gerber's emphasis) have evidence that you are a deliberate, intentional or serial predator on young women or children"* (Source: letter Philip Gerber to Dr. Dobbs 11 April 2007.)

This would appear to be the attitude of the Police and the Department of Community Services (DOCS, as it was then named): in neither case were the complaints made to them by Bruce Clarke and Yvonne Gunning treated as worthy of action.

None-the-less, the parish insisted that Phillip Gerber continue with an investigation and lay charges against Dr. Dobbs under church law.

In 2008, in an unguarded moment, he told the author that he 'never resiled' from that view and that 'Helen Irvine had a lot to answer for'.

FAC clergy, staff and parishioners behaved like a cult towards the family. Shunning and banning is cult behaviour.

Within days of (if not even before) Lee Nicholls and Yvonne Gunning signing their complaint, most of the parish - except for the Dobbs family who were kept in the dark – had come to believe that Dr. Dobbs not only had been charged with, but was guilty of "child sexual abuse".

When the young teenage daughters went to their next leadership training class at FAC they were thrown out – without explanation. When they next went to church people turned their backs on them. When they asked the ministers "what is this all about" the ministers, including Yvonne Gunning just kept saying "We can't tell you anything".

On 1st May 2007 Dr. Dobbs was banned from coming to church at FAC at all (although he had not attended church since February 2007 when he was, finally, told about Emma Nicholls' complaints and allegations). The next day the rev. Bruce Clarke telephoned Mrs. Dobbs and her eldest daughter (on speakerphone at his request) and told them both that the whole family was banned from coming to church. Details of how the church ministers and parishioners systematically humiliated, ostracised and tormented Dr. Dobbs' wife and children can be read in the article "*A Mother's Story*" on www.churchdispute.com

Even teachers at the children's Anglican school (The Illawarra Grammar School, known as TIGS), carried out the leadership orders to shun the Dobbs family when they met socially and even when Mabelle went to a parent/teacher meeting.

Mabelle and her eldest son appealed for help to various diocesan authorities over an extended period while they were being publicly ostracised by the congregation on the orders of the clergy. Their appeals were rejected. The diocesan response was a video presentation played at

church services in May 2008 in which a diocesan leader, Al Stewart, then the Bishop of Wollongong told the congregation that Dr. Dobbs had been found guilty by the PSC and he and the Sydney Anglican diocesan Registrar, Philip Selden, publicly approved the shunning and banning of the whole family, from adults to children, from attending church.

In June 2008, their eldest son appealed to the Anglican Primate of Australia. In July and August 2008 formal complaints were lodged with the relevant church authorities alleging spiritual and emotional abuse, harassment and bullying of Mabelle Dobbs and her children by certain clergy and church officials. These were sidelined by persons strongly concerned to protect the church organisation.

When people criticise the Dobbs, particularly Mabelle, for 'going public' through a campaign of distribution of pamphlets to FAC parishioners and the publication of articles on the Anglican Future Louise's page website, they should remember that all appeals to the church to do what was just and right in response to the FAC personnel's abuse of the family were rejected by those whose very function, let alone the Christian beliefs they represented that they lived by, was to protect them from abuse.

The charges under church law.

For a full description and dissection of the charges see "A Cautionary Tale" article on www.churchdispute.com

The charges were laid under church disciplinary measures enacted in 2002, and re-enacted in a revised form in 2006, after the public outcry over church inaction concerning paedophile priests and lay ministers. The stated intent of these measures was to hold to account persons in positions of "power and trust" in the church.

Dr. Dobbs was only an ordinary church attender. He was not in any position of "power and trust" in the church. He had decided to give a commercial espresso machine to the church and give his time and expertise (and his own coffee & milk) to offer 'good' coffee after services and at outreach events because he (and others) preferred that to the church's filtered coffee. According to the diocese that made him a "church worker" with a "coffee ministry" and on a par with a priest or lay minister! On this basis, they claimed the right to put him on trial before a church tribunal.

However, the terms of the Discipline Ordinance 2006 of Sydney diocese do not permit the church to act against the ordinary parishioner but only against people who are defined as church workers in the Ordinance. If not clergy, then the person needs to have been appointed or elected to one of a variety of church 'positions' that are set out in the Ordinance, and they must be positions of leadership. Dr. Dobbs had not been appointed to any of these positions and he had always maintained that that was the case.

Eventually in statutory declarations they were forced to prepare for the Tribunal hearing neither the Rev. Rod Irvine nor the Rev. Bruce Clarke (as his delegate) could produce any evidence of an appointment or election of Dr. Dobbs to any of these positions. So right from the start the parish and diocesan personnel had acted unlawfully as regards church law.

What happened at the Tribunal.

The diocesan Disciplinary Tribunal hearing of the allegations against Dr. Dobbs was originally listed on 6th November 2008. Painful as these hearings would be, Dr. Dobbs said a public hearing of the evidence was the only way he would be shown to be innocent, and his good name restored.

There was a series of 'conferences' with the Tribunal members to make procedural orders to get things ready for a formal hearing. The Tribunal made orders that Phillip Gerber as the 'promoter' of the 'charges' prepare, file and serve all the statutory declarations he needed for his evidence that the Tribunal had jurisdiction, and then set aside 3 days for hearing and making a decision on this issue first of all. This was because if the Tribunal was forced to decide on the evidence (or, rather, the lack of evidence) that Dr. Dobbs was NOT a church worker as defined in the Discipline Ordinance 2006, not only had Phillip Gerber behaved unlawfully according to church law, but everyone else

including the investigator (who could not have been validly instructed by Phillip Gerber) and the members of the PSC, and the Tribunal could not go ahead because the Tribunal members would be acting unlawfully.

When the Tribunal hearing finally commenced in June 2009, Phillip Gerber, his barrister and the diocesan Registrar all participated in a concerted effort to force Dr. Dobbs to agree to a withdrawal of the charges by the diocese. This he finally agreed to on the basis that, first, a letter (the terms of which would be settled by the Chair of the Tribunal) would be sent to FAC leadership informing them of the terms of the agreement ; second, that the 'ban' (in itself unlawful) on the family attending church services was withdrawn; and, third, that the (now former) Bishop of Wollongong Al Stewart would make a video correcting the previous video he had made, to be shown at each service at FAC one Sunday.

Has this agreement been honoured? Of course not.

To date (now December 2017) former Bishop Al Stewart and the present senior minister of FAC the Rev. Ian Barnett have refused to do this.

The Rev. Ian Barnett refused to retract the 'ban' on the whole family going back to attend services at Figtree Anglican Church when asked to do so immediately after he was notified of the outcome of the Tribunal, even though there is clearly no reason whatever as a matter of justice and good Christian behaviour to refuse them. The Christian concepts of repentance and apology on their part for the abuse of the whole family seem to have passed these learned gentlemen by.

What is needed to heal the harm done by these people to an innocent family.

There is a sense that nothing short of demonstrations of repentance by those who have dealt so mercilessly with this family can fully repair the emotional, psychological and spiritual harm done by FAC and personnel of Sydney diocese to Dr. Dobbs, his wife and the six Dobbs young people. However, fortunately, their forgiveness of their tormentors and God's grace can heal even if those who have demonstrated such evil towards them cannot bring themselves to repent.

And we must not forget Emma Nicholls who has also suffered greatly at the hands of those, including her mother Lee Nicholls, who so ruthlessly dealt with her poor simple, delusional, search for love and sexual experience.

**The Documents in the Case
Document 2**

Louise Greentree BA LLB LLM(Hons) ProfCertArb

**An Open Letter to Archdeacon Deryck Howell and the members of the Professional Standards
Committee in the matter of Figtree Anglican Church and the Dobbs Family**

12 April 2008

Dear Archdeacon

On 22 February 2008 you wrote to Dr. Dobbs seeking his agreement to accept a determination by a senior lawyer in NSW nominated by the President of the Bar Council of NSW as to whether the Discipline Ordinance 2006 Sydney Diocese conferred jurisdiction in respect of Dr. Dobbs. Receipt of this letter was formally acknowledged but no such agreement was indicated. You have written again on 1 April 2008 now proposing that you and your Committee deal with this question in conjunction with an overall consideration of the case under clauses 33-37 of the Discipline Ordinance 2006.

This open letter is intended to direct the attention of you and your Committee members to the flaws in process and competence that the operation of this Ordinance exposes. It will make certain recommendations to you and your colleagues.

The question of jurisdiction:

It is suggested, with respect, that none of you and your colleagues have either the power or the competence to answer this question and to make anything approaching a binding determination. This is Flaw #1 of the Discipline Ordinance 2006.

a) As to power

You need to bear in mind that Dr. Dobbs made strongly argued and detailed submissions to the Director of the PSU in early 2007 after he was finally given details of the complainant and the nature of the complaint, submitting that the Discipline Ordinance 2006 did not confer jurisdiction over him. The Director was initially dismissive of these submissions. Eventually, and only after Dr. Dobbs threatened to make an application to the Supreme Court of NSW for an injunction restraining the Director from acting further in the matter for want of jurisdiction, did the Director take some form of action to address the issue, notwithstanding it being a fundamental one.

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He informed Dr. Dobbs in a letter that he had approached the Chancellor of the Diocese, Acting Judge Peter Grogan for an opinion (this being within the description of the role of the Chancellor).

The Director informed Dr. Dobbs that the Chancellor had given it as his opinion that the Director did have jurisdiction. However, when asked to provide written reasons for this opinion, the Director not only stated that there were no written reasons but, surprisingly, that he could not ask the Chancellor to give written reasons! When pressed to answer the question: who or what body has the power to make a binding decision on this question, the Director in effect conceded that there was no person or body with that power apart from a determination made in the Supreme Court of NSW in relation to injunction proceedings. That would mean that your Committee also has no power.

b) As to competence

On the issue of competence: making a quasi-judicial decision in relation to legislative interpretation is a matter of considerable skill, most often acquired through the initial training of a lawyer in conjunction with years of experience in preparing and presenting submissions to judicial authorities who have that power and who are charged with the responsibility for making a properly considered judicial decision. With respect, your Committee would not seem to possess that training and skill, even if your Committee had the power. It is not enough simply to rely on the opinion of one of your number. You are being asked to revisit the issue on which Acting Judge Peter Grogan has given an, albeit hasty (and in our view ill-considered) opinion. How then are you to come legitimately and with demonstrable integrity to support or overrule his opinion?

Recommendation:

While none of you and your colleagues are equipped legislatively and as to skill to make such a quasi-judicial decision, and there is no provision for any other person or body to make a binding determination without approaching the civil Courts, your Committee should decline to make any pronouncement about the issue but to acknowledge powerlessness under the terms of the legislation to deal with the fundamental question. In acknowledging this you will need to acknowledge that this (in addition to the matters discussed below) prevents you and your colleagues from considering the matter at all.

5. The inadequacy of the PSC process

The above material on jurisdiction PLUS the following -

'The question of making a recommendation on substantive issues in the matter

It is suggested, with respect, that none of you and your colleagues have either the power or the competence to make any determinations of fact and law that you need to make before you can make any recommendations. This is Flaw #2 of the Discipline Ordinance 2006.

a) The material before you is defective (i) because there is no response by Dr. Dobbs to the further signed statements and the 'allegations' in their final form as determined by the investigator; and (ii) the material now presented to Dr. Dobbs is copious, it is filled with irrelevant, contradictory and hearsay material and it is 'offensive' to have to try to answer it in its present form.

You need to be aware that Dr. Dobbs and his family members refused to cooperate with the diocesan investigation, largely because of the failure of the Director PSU to deal appropriately

with the jurisdictional question when it was raised. Therefore, apart from an initial response to the mish-mash of allegations and accusations that comprised the complaint in its original form of the signed statement dated 23 February 2007 by Emma Nicholls, the Committee has nothing before it concerning Dr. Dobbs' response to the allegations in their 'final' form as determined by the investigator, together with the vast quantity of largely irrelevant and hearsay material that he has managed to gather.

Technically all the materials forming the statements obtained over the latter part of 2007 are open to challenge, including the further statement by Emma Nicholls. This would involve: firstly, an examination of the transcript of the interviews for leading and inappropriate questioning techniques (it is your case that Emma Nicholls is a vulnerable adult, whatever that might mean, and that she is at least highly suggestible); secondly, the challenge and deletion of irrelevant and hearsay material (although you may say you have nothing to do with the rules of evidence, once you take on the task of making some quasi-judicial determination of fact, you do need to observe the basics of insisting on relevance and rejection of hearsay - especially the second- and third-hand hearsay which abounds in this material); and thirdly, the cross-examination of the 'witnesses' on such material that remains in their signed statement that is denied or challenged by the accused person.

I am sorry if this short dissertation on judicial process is wearisome, but you are charged with the responsibility to act in accordance with fair process and to do justice.

b) All of the allegations and the statements in the materials before you are denied *in toto* by Dr. Dobbs and require to be tested by cross-examination.

With respect, you are not equipped to carry out a 'hearing' of the allegations and the cross-examination of the witnesses on oath. Therefore you can only make a finding in respect of any allegation that is admitted. You are unable to rely on any initial indications of a response to the allegations by Dr. Dobbs because as a result of the investigation the actual allegations and supporting 'evidence' (for want of a better word) have changed dramatically from the first. Therefore Dr. Dobbs is entitled as a matter of fair process to have the allegations proved on oath and tested by cross-examination.

Recommendation:

As you are unable to make a finding that certain allegations are proved because you have no process to deal with the proof of 'evidence' you have no choice but to refer the matter to a Discipline Tribunal. This expensive and cumbersome process is invoked because of the failures of process in the initial stages of the conduct of the matter. As you will find, even there, the Tribunal will be dogged by the problem of having no power to make a decision on the fundamental jurisdictional issue.

The question of whether there is a complaint on which you can now proceed (*let alone whether there was one on which you ever could have proceeded*)

It has come to the attention of the writer, the Dobbs family and some of their supporters that Emma Nicholls does not wish to proceed to support the complaint that was made by her mother Lee Nicholls (even though Emma was aged 20 at the time) to Yvonne Gunning (the parish staff member) on 1 and 4 February 2007. This is contained not only in the signed statement of Emma Nicholls' treating doctor, Dr. Richard Schloeffel, made 15 October 2007, but in certain recent email and telephone conversations between certain members of the Dobbs family advisory team and one of her trusted advisers who is seeking a way out for Emma

Nicholls because the diocesan process itself is the major source – even the only source - of abuse of this young woman. This is Flaw #3 of the Discipline Ordinance 2006.

Without the support of the only direct witness, the diocese has no case.

With respect, this places your Committee in an untenable position. You have no power to compel a witness, and nor has the Disciplinary Tribunal, quite apart from the undesirable publicity that would be generated by the sight of diocesan lawyers treating the supposed 'victim' as a hostile witness. Instead of trying to heal, your diocesan process becomes the abuser. I am sure that none of you or your colleagues would wish to be cast in this role.

This means that you cannot make any meaningful recommendation under the Discipline Ordinance 2006. Even a recommendation to conciliation cannot be of any force and effect when you have no power over a voluntary member of the organisation, as in this case, and as a matter of practicality, what could be the possible outcome given that so much is in dispute? The matter has gone far beyond rescue by conciliation, even if Dr. Dobbs was disposed to refrain from objection to jurisdiction in order to allow it to take place, which he is unlikely to do.

Is there a way forward? Not the way the PSU, you and your Committee and the various others involved in this matter on the part of the parish and the diocese have been proceeding.

The parish and diocesan *modus operandus* seems to be that the parish and diocesan personnel will continue to barge on in the hope that it will go away, or that some miracle will happen whereby they do not personally have to take responsibility for initiating, aiding and abetting the conduct of the most disgraceful abuse of process against a lovely Christian family, husband, wife and six children.

What can you, Archdeacon, personally do?

I have suggestions, but until the Director PSU is prepared to acknowledge personal responsibility and the Archbishop is prepared to intervene in an appropriate pastoral capacity, and earnestly seek a just and proper solution, these are futile. I can only recommend that you and your colleagues use the time you would have spent reading the materials in all their irrelevance, and discussing your lack of power in the matter praying to God for His will in respect of a way forward.

I would be very happy to have a meaningful discussion with you after the matter has come to that point.

Sincerely

Louise Greentree

The Documents in the Case Document 3

A Cautionary Tale – the Cover-up Begins: Executive Summary²

In her paper ‘A Cautionary Tale’,³ Louise Greentree⁴ wrote about how a 20-year-old young woman called Emma Nicholls, a sufferer from Obsessive Compulsive Disorder, has been abused by her mother, by members of Figtree Anglican church and its then ordained leadership and by the then Rector’s wife Helen Irvine in order to conflate her pathetic delusion that there was a ‘special chemistry’ between her and the father of one of her girlfriends into accusations of child sexual abuse, grooming and sexual harassment. As that paper noted, of the complaints made originally by the young woman’s mother, Lee Nicholls (who had intended to remain anonymous even from her daughter) seven were rejected by the diocesan investigator as unsustainable (including one of the only two complaints concerning Emma when she was under the age of 18), leaving only one complaint when Emma was aged 16 and four complaints over a short period November 2006 to January 2007 to be further considered. These are all denied by Dr. Dobbs. Now the matter has been considered by a six-person Professional Standards Committee (PSC) of Sydney diocese. The story goes on:

No Child Sex Abuse or Grooming

The PSC has now rejected the second of only two complaints that related to a time when Emma was under the age of 18.⁵ Thus it is acknowledged that there are no complaints that support the gross behaviour of the parish leadership and a number of parishioners firstly accusing Dr. Dobbs of these grave criminal offences and then, even worse, their pastoral abuse of his wife and children.

Is the Church big enough to say ‘sorry’? Is the church that preaches repentance to others going to repent of its own sin? Will we now see people who tried so hard to destroy the reputation and family life of Dr. Dobbs, such as the revs. Rod Irvine and Bruce Clarke, Helen Irvine, Yvonne Gunning and Lee Nicholls, who have sinned by being slanderers, and who have pastorally abused his wife and his children, and brought false and ridiculous complaints of child sex abuse and grooming against him repenting of their conduct and seeking forgiveness and reconciliation? I do not think the Dobbs family are holding their breath for this to occur. It is however a litmus test of whether Sydney Diocese is as they boast to other dioceses: truly ‘of the Spirit’ or merely ‘of the lower human nature’.

Cover-up

Rather than admit their mistake, the church continues to try to blacken Dr. Dobbs’ character. The PSC’s report, while dismissing the claims of child sex abuse or grooming which circulated in the parish still makes out a charge of “low level unintentional sexual harassment of an adult” against him.

The ‘Report’ of the PSC is foolish.

“This too is meaningless, chasing after the wind” (Ecclesiastes 4.4)

² See the full paper on www.churchdispute.com

³ See the full paper and Executive Summary now revised in 2017 on www.churchdispute.com

⁴ BA LLB LLM(Hons) ProfCertArb. Louise can be contacted by email louise@greentreeaustralis.com

⁵ This was an alleged ‘sideways hug’ while each was seated on a separate lounge and lounge chair respectively with a Dobbs daughter sitting beside Emma. As described by Emma it is physically impossible.

- (1) The Committee says it is 'comfortable' that it has the power to try a person who only makes coffee after church as if they were a minister or church worker in a position of leadership, power and trust.
- (2) The Committee has found a person 'guilty' and banned them from church work without anything approaching a fair trial, in the face of the denials by the accused person, and only based on largely irrelevant malicious gossip and innuendo and subjective comments unsupported by anything approaching evidence.⁶
- (3) It is perverse, expending enormous effort chasing the reddest of red herrings given the utter triviality of the remaining complaints.
- (4) The Committee says the church has already acted properly by removing Dr. Dobbs permanently from 'ministry'. What? Is it 'proper' to punish the person before they have even been tried? But it is worse than that. The Committee report is misleading: as is well-known, the church also excluded Dr. Dobbs and his entire family from attending church. Was that 'proper'?
- (5) The Committee has no power: they can do nothing to Dr. Dobbs now that the church has excluded him and his whole family.

Beware - It is your fault if your good intentions are misinterpreted by a delusional person. The Committee says even if you are unaware of 'the effect' you are having on a person, and despite you behaving with good intentions, it is your fault if that person misinterprets, even delusionally, what your intentions are⁷. With all due respect to the committee members, this is really making it up as you go along.

The thinking of the Committee is foolish: they claim the only remaining complaints are of 'low level' unintentional sexual harassment of an adult person: Sexual harassment is defined to be '*unwelcome conduct of a sexual nature*, whether intended or not', including 'making unwelcome physical contact such as touching, pinching, or patting'⁸. There are several problems with the diocesan 'case':

- (1) Emma put herself in the way of seeking physical contact, acting out her delusion, and therefore nothing was unwelcome, as is quite clear from her writings.
- (2) None of the alleged conduct is of a sexual nature on any objective standard. (In any event, Emma was still a virgin as at age 21, according to her doctor.)
- (3) There were potential witnesses to some of the incidents, none of whom Emma or the investigator has been able to call as direct witnesses of fact. She says that there are no witnesses, and so she is the sole witness of fact for the diocese.

The Committee has left hanging the virulent accusations by Helen Irvine. This shows they have not thought about an important problem with the whole case. She made a claim (soon known throughout the parish and beyond) that Dr. Dobbs had sexually abused female university students of the same age as Emma.⁹ The documents show that there is no foundation for this claim. There are only 3 complaints¹⁰:

⁶ The accused person is expected to answer such comments as that made by the then Rector's wife Helen Irvine in her signed statement, talking about the Dobbs children: '*The only concern that I had was that his daughters dress in a very sexy way, even when they're very young. Their hair is bleached blonde. It looks bleached.*' How is one to respond to this piece of unprovoked spite against children, who are not even accused?

⁷ One of the committee recommendations is for 'counselling or training as to his self-awareness and the likely effect this may have on other people, regardless of his good intent.'

⁸ See the Code of Conduct 'Faithfulness in Service' definitions.

⁹ Helen Irvine and Dr. Dobbs were colleagues at UOW to the end of 2005.

¹⁰ Helen Irvine gave an interview giving details of all three. But when it came down to it, only Corinne Cortese gave an interview. See '*The Evolution of a Lie*' on www.churchdispute.com for an examination of her fabricated statement.

Complainant 1: Corinne Cortese, also called 'Girl X'

- (1) In 1999 he looked at her during tutorials, which he was conducting, and she was one of 15-16 students in the room. She says that she had no other contact with him.
- (2) In 2001 she was employed at another University as an academic: they met at a university function and he paid her a compliment, said he was happy she was doing academic work, sat at the lunch table with many other people and in the afternoon in the lecture hall they made eye contact.
- (3) About 1 week later in 2001, she answered an anonymous hotmail email address titled '*write to me if you're lucky*' an email signed '*a secret admirer*', exchanged emails for a while before she stopped answering and the emails ceased. She does not know who sent the emails. She says later ones were signed *Scotty* but anyone can sign any name they like. She did not keep the emails and she said she does not remember what they said.

Complainant 2 'Girl Y': This is an anonymous woman who was not interviewed and who has not signed any statement. Her complaint¹¹ is that she is frightened of him! There is nothing in the material to indicate anything for her to fear, other than her own neurosis¹².

Complainant 3 'Girl Z - Anna Maria': This complaint is not from her but by Helen Irvine alone: that in about 1997-1998 Dr. Dobbs asked the department Head not to require him to share his office with Anna Maria. There were already three others sharing the same office for PH.D. students.

That is the totality of the 'complaints'.¹³ They are denied.

Apart from the fabrication of complaints by these complainants, none of them have any connection to Figtree Anglican Church, none of the complaints has been formally made to UOW, and none of them have anything to do with Emma Nicholls. Helen Irvine brought them into the parish against her husband's wishes.

What happens now?

Dr. Dobbs had 14 days to accept the report. He rejects it. The Archbishop is now required to appoint a person to bring the complaint before the diocesan Disciplinary Tribunal for a proper hearing of the evidence in accordance with the rules of procedural fairness. The only four remaining trivial allegations are set out in the full paper on the website, relating to a period November 2006 - January 2007 when Emma was aged 20. The 'charge' of low-level unintentional sexual harassment is denied.

Parishioners and other readers should think very carefully about how what has been done to the Dobbs family could be done to you and your family. Is this the church to bring your friends to?¹⁴ I do not think so.

¹¹ As reported by Helen Irvine

¹² The complaint is clear that he never touched her.

¹³ For a full discussion see the paper 'The First Stone Revisited' an examination of the extreme feminist ideology demonstrated by these complaints on www.churchdispute.com

¹⁴ This references the Parish slogan at the time: 'The church to bring your friends to.'

The Documents in the Case

Document 4


Discipline Ordinance 2006
Professional Standards Committee
Reasons for Recommendations and Directions under cl 34
Complainant: Emma Nicholls
Respondent: Scott Dobbs

1. On 23 February 2007 the Complainant provided a Statutory Declaration to the Director setting out allegations of sexual misconduct by the Respondent during the period November 2006 to January 2007.
2. The Respondent received this Statutory Declaration and on 12 March 2007 provided a response in a Statutory Declaration. He vehemently denied any wrongdoing. In a covering letter he indicated that he considered that the Ordinance does not strictly apply in its procedural capacity and that he is not in the category of a church worker. However he was "anxious to vigorously make a defence against the allegations".
3. On 28 March 2007 the Director indicated in writing his preliminary opinion that the Respondent was a church worker under the Ordinance. On 22 April 2007 the Respondent provided further written submissions on the jurisdiction question. The Director did not change his opinion as a result of those submissions.
4. On 20 June 2007 an Investigator was appointed under cl 17.
5. As a result of a further letter from the Respondent, the Chancellor was consulted. He expressed the view on 11 September 2007 that there was jurisdiction in relation to the Respondent and the role he undertook in the "coffee ministry" position. This was communicated to the Respondent on 18 October 2007.
6. The investigator reported on 17 December 2007. This report was provided in full to the Respondent and the PSC under cl 32 on 21 January 2008. No response or further material has been provided by the Respondent.
7. On 22 February 2008 the Chairman of the PSC offered the Respondent, in writing, the opportunity to obtain an independent consensual legal ruling on the jurisdictional question. A formal acknowledgement of receipt was received from the Respondent but no further substantive response.
8. The PSC has considered whether or not there is jurisdiction. The Respondent undertook a ministry described as a "coffee ministry" in the foyer of the Church during the relevant times. This involved operating a coffee cart and providing barista services to the congregation. It was a role and ministry which had been considered and agreed to by the Rector and staff. The Respondent himself refers to it as "set up and ran a very burdensome coffee ministry so that the people of the church could enjoy it, and during the carols 2006, used my coffee machines to generate funds to offset the cost of the carols project."
9. Such a "ministry" can, in the opinion of the PSC, be comfortably construed as falling within the definition of "church worker" under the Ordinance. It is either an "office" or "an appointment by a Rector, a curate-in-charge, churchwarden or

parish council or by any delegate or agent of such person or body of persons" or an appointment under cl. 43 (Part 6) of the Church Administration Ordinance 1990.

10. The Investigator particularised the allegations into eleven separate matters. He expressed the opinion that allegations 1, 3, 4, 7 and 9 were **not** sustained on the evidence and that allegations 2, 5, 6, 8, 10 and 11 **were** sustained on the evidence.
11. The PSC has reviewed all the evidence. They have formed the view that they agree with the opinions of the Investigator in regard to the eleven allegations except allegation 2 which they consider is **not** sustained on the evidence.
12. In summary, the PSC considers that allegations 5, 6, 8, 10 and 11 are sustained on the evidence.
13. The five "sustained" allegations involve "low level" sexual harassment or sexual exploitation of a single adult woman by a married adult male.
14. The parish has already acted in response to the incidents by permanently standing down the Respondent from the coffee ministry.
15. The PSC makes the following recommendations under cl. 34(1); that:
 - i. the Respondent be admonished; [cl. 34(1)(d)]
 - ii. the Respondent not return to any position of ministry in the Anglican Church without counselling or training as to his self awareness and the likely effect this may have on other people, regardless of his good intent; [cl 34(2)(e)]
 - iii. any future ministry position be made subject to conditions determined by the Director in consultation with any appointing church body; [cl 34(2)(g)]
 - iv. no further action be taken with respect to the complaint. [cl. 34(1)(k)]


 Archdeacon Deryck Howell


 Mr Alan Lucas, Barrister


 Professor Kim Oates

Dr Debra Tattersall


 Mrs Colette Read


 Mrs Emma Collett

DATED:

The Documents in the Case Document 5

“Sex Lies and Videotape”¹⁵

The next instalment in the saga of Figtree Anglican Church, Emma Nicholls and the Dobbs family.

Just to remind you, back in April 2007 Phillip Gerber the Sydney Diocese Professional Standards director said there was NO evidence of serious wrongdoing on Dr. Dobbs’ part. Here is what he says in a letter to Dr. Dobbs dated **11 April 2007**

*“It seems to me that what the church wardens, parish council, Bruce Clarke and Rod Irvine had was evidence that you have a particular understanding of boundaries ... which at best is capable of being misunderstood They did **not** (Gerber’s emphasis) have evidence that you are a deliberate, intentional or serial predator on young women or children”*

Not do they now.

A year later the Professional Standards Committee (PSC) has come to an even tamer conclusion. The most they could recommend charging Dr. Dobbs with was “low level sexual harassment of an adult woman by a married man”. (This refers to the definition of sexual harassment which, alarmingly, makes even unintentional actions or words fall under this ‘charge’.) They gave Dr. Dobbs an opportunity if he wished it, to “plead guilty” to this, which would bring the matter to an end. Naturally, being innocent Dr. Dobbs **did not plead guilty**.

Now the matter has to go to trial before a church Tribunal. So far no one has heard Dr. Dobbs’ side of the story. The Committee didn’t let Dr. Dobbs defend himself – it wasn’t a “trial”. It wasn’t a “hearing”. It was just a committee looking at what the worst-case scenario – if Dr. Dobbs had nothing to say in his defence - would be. Even readers of these articles have so far only heard the Diocese’s story. The purpose of the articles so far was to show that any intelligent observer could see that the diocese’s “case” against Dr. Dobbs amounted to nothing at all. And that the Diocese had abused the very notion of its “power and trust” legislation to use it as a weapon of repression by the people in real positions of power in the church against the ordinary powerless pew-sitter. Shame on them!

The point is, the diocese has at last framed a “charge”. Nothing is proved. Nothing has even had a court-like hearing; that is all in the future. For now, Dr. Dobbs should be regarded as “innocent until proved guilty” – innocent even of this low-level allegation.

Bishop Al Stewart misleads by video

But on Sunday 29th June 2008 at **every service** at Figtree Anglican Church a video was screened. In this video presentation Bishop Al Stewart read out the Committee’s letter to Dr. Dobbs in which they gave him an opportunity to plead guilty to the charges they had only just formulated. But Bishop Al did not tell the congregation that Dr. Dobbs had **not** pleaded guilty and so the case would be referred to the Disciplinary Tribunal for a hearing.

Bishop Stewart used his position of power and privilege to slander Dr. Dobbs, making people think Dr. Dobbs was guilty of low level (unintentional) sexual harassment when the charge has not yet been heard by any tribunal, let alone a competent one!

John 7:51 "Does our law condemn anyone without first hearing him to find out what he is doing?"

¹⁵ This is the title of a 1989 movie made by Steven Soderbergh, winning the Palme d’Or at the 1989 Cannes Film Festival.

**Emma was the one doing the sexual harassment.
Dr. Dobbs was the victim!**

The Diocesan case consists now of only four alleged actions, all when Emma was aged 20 and just over a period of two months, and all initiated by Emma even though she did not need to come to the Dobbs house.

Three did not happen: Three of these Dr. Dobbs says never happened – a kiss on the neck (allegedly on two separate occasions) and a hug in circumstances when it could not have occurred. Where the two kisses are alleged to have happened there would have been witnesses. There are none, not even Emma’s mother who was watching for an hour without seeing anything of concern.

In the case of the hug, at first it was supposed to have occurred in the foyer of Figtree Anglican church in the presence of many witnesses. When Dr. Dobbs pointed that out in his response, Emma changed the venue to the Dobbs home where, she says she had stayed alone. Given the history of this mentally unwell woman and the deep unease that her continued involvement with the daughters had engendered, there was no way that she would have been allowed into the home to stay there alone.

Emma says to Sandra Hedwig that *‘all the (Dobbs) family hug like that’* and that she has enjoyed it.

Emma’s own doctor says she imagines things. She says there has been a ‘weird spark and/or chemistry’ between them (Dr. Dobbs) since she was aged 14. In her dreams!

Parish leaders and the PSU seem to have been working on her at this time to be their Judas. In short, no court of law would give these allegations the time of day.

The fourth is clearly a case of Emma harassing Dr. Dobbs. She goes to their home, ostensibly as a friend of the Dobbs daughters joining them and their guests after the evening service at Figtree church. Dr. Dobbs is not with the crowd upstairs. He is busy working on his computer doing job applications – he has been out of work for months and has a family to feed. Emma leaves the group. She goes downstairs. She goes through the TV room. She goes through the master bedroom. She knows it is against “house rules” for her to be in this part of the house. Through the master bedroom she goes and into Dr. Dobbs’ private study. Again - into forbidden territory. He was engrossed in the computer screen, and with approaching evening the room had grown dark.

Now, what we have is Emma’s own version written in an email to her friend Sandra Hedwig (SanDee). In that email, she says that she walked up beside him and leant across him as he sat at the computer desk. (He says that anyone watching would have thought she was trying to climb into his lap.) She says he put his arm around her waist. She says she caressed his hand on her waist and patted his hair with her other hand. He then looked up from the computer. What he says is that he does not recollect putting his arm around her waist, but if he did do so it would have been in the mistaken belief that it was his daughter, because Emma was not allowed into that part of the house. He says that when he saw Emma in the room he jumped up – almost knocking over his chair - and ran out of the room, went immediately upstairs and said to his wife (which she confirms) *“keep that woman out of my room.”*

Blind Freddy could see that this was Emma, infatuated as she was with Dr. Dobbs, harassing him. Not, as the Diocese is claiming Dr. Dobbs harassing Emma. Dr. Dobbs is the victim!

It is lucky for Emma that she doesn’t make coffee after church! If she did she might now be facing investigation and having the bishop denounce her in a video presentation to the congregation and then facing a trial before a church tribunal!

**The Documents in the Case
Document 6**

Transcript of Bishop Al Stewart regarding Mr. Dobbs

28/29 June 2008

My name is Alan Stewart; I am the Anglican Bishop for the Wollongong Region within the Diocese of Sydney. Last year, the former Rector of Figtree Parish, Reverend Rod Irvine informed me that an allegation had been made against Mr. Scott Dobbs a member of Figtree Church.

Subsequent to that, Mr. Dobbs and his family have been asked to leave Figtree Church.

An independent investigation was carried out under the Discipline Ordinance 2006. An investigator, appointed by the Professional Standards Unit investigated the allegations at some length. The nature of the allegation against Mr. Dobbs concerned low level sexual harassment or exploitation of a single adult woman by a married adult male.

The Professional Standards Committee makes the following recommendations, in line with the Discipline Ordinance 2006.

Firstly, that the respondent (that is the person charged) be admonished and secondly, that the respondent not return to any position of ministry in the Anglican Church without counselling or training as to his self awareness and the likely affect this may have on other people regardless of his good intent.

These matters are deeply distressing to many people and has made for a very difficult year, however, as a result of these findings, I would like to say that as Regional Bishop, I wish to indorse the various pastoral actions taken by the then Rector Rod Irvine, his staff and the wardens of the church.

Additional Statement of the Diocesan Registrar

Bishop Al Stewart recorded the message before he travelled overseas on Church business. Subsequently, Dr Dobbs has declined to accept the recommendations of the Professional Standards Committee described in the Bishop's message.

Dr Dobbs has indicated at all times that he challenges the jurisdiction of the Diocese in relation to himself and his role at Figtree Anglican Church (FAC).

As a result there may be further processes and determinations at a Diocesan level.

Nevertheless the actions of the leadership of FAC in relation to Dr Dobbs remain in place and are still endorsed by the Diocese.

Dr Philip Selden, Registrar

26 June 2008

ⁱ This ordinance has since been repealed and replaced by the Parish Administration Ordinance 2008, which contains a Part in almost identical terms to Part 6 of the Church Administration Ordinance 1990. The full text of the applicable part is set out in Document at the end of this article.