

Statutory declaration

I, the Reverend Monsignor John Joseph Usher EV, of Level 5, Polding Centre, 133 Liverpool Street, Sydney NSW, do solemnly and sincerely declare that:

Background

- 1 I am the Chancellor of the Catholic Archdiocese of Sydney, and have held that role since 2005.
- 2 I was ordained as a priest of the Catholic Archdiocese of Sydney in 1972.
- 3 I have worked in the parishes of Mt Pritchard, Balgowlah, Golden Grove, Dundas Valley, Blacktown, Rozelle and Mortlake. In addition to my role as Chancellor, I am currently the parish priest of St Patrick's, Mortlake.

Education and awards

- 4 I was awarded a Bachelors degree in Theology in 1972.
- 5 In 1978, I was awarded a Bachelors degree with Honours in Social Studies from the University of Sydney, and in 1989, I was awarded a Masters degree from the University of Sydney, in Social Work.
- 6 In 2000, I received the Australian Association of Social Workers Award of Excellence. In 2001, I received the AHA award for community service.
- 7 In 2004, I was appointed a visiting lecturer in Social Sciences at the Australian Catholic University. In 2009, I was appointed an adjunct professor of the School of Arts and Sciences at the University of Notre Dame, Australia.
- 8 In 2009, I was appointed a prelate of honour of His Holiness.

Appointments

- 9 In 1983, I was appointed the Director of Centacare, the Catholic welfare agency. In that role, I was responsible for the operation of Centacare's works in the Archdiocese of Sydney. I remained in that role until 2004, when I was appointed Chancellor of the Archdiocese of Sydney, an appointment I still hold. In 2012, I was appointed Vicar General for the Archdiocese of Sydney.
- 10 In about August 1991, I was asked to chair a NSW ministerial review committee into alternative care of children in NSW. The committee looked at systemic issues in NSW foster care, including the effects on children who were spending too long in institutional care. The committee published a report, which is known as the Usher Report.
- 11 I have served in the following Church and government appointments in the areas of social work and child protection:
 - (a) 1988 – Family Law Council of Australia;
 - (b) 1989 – NSW Community Services Advisory Council;
 - (c) 1990 – NSW Child Protection Council;

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- (d) 1990 – Social Security Advisory Council;
- (e) 1991 – Chairman of the Review of Alternate Care of Children in NSW (the "Usher Report");
- (f) 1992 – Chairman NSW Alternate Care Committee;
- (g) 1993 – Chairman of the Australian Catholic Social Welfare Commission;
- (h) 1995 – Member of Australian Bishops Special Issues Committee; and
- (i) 2004 – Expert Advisory Panel of the NSW Commission for Children and Young People.

Fr Lucas' evidence

- 12 I make this statutory declaration after having read the transcript of evidence given by Fr Lucas to the Special Commission of Inquiry into matters relating to the Police investigation of certain child sexual abuse allegations in the Catholic Diocese of Maitland-Newcastle (Inquiry) on Wednesday, 24 July 2013 and Thursday, 25 July 2013.
- 13 At times, Fr Brian Lucas' evidence referred to me. I do not agree with some of the statements and comments made by Fr Lucas. Some of the recollections he describes differ from my own recollections.
- 14 A copy of the transcript of evidence given by Fr Lucas to the Inquiry on Wednesday, 24 July 2013 is annexed to this statutory declaration and marked "JU1".
- 15 A copy of the transcript of evidence given by Fr Lucas to the Inquiry on Thursday, 25 July 2013 is annexed to this statutory declaration and marked "JU2".
- 16 In the following paragraphs, I respond to evidence given by Fr Lucas to the Inquiry by referring to the relevant page and line of the transcript I wish to address. I also explain the role of the Special Issues Resources Group and my participation in it.

Redacted for relevance

I have sought to clarify it in minor respects for the purpose of responding to Fr Lucas' evidence and to further assist the Commission's investigation.

Special Issues resource group

- 17 Shortly after NSW introduced child protection legislation, Jillian Calvert, who was a member of the NSW Child Protection Council, contacted me. My recollection is that this legislation was introduced in around the late 1980s. Ms Calvert was a person I knew well, and had come from the Department of Community Services to head up the Child Protection Council. There were mandatory reporting categories in place for professions such as doctors,

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teachers and childcare workers. Catholic priests remained exempt from the reporting provisions of the law at that time.

- 18 Ms Calvert rang me and indicated that the Council was receiving a number of complaints about priests, and sought my advice. I attended a meeting with Ms Calvert. I took Fr Barry Collins (who was later Bishop Collins and is now deceased), who was responsible for religious education in the Catholic Education Office, with me to meet with Ms Calvert.
- 19 In the meeting, Ms Calvert sought assistance in relation to reports that were being made by lay teachers in Catholic schools regarding abuse by members of religious orders. The reports were, to my recollection, going back several years. My assistance was sought in helping the NSW Child Protection Council to respond to these allegations and I was ultimately appointed to the NSW Child Protection Council.
- 20 Around or shortly after this time, there was a lot of press publicity about child abuse committed by members of the Christian Brothers order in Newfoundland, Canada, and a number of television programs aired on the issue in Australia.
- 21 Fr Collins and Fr Bob McGuckin, who is the present Bishop of Toowoomba, and I decided that we do something to endeavour to ensure that the bishops had advice on this issue. At that time there was not a lot of awareness about the issue within the hierarchy of the Church. I was then the director of Centacare Sydney, the Catholic Church's Welfare Agency. There were a number of counsellors who worked for me and had experience and expertise in this issue.
- 22 In the late 1980s, I wrote a submission to Cardinal Clancy suggesting that a special unit be set up to handle issues of child abuse by clergy. That submission did not lead to immediate action, and in order to provide members of the church with a resource to assist with allegations of child abuse, Fr Collins, Fr McGuckin, Fr Brian Lucas, and I, along with a small number of Centacare counsellors formed the Special Issues Resource Group.
- 23 One of the main things that the Special Issues Resource Group sought to do was to increase the Bishops' awareness in relation to the issues of child abuse. We searched around for a person of significant repute who could provide us with insight into paedophilia and child sexual assault. I remember asking the St John of God Brothers who ran the psychiatric hospital at Burwood, and they recommended Dr Alex Blaszczyński, who had a PhD in Psychology and specialised in obsessive behaviour. Dr Blaszczyński became a consultant to us and his assistance led to us bringing out a number of overseas experts in the late 1980s and early 1990s, to address the Australian Catholic Bishops Conference.
- 24 On the subject of Dr Blaszczyński Ms Lonergan SC and Fr Lucas had the following exchange on Thursday, 25 July 2013, which appears at T1703, line 39 to T1704, line 2:

Q. Who was he and what did he know about paedophilia or related disorders?

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A. He is not a medical doctor, medical practitioner. He has a PhD I think in psychology associated with the University of New South Wales, and he had been a person I think known to Father John Usher as someone who, as a counsellor, therapist, could assist with this problem.

Q. And Dr Blaszczyński could have assisted with problems of paedophilia; is that the position?

A. That's my understanding, yes.

25 This description of Dr Blaszczyński is not entirely accurate. Rather than "counsellor, therapist," Dr Blaszczyński was more of an expert advisor in the area of obsessive compulsive behaviour, of which, as I understood it, paedophilia was one type. I did not refer patients to Dr Blaszczyński for therapy, rather he performed an advisory role to me and the Special Issues Resource Group.

26 The Special Issues Resource Group was an unofficial group in New South Wales with no formal role or status within the Church. It was simply a group of individuals seeking to understand the problem of sexual abuse within the Church, so that we could provide assistance and advice to the Church and its Bishops. It came to comprise a group of priests and a female counsellor. More particularly, in the late 1980s, the NSW (ACT) Bishops officially appointed Fr Lucas, Fr Tom Wright, Fr Bill Burston and myself, together with Dr Blaszczyński as the NSW "Special Issues" Committee as an advisory group to the NSW Bishops. This became known as the "Special Issues Resource Group." Other people later joined the group (Fr McGuckin and Mrs Elaine Rickard).

27 It is important to note that the Special Issues Resources Group was, as the name suggests, a resources group. It was intended to provide assistance and advice. It did not have the power to stand down clergy or other religious. It could give advice or make recommendations to this effect but ultimately any decision to remove a priest from the ministry or a brother or sister from their religious life or other duties was made by their bishop or religious leader.

28 The Australian Catholic Bishops Conference established a national committee to look at the issue of sexual abuse within the Church. This was in conjunction with Catholic Church Insurances and Bishop Mulkearns who was appointed as its chair. At a NSW level, the Special Issues Resource Group continued to operate and make ourselves available to assist with issues of abuse as required.

29 There was no formality to the group and while we did meet occasionally to discuss cases, there were no formal records, files or minutes kept. There was not in existence any policy or practice manual, although protocols were developed over time. Our goals, as I recall it, were first and foremost to assist victims and secondly to advise the relevant bishops or religious leaders whether or not in our opinion alleged offenders should be removed from active priesthood and religious life, and reported to the authorities. It is my

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recollection that more often than not we acted individually as requested by either victims or leaders in the Church. It was my understanding that if a member of the Special Issues Resource Group considered it prudent to do so they would take along another member to any meetings with alleged perpetrators, victims or others involved in an allegation of sexual abuse.

30 It is my understanding that records were kept concerning any counselling or advice provided to victims or alleged perpetrators of abuse. These records were kept by the relevant counsellors. There would have also been some letters or reports to the relevant bishop or religious leader. I believe those records were transferred to the Professional Standards Office in recent years.

31 One of the roles that we did have was to assist Bishops in understanding sexual abuse and child sexual abuse. I wrote a number of papers on the issue to assist the Bishops and senior clergy. I proposed greater transparency in dealing with these matters. I remember holding discussions in the Archdioceses of Sydney and Adelaide and the Dioceses of Wagga Wagga and Wollongong about these issues. Part of my role was to assist priests to develop an awareness and understanding of the boundaries between what is safe conduct, what is inappropriate conduct, and what is criminal conduct. I also kept many papers from relevant journals about these issues, and presented papers on these issues from time to time.

32 I note that on Thursday, 25 July 2013, Ms Lonergan SC and Fr Lucas had the following exchange, which appears at T1734, line 43 to T1735, line 5:

Q. Within the northern states, as I understand it, were you and John Usher the contacts for that smaller group?

A. For the Special Issues Resource Group in the province of Sydney, which was basically the state of New South Wales.

Q. So it was you and John Usher throughout New South Wales?

A. And some others who were participants from time to time.

33 I confirm that the members of the NSW Special Issues Resource Group are those described in paragraphs 22 and 26 above.

Involvement of Special Issues Resource Group with offenders, victims and police

34 The first time I became involved with offenders was in late 1989 or early 1990.

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I regularly had conversations with the NSW Police about allegations.

35 I cannot speak for all of the members of the Special Issues Resource Group as to their practices. However my practice was that if an offender made an admission then that would be reported to the authorities. The relevant authorities as I then understood it were the police and/or the Department of Community Services. I believe that Fr Collins took a similar approach to any allegations that he dealt with, in particular through the Catholic Education Office. If a victim made a complaint I would take a number of steps. First, I would assure them that they were believed. Second, I would seek to ascertain whether they needed and wished to participate in counselling. If so I would refer them accordingly. Third, I would encourage the victim to report the allegation to the police. I would always offer to assist the victim to take their complaint to the police.

36 In general terms, my role was mostly with victims. This is because I had a background in social work and I held a senior role with Centacare. I took a pastoral approach that was intended by me to look to ensuring the victims' welfare. As I recollect it, Fr Lucas, who was well known amongst senior personnel in the church, tended to be the person who was primarily involved in dealing with members of the clergy and religious orders against whom allegations of sexual abuse had been made. Fr Lucas had a background as a practising civil lawyer and probably had a better understanding of the law regarding how these matters should be handled than I did. It is my belief that Fr Lucas would have been referred far more alleged offenders than I was, both because of his profile and because of his role as Secretary of the Archdiocese of Sydney.

37 It is my recollection that by the early 1990s it was my practice to refer the matters with which I dealt to the police. I have reviewed my journal for 1992. I have looked for my 1993 journal but have been unable to locate it. My 1992 journal reveals that:

- (a) I took a matter involving sexual assault of children to the police on 1 September 1992. An extract of my journal relating to this is annexed to this statutory declaration and marked "JU3".
- (b) I was involved with assisting the police on another matter on 2 September 1992. The relevant extract of my journal is annexed to this statutory declaration and marked "JU4".

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- (d) There were various matters relating to sexual abuse that I was consulted on, with a view to assisting bishops or provincials

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understand allegations, throughout September 1992. I discuss these in greater detail below.

- (e) On 9 October 1992, I met with a number of families regarding abuse at *SCHOOL X*, and agreed to assist them in taking their allegations to the Department of Community Services and the Police, which occurred very shortly thereafter. The relevant extract of my journal is annexed to this statutory declaration and marked "JU5". I recall that I was subpoenaed to give evidence in the offender's prosecution.
- 38 In the extracts of my journal annexed to this affidavit, irrelevant parts and names of victims or complainants have been redacted.
- 39 This was fairly typical of the work I was doing in this area at the time, and reflective of the frequency in which I was reporting matters of child sexual abuse or assault to police. The Special Issues Resources Group was not at the stage where it reported every unsubstantiated allegation of abuse to the police. As I have noted below, sometimes allegations were received third hand. Sometimes the victim was adamant that no report should be made to the police. I deal with this situation in 63 below. However, if, in particular, there was an admission of conduct by an alleged perpetrator, then it was certainly my practice and, I believe, the general practice of my colleagues in the Special Issues Resource Group to report those matters to the police. It was, as I have already indicated, my practice to encourage victims to report to police and to offer to assist them in so doing.
- 40 A lot of the information that the Special Issues Resource Group received came to us second or third hand through Bishops and Auxiliary Bishops of other Dioceses, or from Provincials of religious orders. As I understood it they were seeking advice about what action they should take. The Special Issues Resource Group had no jurisdiction to "stand down" priests or religious although at times this would be recommended to a Bishop or Religious Leader. Where advice was sought from me in these circumstances, I encouraged religious leaders to make appropriate investigations and to take matters to police if they formed the view that the allegations could be substantiated. It was not my practice to take second or third hand information received in these circumstances to the police. I saw that as the responsibility of the person to whom the allegation had been directly made. That is in contrast to my practice where I had direct knowledge of the issues, allegations or complainants, which are set out above. The majority of the matters I dealt with were Sydney-based.
- 41 During this period formal processes and procedures for dealing with these situations began to develop. The practices I have described above were the practices I employed myself to handle the situations as best I could by reference to my professional experience as the director of Centacare Sydney and a social worker more generally. *Towards Healing* came into existence in 1996.

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Taking notes and making written records

42 At T1561, line 27 onwards of the 24 July transcript, Julia Lonergan SC asked Fr Lucas a series of questions relating to Exhibit #145, a document entitled "When Clergy Are Accused of Criminal Acts", by Fr Kevin Matthew.

43 At T1562, line 27 onwards, Ms Lonergan directed Fr Lucas to the following statements in that document:

In contemplation of litigation and for the benefit of legal counsel of the diocese, it is recommended that a written record be kept of all steps taken at the diocesan level from the moment the denunciation was first received. Care should be taken to protect the confidentiality of such documentation, depending to a large extent on the prevailing civil legislation.

...
The written record shall be endorsed as being prepared for the benefit and assistance of the diocesan counsel.

44 Ms Lonergan SC went on to ask Fr Lucas a number of questions relating to that statement and the idea of keeping a written record of steps taken at a diocesan-level when clergy are accused of criminal behaviour. Ms Lonergan SC's questions and Fr Lucas' responses appear between T1562, line 47 and T1568, line 46.

45 Following this exchange, Ms Lonergan SC and Fr Lucas had an exchange to the following effect, which appears between T1568, line 21 and T1569, line 31:

Q. One out of - I'm going to ask you to make a stab, an educated stab, at how many of these types of matters you've dealt with?

A. When I was asked that question before, I took the opportunity to then try to refresh my memory by looking at a website where there was a list of names of perpetrators, and I would think it would probably be of the order of somewhere around 35, give or take a view. There are some where my memory is fading.

Q. Thirty-five give or take a few over what time period?

A. This would be over the period from about 1990 through to 1995 or 1996.

...
Q. Your particular role - was it duplicated by anybody else, to your knowledge?

A. Generally the cases I dealt with, I dealt with in company with Father John Usher.

Q. So to that extent he didn't duplicate your role; he accompanied you?

A. Yes.

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Q. Do you know if anybody duplicated your role?

A. I expect that he dealt with some instances on his own and I expect that there may have been others who dealt with instances on their own.

Q. Which others?

A. I'd need to check who were members of the committee at the particular time. I know that Father Bob McGuckin was a member of the committee at one stage. Father Bill Burston was a member of the committee at one stage. Sister Evelyn Woodward was a member of the committee at some stage, but I can't be sure of the precise times.

Q. I should make the question more specific. I'm dealing with people from that particular group or committee who had the role of confronting perpetrators or alleged perpetrators of sexual abuse with the allegations of abuse with a view to persuading them out of ministry?

A. Yes.

Q. That was the role you performed, wasn't it?

A. Generally in conjunction with Father John Usher, yes.

46 Later, Ms Lonergan SC went on to ask Fr Lucas a number of questions relating to taking of written records. Ms Lonergan SC's questions and Fr Lucas' responses appear between T1569, line 1 and T1581, line 29.

47 As described in paragraph 36 above, at the time, my role was primarily with victims. I was often called upon by a bishop or other religious leader to speak with a victim of child sexual abuse who had made a complaint against a priest, to offer them assistance and refer them to counselling. The counsellors I referred victims to were usually part of Centacare, but I also referred some victims to the Anglicare Counselling Service and to therapist, Mr Gerard Webster. To that end, I agree with the following comments made by Fr Lucas:

(a) At T1566, lines 29 to 30:

mostly the complainants were dealt with by Father John Usher.

(b) At T1629, line 10:

But a conversation with a victim, I rarely was involved in. That tended to be something where John Usher was more skilled and more competent, and generally through Centacare would be where victims would engage with the church.

48 This said, direct complaints were rarely made to me in the first instance by victims. My role was focussed more on referring victims for counselling, rather than dealing with the actual complaints themselves. Many complaints had also been reported to the police by the time of my involvement.

49 At the meetings with victims which I did attend, it was my practice to make a note that the meeting occurred and my general impression of the meeting once

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the meeting ended. It was not my practice to take notes during a meeting as I wished to ensure that a victim did not feel threatened or overwhelmed. At the meeting's conclusion, I would write down a brief summary of what was discussed. An example of such a summary is annexed to this statutory declaration and marked JU5 (see paragraph 37(e) above).

50 I believe that the counsellors who met with each of the victims following my referral would have taken more notes than I did.

51 On limited occasions, I met with priests or religious brothers against whom allegations of child sexual abuse had been made. On these occasions it was in circumstances where I had been asked to do so by a bishop or other religious leader so that I could then provide them with advice or provide the person against whom the allegations had been made with pastoral support. As I recall it those priests or religious brothers had either disclosed their child sexual abuse to their bishop or religious leader or had already been reported to the police. Further, as I recall it most of the priests and religious brothers had already been stood down from their religious duties. In those days, disclosures were rarely, if ever, made directly to me in the first instance.

52 As I have said my role in these situations primarily had a pastoral focus. I was called upon as a "go-between" between the relevant religious leader and the offender to prepare them for the next steps they would be facing in any police investigation or court proceedings and refer them for counselling if necessary.

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(e)

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54 The only priest I recall meeting with Fr Lucas was **Redacted** (NOTE: NOT McALINDEN)
OR FLETCHER

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Redacted for relevance

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Reporting to the police and misprision of felony

60 Following the exchange referred to at paragraph 46, Ms Lonergan SC questioned Fr Lucas in relation to the reporting of allegations and admissions to the police and the offence of misprision of felony. That exchange appears between T1598, line 35 and T1606, line 22.

61 During that exchange, Ms Lonergan SC and Fr Lucas had an exchange to the following effect, which appears between T1600, line 10 and T1600, line 36:

Q. Was any part of your managing of these matters directed by any concern on your part of possible liability on your part for misprision?

A. Yes.

Q. And how did you manage those considerations when dealing with these matters?

A. That was a risk we took.

Q. A risk you took?

A. Yes.

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Q. Did you say you took or we took?

A. We took.

Q. Who else took that risk?

A. I think Father John Usher, who was part of it, but also this was within the context of broad legal advice about misprision of felony and the circumstances were known to lawyers and this was an issue; it was a well-known and well-understood issue and a predicament. It was a real and serious predicament, on the one hand, to get someone out of ministry, and if it came to the choice of respecting what a victim wanted with respect to police action and a charge of misprision of felony, my view would have been then, and it would be my view today, I'd respect what the victim wanted done.

62 On Thursday, 25 July 2013, Ms Lonergan SC and Fr Lucas had the following exchange:

Q. Just before we break, Father Lucas, may I ask you this: you have mentioned the very specific and rather unusual reason that [AL] had for not wishing a complaint to be made to police. Did any other victims ever proffer any reasons why they didn't want their complaints taken to the police?

A. I think there were a number of reasons, Commissioner. I don't recall specifically, and I tended to deal much less with the victims than Father John Usher did through the Centacare process. He would tend to report to me simply words to the effect that he had spoken to a particular victim or a victim had gone for counselling to Centacare. He wouldn't necessarily have told me all of the different reasons.

63 If a victim does not wish to make a report to the police, my practice has always been to encourage them to do so, and offer any assistance I can to help the victim go to the police. On occasion, such as that described above in relation to Redacted (see paragraph 34) and the abuse at SCHOOL X (see paragraph 37(e)), I have accompanied victims to the police to report their allegations of child sexual abuse against priests or a religious brother. I have no recollection of any substantiated allegation of abuse against a nun.

64 I also repeat my comments at paragraphs 35 to 39. I regularly reported to the police.

65 I do not believe Fr Lucas' comment above that I "took the risk" of misprision is an accurate reflection of my practice at the time. As I explained above in paragraphs 47 and 51, many, if not all, allegations of child sexual abuse in which I was involved had been reported to the police by the time of my involvement. Alternatively, it was intended by me that the complaints would be reported to the police shortly thereafter. For that reason, I do not believe I was ever put in a position where I felt I did, or even could have, taken the "risk" of misprision. Keeping matters from the police formed no part of the way in which I responded to sexual abuse or formed any part of the way I considered the

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church should respond. It needs to be understood that some victims, especially back in those years, were worried that their experience of abuse would become public if it was reported to the authorities.

- 66 In situations where a particular victim was adamant that they did not wish their complaint to be reported, an internal Church process would be engaged in which to deal with the relevant offender. As I understood the process this involved either the removal of the alleged offender's faculties or an application to Rome for laicisation. If such a process was not already under way, I would recommend to the relevant bishop or religious leader that either of these two courses should be followed. That said, laicisation of a priest was then a lengthy and difficult process. Removal of faculties is the equivalent of dismissing a priest from priestly duties.

Meeting with AL

- 67 On Wednesday, 24 July 2013, Ms Lonergan SC also asked Fr Lucas a number of questions relating to his meeting with Sr Paula Redgrove and AL, a victim of Fr Denis McAlinden. Ms Lonergan SC's questions and Fr Lucas' responses appear between T1628, line 4 and T1628, line 47.

- 68 During this exchange, Ms Lonergan SC and Fr Lucas had an exchange to the following effect, which appears between T1628, line 21 and T1628, line 36:

Q. Father Usher was somebody that you often met other victims of sexual abuse in the company of?

A. Yes.

Q. You're aware that Father Usher is someone who is suggested as having been present at this meeting with [AL]?

A. Yes.

Q. Is it possible that you just don't recollect him being there, but he may have been there?

A. No, I'm more confident that he wasn't there, partly because in the context of some other inquiries that were made prior to this Commission, when I sought to refresh my memory, I asked him did he recall being present or having an involvement with McAlinden, and he didn't have that recollection.

Q. But he may be mistaken about that?

A. He may be, yes.

- 69 I have no recollection of this meeting with a victim of Fr McAlinden, Fr Lucas and Sr Redgrove. However, I have some recollection of attending a meeting in Maitland around this time on Centacare business, but I do not recall the purpose of that meeting, nor its attendees. I have no notes of any meeting with a victim of Fr McAlinden. The conversation Fr Lucas refers to above occurred sometime in the last 2 months. I recall that Fr Lucas called me, and we had a conversation in words to the following effect:

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He said: *Do you recall being at a meeting at the Maitland Presbytery with one of Fr McAlinden's victims?*

I said: *I don't recall that.*

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I do not recall ever meeting Sr Redgrove

. If I was there, I believe I would have been in attendance in my capacity as a person with some expertise in dealing with distressed and vulnerable people. As I have said my practice when engaging with victims who made allegations of sexual abuse was to let them know that they were believed, to encourage them to go to police and to ask them if they wanted me to organise counselling on their behalf.

I would have presumed that appropriate reporting to church and civil authorities had already occurred and that I was there to offer AL some advice or to refer her to suitable counselling.

Meeting with Fr McAlinden

72 I did not meet with Fr McAlinden.

Meetings with alleged offenders and Fr Lucas

73 At T1568, line 28, Fr Lucas gave evidence to the effect of having met "in the order of somewhere around 35" alleged perpetrators of child sexual abuse during the period 1990 to 1996. As explained in paragraph 54 above, the only alleged perpetrator I recall seeing with Fr Lucas, either priest religious brother or sister, is Redacted. Further, as explained in paragraphs 51 to 53, I only saw a small number of alleged offenders on other occasions.

74 I note the following comments made by Fr Lucas at various points in his evidence on this subject:

(a) At T1629, line 8:

If there was a conversation with an offender, it was very common that John Usher and I would deal with that together.

(b) At T1686, lines 111 to 17:

Q. No, I'm going to stop you. Is the victim present when you have your special conversations with these priests?

A. No.

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Q. The only other person who might have been there is John Usher on occasion?

A. Yes.

(c) At T1751, line 40 to T1752, line 3:

Q. When information was brought to you in your role as a member of the Special Issues Resource Group, your role was partly to investigate the nature of the complaints that were being made?

A. Only in the very broadest sense. Normally by the time the matter came to me, there had been already some complaint or some initial investigation. I understood my role was certainly not to go into the detail of the complaint. I tended to take the complaint on face value, which had probably been reported to me second-hand from a complainant. I saw my role - and when I say "my role", that would generally include John Usher as well in these situations - as taking the priest through a process to a point where he would agree to resign his ministry, if in fact that was the outcome that was sought.

75 : I do not agree with these comments, for the reasons described above. I deal with these issues further below under the heading "Procedures and processes for dealing with alleged offenders."

76 : On occasion, Fr Lucas would inform me that he had recommended that a certain priest or religious brother or sister be stood down from the ministry. However, apart from [Redacted], I do not recall being a party to the conversations Fr Lucas had with those persons as he describes.

Procedures and processes for dealing with alleged offenders

77 : Between T1646, line 44 and T1649, line 29, Ms Lonergan SC asked Fr Lucas a series of questions relating to a document annexed to the Affidavit of Brian Joseph Lucas dated 11 March 2013 as Annexure "C". That document is titled "Strictly Confidential (For Bishops Major Superiors and Superiors Only) – Australian Catholic Bishops Conference Special Issues Sub-Committee – Protocol for Dealing with Allegations of Criminal Behaviour – Plenary Meeting April 1992" (Protocol).

78 : In particular, at T1649, line 14 to T1649, line 20, Ms Lonergan SC and Fr Lucas had the following exchange:

Q. Why was it appropriate for you to short-circuit these documented processes and policies and go straight for the conversation?

A. Because that was the best outcome.

Q. Who told you that that's how it should be conducted?

A. This was not a common practice but a reasonable practice that John Usher and I had adopted within the spirit of this protocol but without necessarily going through every particular part of a process if

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the circumstances were such that you could induce his resignation from ministry.

79 I did not take short cuts when dealing with allegations of sexual abuse. My practice is reflected in the instances of my involvement set out in this statement.

80 Furthermore, as I explained in paragraph 57, only the relevant bishop or religious leader had the authority to require a priest or religious brother or sister to resign. Neither Fr Lucas nor I had this sort of authority. Whenever I came to be involved with a victim or alleged perpetrator of child sexual abuse, it was my practice to ensure that the relevant bishop or religious leader was advised that the alleged offender should not, under any circumstances, continue to act in a role where he or she was required or permitted to interact with children or young people while police or internal Church investigations were pending. In my view this was extremely important from a risk management perspective.

81 I also repeat the comments made in paragraphs 63 and 66 above that it was my practice to encourage victims to report these matters to the police, and on occasion, I would report allegations to the police myself.

82 Later, Ms Lonergan SC and Fr Lucas had the following exchange between T1657, line 11 and T1657, line 16:

Q. As at February and March 1993, had you put together a particular way in which you would approach these particular conversations that you had with priests?

A. Between ourselves, John Usher and myself had a broad methodology, but it certainly wasn't documented.

Q. It wasn't documented as a procedure or a protocol that you and Father Usher used?

A. No.

83 I do not know what "broad methodology" Fr Lucas is referring to here.

84 The "methodology" I employed is set out in paragraphs 79 and 81 above.

85 On Thursday, 25 July 2013, Ms Lonergan SC and Fr Lucas had an exchange to the following effect:

Q. So it's the position, isn't it, that you didn't say to priests that you interviewed in these special sessions that they have a right to silence, did you?

A. I wouldn't have - that would have been simply taken for granted. I would not have put it formally in those terms. The nature and context of these conversations was that there had been a complaint and we had to deal with this complaint.

Q. I understand that, but taken for granted by who?

A. I think it was taken for granted by those who were present - John Usher, myself and the priests involved.

Signed

Signed

Q. Why would the priest involved assume he had a right to silence when he had been called there to a formal meeting by two people who had been charged with the responsibility to have a very serious conversation with him about his future in the priesthood?

A. Because the nature of that confidential conversation would preserve his right to silence.

Q. Why would it preserve his right to silence when you're asking him questions and asking him to acknowledge matters?

A. He's in a position he may not wish to cooperate; but if we're able to find a solution to this problem and he is willing then to resign, that's a good outcome.

86 As I have said with one exception I do not recall being present at meetings with Fr Lucas and members of the clergy alleged to have committed abuse nor do I recall being present at meetings with Fr Lucas involving any "shortcuts". I would assume that priests and brothers I spoke to were aware that, like all citizens, they had a right to silence. However I did not turn my mind to this issue. In the matters where I recall meeting priests or brothers as outlined in paragraph 53 they had either been arrested, stood down or were the subject of police investigation. It was extremely rare for me to be required to seek an admission from an offender because the details of their offence had already been disclosed to others.

Media release dated 16 March 1992

87 The comments that are set out in the media release reflect what I thought the Bishops and religious leaders were doing either on their own initiative or following advice from the Special Issues Resource Group or one or more of its members.

88 I note that I made reference in my notes of 9 October 1992 which are annexed to this statutory declaration and marked JU5 to the National Catholic Protocol which I believed was applicable to such cases and the "stand down" provision to ensure that other children were not at risk and to ensure that the police could conduct their inquiries in an unencumbered and fair way without any presumption of guilt from the outset.

89 I have subsequently learned the practice was not universally applied at the time.

Signed

Signed

AND I MAKE this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1900* (NSW).

DECLARED at
on
in the presence of:

)
) Signed
) _____
) Deponent

Signed _____

Signature of witness

9 August 2013

Jennifer Rose Cook

Name of witness

Legal Practitioner

Justice of the Peace/Legal Practitioner

Signed _____

Certificate under section 34(1)(c) of Oaths Act 1900 (NSW)

And as a witness, I certify the following matters concerning the person who made this statutory declaration (the declarant):

- 1 ~~#I saw the face of the declarant. [OR]~~
#I did not see the face of the declarant because the declarant was wearing a face covering, but I am satisfied that the declarant had a special justification for not removing the covering.
[AND]
- 2 ~~#I have known the declarant for at least 12 months. [OR]~~
#I have confirmed the declarant's identity using the following identification document:

Identification document relied on [may be original or certified copy]

Signature of witness

Signed _____

Date

9 August 2013

Signed

Annexure JU1
Public Hearing Transcript
Wednesday, 24 July 2013
(Day 15)

NOT PROVIDED

Annexure JU2
Public Hearing Transcript
Thursday, 25 July 2013
(Day 16)

NOT PROVIDED

1/9/92

00

4.00 p.m

Met with

Redacted

Redacted

Redacted

re his alleged sexual assaults.

He is obviously guilty. Prepare to go to police after briefing from Council. Boys have not sought prosecution but DOL's have been notified as allegation was made to teachers at SCHOOL Z & SCHOOL Y. Will see him in a week time.

2/9/92

3.45 PM

3 months
Spoke to

Redacted

REDACTED

REDACTED re the sexual assault allegation
against him. To go for mentee in Liverpool
lost a REDACTED Will see me next Monday.
(Phax REDACTED) - Redacted

Allegation made by 1640 led at Narranda.
Police Officer Anthony Hood

9-10-92 FRIDAY

Annexure JUB

5 PM

Following a phone call from **REDACTED**, Regional Director of the Catholic Education Office, I met with two families who had spoken to her unofficially about certain allegations of Child Sexual Assault perpetrated against two teenage boys. The boys, who are children in the two families, are aged 16 and 14 years of age. The allegations related to a **Redacted** **Redacted** who is a personal friend of each family and a teacher at **SCHOOL X**. The two boys do not attend this school. I interviewed the parents of both boys conjointly in the presence of the boys and I interviewed each boy separately and alone in the absence of their parents. The interviewees were:

(aged 14), and
(aged 16).

The parents of both boys explained that they were all employees of Catholic Schools in Sydney and that they understood the seriousness of allegations of Child Sexual Assault. They expressed particular concern because the perpetrator was a close friend of both families and had been implicitly trusted by both families. They also expressed concern because the perpetrator had children of his own and is a senior teacher at **SCHOOL X**.

This is not a systemic Catholic school but is operated and controlled independently by the Christian Brothers. Any decision to take disciplinary action against the perpetrator in his capacity as a Catholic School teacher would rest with the Christian Brothers. I undertook to inform the Provincial of the Christian Brothers (Br. Julian Mc'Donald) and the principal of **SCHOOL X** (**REDACTED**) of the allegations and I indicated that it would be my advice to them that **Redacted** should be stood down as a teacher pending the police investigation, in accord with the National Catholic Protocol applicable to such cases. The "stand-down" provision, I explained to both families, was to ensure that other children were not "at risk" and to ensure that police could conduct their enquiries in an unbiased and fair way without any presumption of guilt from the outset. In the course of the interview both families explained that **Redacted**

Redacted

them through the local Parish Church's Kind 2000 group (a parish renewal program).

Following this contact all families, plus a number of other, would meet socially, spare weekends away at a country holiday house and attend joint gatherings to discuss parish renewal. They explained that ^{on} both weekends prior to this current interview, at a joint family barbecue the **Redacted** families were present. The **Redacted** were not present at this function.

During the course of the function, **Redacted** made certain suggestive remarks to **Redacted** (aged 14), attempted to place his hand down the front of his trousers and accosted him when he was in the toilet ^{at night}. During this latter event a struggle broke out between **Redacted** and **Redacted** used strength to prevent **Redacted** from leaving the bathroom. No other person witnessed this event, although other children were in the vicinity when the suggestive, sexual remarks were made.

Following these encounters, **Redacted** became distressed and on returning home with his parents immediately reported the events to them. **Redacted** were ^{very} **Redacted** concerned about the

reported events and hence decided to discuss the matter with the family who are close friends and confidants. In the course of this intra-family discussion the [Redacted] realized that their own son, [Redacted] (aged 16) had, over a period of years, been in close contact with [Redacted]. It was Nicholson's practice to often call into the home to assist in relation to his computers. (Both had an interest in computers) They also recalled, at the time, that [Redacted] had been endeavouring to avoid encounters with [Redacted] and was seemingly distressed in his presence. Following this meeting with the [Redacted] and [Redacted] spoke to [Redacted] (and their other children) seeking information about any possible misconduct by [Redacted] in relation to any of the children. [Redacted] and only [Redacted] made a disclosure. He told his parents that, over a period of at least 3 years, [Redacted] had sexually assaulted him by suggestive talk, genital touching and other physical contact. This abuse occurred when [Redacted] was alone with [Redacted] often in the car and at family gatherings. Following these disclosures by both and [Redacted] to their respective parents, both sets of parents realized that other children could be at risk, especially the [Redacted] children and the student at SCHOOL X.

Hence, both families agreed that [Redacted] should be made to the Department of Community Services and/or the Police. They indicated to me that they were seeking my advice regarding and assistance regarding such a notification and were keen to know the procedure and possible outcomes following such a notification. Both families expressed concerns about the trauma that may be encountered by their sons in this process and both families indicated that they would not proceed with notification unless their respective sons were reasonably happy and willing to do so.

[Redacted] clearly indicated his willingness to notify this matter to the authorities and his parents indicated their support for his decision. [Redacted], who had suffered more severe and sustained abuse, was able to express his ambivalence about the notification. On the one hand he wished to ensure that other children and young people were not at risk from [Redacted] and that he was "officially" prevented from making further advances towards him, on the other hand he was aware that the subsequent disclosure to the police and in the court would be very distressing. I indicated to [Redacted] that Centre would be able to offer him personal counselling and support through this process. He accepted this offer and indicated his wish to 'let the matter over with his parents before making a final decision about notification. One and [Redacted] indicated that they would support [Redacted] in whatever decision he chose to take. Following this discussion both boys indicated a wish to speak to me privately. I met firstly with [Redacted]. He repeated the broad details of [Redacted] behaviour, as mentioned previously, and made certain statements to me (which I agreed to hold in confidence) that led me to the conclusion that not only were both boys' stories true and accurate, but that the fears of the relation to other children were well founded. During this discussion I endeavoured to reassure [Redacted] that, if he proceeded to notify the matter, that every possible support would be given to him. I also took the opportunity to answer some of [Redacted] questions about Departmental, Police and Court procedures relating to Child Sexual Assault. I then met with [Redacted] and he related the circumstances of his encounter.

The consistency of his subsequent report indicated to me the veracity of the story, the lack of conspiracy by children and parents in constructing a story and the absolute amazement of all parties at the fact that a loyal and trusted family friend could betray his relationship in such a profound way. Following these individual interviews with each of the boys I again met with both sets of parents in the presence of the boys. At this report I agreed to speak to the Principal of the Xth Brother & the Principal of SCHOOL X and to set up procedures so that, on the following Monday, their disclosures would be notified to the [Redacted] office of the Department of Community Services. This notification would be made by [Redacted]

[Redacted]

Annexures JU6 – JU12
REDACTED FOR
RELEVANCE