

FINAL REPORT

Religious institutions



Royal Commission
into Institutional Responses
to Child Sexual Abuse

VOLUME 16: BOOK 3

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FINAL REPORT

Volume 16

Religious institutions

Book 3

Content warning

This volume contains information about child sexual abuse that may be distressing. We also wish to advise Aboriginal and Torres Strait Islander readers that information in this volume may have been provided by or refer to Aboriginal and Torres Strait Islander people who have died.

Volume 16

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PART D
INSTITUTIONAL
RESPONSES
TO CHILD
SEXUAL ABUSE
IN RELIGIOUS
INSTITUTIONS
(CONTINUED)

14 The Salvation Army

The Royal Commission held three public hearings inquiring into the responses of The Salvation Army to child sexual abuse in its institutions.

In January and February 2014, we examined the response of The Salvation Army's Eastern Territory to child sexual abuse in four boys' homes in New South Wales and Queensland. Our findings are set out in our report on *Case Study 5: Response of The Salvation Army to child sexual abuse at its boys' homes in New South Wales and Queensland (The Salvation Army boys' homes, Australia Eastern Territory)*, which was published in January 2015.¹

In March 2014, we examined the response of The Salvation Army's Eastern Territory to claims for redress in relation to child sexual abuse and to Salvation Army officers accused of child sexual abuse. Our findings are set out in our report on *Case Study 10: The Salvation Army's handling of claims of child sexual abuse 1989 to 2014 (The Salvation Army claims handling, Australia Eastern Territory)*, which was published in June 2015.²

In October 2015, we examined the response of The Salvation Army's Southern Territory to child sexual abuse in four children's homes in Victoria and Western Australia, as well as its response to claims for redress made in relation to this abuse. Our findings are set out in our report on *Case Study 33: The response of The Salvation Army (Southern Territory) to allegations of child sexual abuse at children's homes that it operated (The Salvation Army children's homes, Australia Southern Territory)*, which was published in July 2016.³

In this chapter, we collectively refer to these three case studies as *The Salvation Army case studies*.

In December 2016, we held a further hearing in relation to The Salvation Army in *Case Study 49: Institutional review of The Salvation Army, Australia Eastern Territory and Australia Southern Territory (Institutional review of The Salvation Army)*. This hearing provided an opportunity for The Salvation Army to inform us of its current policies and procedures in relation to child protection and child safe standards, including responding to allegations of child sexual abuse.

In addition to the matters examined in *The Salvation Army case studies* and our *Institutional review of The Salvation Army* hearing, as of 31 May 2017 we had held private sessions with 294 survivors who told us about child sexual abuse in institutions run by The Salvation Army.

A large number of the survivors we heard from in these case studies and private sessions told us that they were sexually abused in residential institutions run by The Salvation Army, such as children's or boys' homes. As discussed in Chapter 2, 'Religion in Australia', religious organisations are the largest non-government providers of health and social welfare services in Australia. From around 1890 until the 1990s, The Salvation Army provided institutional care for thousands of Australian children and young people.⁴ While The Salvation Army no longer runs children's homes like those considered in *The Salvation Army case studies*, it continues to provide social welfare services to children. Some of these involve out-of-home care or accommodation arrangements.⁵

What is evident from *The Salvation Army case studies* is that children in Salvation Army residential institutions were often subject to poor living conditions and punitive, authoritarian regimes. More often than not, sexual abuse was accompanied by extreme physical and emotional abuse, as discussed in Chapter 8, 'Common contexts where child sexual abuse occurred in religious institutions'. The evidence we heard in our case studies on The Salvation Army also informed Volume 11, *Historical residential institutions*, which discusses the particular vulnerabilities faced by children in residential institutions before 1990.

As set out in Chapter 5, 'Australian inquiries relating to child sexual abuse in religious institutions', The Salvation Army has been the subject of other Australian inquiries that have considered the issue of child sexual abuse in religious institutions. The conclusions of those other inquiries with regard to the nature of the abuse in Salvation Army-run institutions and The Salvation Army's response to allegations of child sexual abuse, both at the time and in the context of redress, are very similar to our own.

In particular, *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children (Forgotten Australians)*, which was released in 2004 following an Australian Senate inquiry, noted that the 'overwhelming majority' of submissions from ex-residents of Salvation Army institutions in Australia reported negative experiences while in the organisation's care, including extreme forms of physical, sexual and emotional abuse.⁶ The report regarded The Salvation Army as having been reluctant to acknowledge the nature and extent of abuse inflicted on former residents in its institutions.⁷

In the *Betrayal of trust: Inquiry into the handling of child abuse by religious and other non-government organisations (Betrayal of trust)* report, released in 2013, the Victorian parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Non-government Organisations (Victorian parliamentary inquiry) found that from the 1930s to the 1980s The Salvation Army did not have any policies in place to deal with complaints of abuse made by children. Instead complaints were often responded to with 'more brutality'.⁸

In this chapter, where we refer to the policies and procedures of The Salvation Army, they are those available to us at the time of *The Salvation Army case studies*.

14.1 Structure and governance of The Salvation Army

14.1.1 Establishment of The Salvation Army

The Salvation Army is an international evangelical Christian movement.⁹ It describes itself as a religious and a charitable organisation.¹⁰

In the 1850s William Booth, then a Methodist minister, began preaching in London to the poor, the homeless and the underprivileged. In 1865 he founded the Christian Revival Society, later known as the London City Mission.¹¹ In 1878, Booth changed the name of the London City Mission to The Salvation Army to represent and remind adherents of the organisation's role in the battle against poverty and sin.¹² Booth assumed the title of General of The Salvation Army, and this remains the title of its international leader.¹³

By 1880 a formal, regulated system of uniforms had been introduced, along with the use of military terminology when referring to members. The Salvation Army's full-time ordained ministers became known as 'officers' and were given military rank titles according to seniority. Part-time ordinary members became known as 'soldiers'.¹⁴

In his 1890 book *In darkest England and the way out*, Booth argued that the Industrial Revolution had created a great gulf between rich and poor, and outlined what would become The Salvation Army's social welfare approach.¹⁵ By this time, The Salvation Army had grown into a large organisation offering assistance to the poor, homeless, unemployed and abused, particularly in the inner cities. Early services provided by The Salvation Army included penny banks; soup kitchens; shelters for homeless men, women and children; schooling assistance; reading rooms; religious instruction; and workshops to teach various trades. Booth described The Salvation Army's social outreach as a form of 'practical Christianity'.¹⁶

Formal 'ordination' of commissioned officers was introduced in 1978.¹⁷ According to The Salvation Army, by mid-2017 it was present in 127 countries and had a membership of over 1.7 million people. Collectively, members are referred to as Salvationists.¹⁸

14.1.2 Structure of The Salvation Army

In line with its quasi-military identity, The Salvation Army's organisational structure is strictly hierarchical. It operates at four levels: international, territorial, divisional and corps.¹⁹ The role of each of these levels is set out below.

International

The Salvation Army's International Headquarters is located in London.²⁰ It is responsible for strategic planning, policy development and allocation of resources to The Salvation Army worldwide.²¹

The International Headquarters (IHQ) publishes the *Orders and regulations for soldiers of The Salvation Army (Orders and regulations)*, which outline the principles and procedures specific to various types of Salvation Army activities.²² The *Orders and regulations* apply to all Salvation Army officers and soldiers. They aim to facilitate global organisational understanding and are intended to ensure that decisions arrived at are in line with the global interests, principles and aims of The Salvation Army.²³ Any policies and procedures, including child protection policies, adopted by Salvation Army bodies in each territory and division must be consistent with the *Orders and regulations*.²⁴

The child protection policies of The Salvation Army in Australia are discussed in Section 14.3.1.

The international leader of The Salvation Army, the General, is the most senior member of the organisation.²⁵ In August 2017, this position was held by General André Cox.²⁶ The General is based in London and is responsible for the operation of The Salvation Army worldwide.²⁷ The General is elected by the High Council, which comprises senior Salvation Army officers from around the world.²⁸

Second-in-command to the General is the Chief of Staff, who is responsible for implementing the General's policy decisions and for liaising with the various administrative departments at IHQ.²⁹

The Salvation Army worldwide is organised into five zones: Africa, the Americas and Caribbean, Europe, South Asia, and the South Pacific and East Asia.³⁰ Zonal secretaries work in conjunction with the General to oversee and coordinate The Salvation Army's work in their respective regions.³¹

The Salvation Army in Australia is in the South Pacific and East Asia zone.³²

Territories

The Salvation Army is further organised into territories. A territory usually corresponds to a country; however, countries with a strong Salvation Army presence may be divided into a number of territories. The territorial headquarters are usually located in the country's capital city. Where there are multiple territories within a country, the territorial headquarters are located in a relevant state capital.³³

Each territory is headed by a territorial commander, usually holding the rank of Commissioner or Colonel. The territorial commander reports directly to IHQ.³⁴

Divisions

The Salvation Army territories are further divided into divisions. A division is a grouping of districts, similar to a diocese in the Catholic and Anglican churches. Each division houses a number of corps and community service centres. Divisions are administered by a divisional commander, who is responsible to the territorial commander.³⁵

Corps

Corps are The Salvation Army community churches and are administered by their divisional headquarters. Each corps is led by a corps officer, who is responsible to the divisional commander. The corps provide worship services; community activities, which include Bible studies, Sunday schools, kids' clubs, youth clubs; and some community services.³⁶

Community service centres

Community service centres are the social welfare arm of The Salvation Army. They provide aid and support to people in need in the community in the form of emergency assistance and rehabilitation. The Salvation Army community service centres provide support in areas including addiction services (alcohol, drugs and gambling); aged care services; counselling services; court and prison services; disability services; employment services; homelessness services; domestic violence services; and youth services.³⁷

Personnel

In keeping with the military structure of The Salvation Army, clergy are known as 'officers' and lay members referred to as 'soldiers'.³⁸

At the time of *The Salvation Army case studies*, all officers received an initial two years of residential training at a Salvation Army training college. Following this, the new officers undertook off-campus post-commissioning training and engaged in further studies.³⁹

The Salvation Army is structured according to rank. Officers generally progress as follows:⁴⁰

- Cadet – a soldier attending a Salvation Army officer training college
- Lieutenant – a graduate of two years' cadet training
- Captain – five years of service and further advanced training
- Major – 15 years of service
- Lieutenant-Colonel and Colonel – appointed by the General
- Commissioner – appointed by the General.

The Salvation Army also employs lay personnel throughout its territories. They are involved in areas such as managing aged care centres, Salvation Army stores and emergency centres, and assisting with the organisation's administrative operations.⁴¹

14.1.3 The Salvation Army in Australia

The Salvation Army first started working in Australia in 1880.⁴² According to The Salvation Army, by mid-2017 there were about 350 corps in Australia.⁴³

In Australia, the organisation is divided into two territories. The Southern Territory comprises Victoria, Western Australia, South Australia, Tasmania and the Northern Territory. The Eastern Territory comprises New South Wales, Queensland and the ACT.⁴⁴

The Southern and Eastern Territories have operated as distinct entities with separate policies and procedures (including for responding to child sexual abuse), subject to directives from IHQ.⁴⁵ In late 2014, the territories established the National Professional Standards Council. Its purpose is to develop and coordinate a national approach to issues of child sexual abuse and other forms of abuse.⁴⁶ The National Professional Standards Council is discussed further in Section 14.3.1.

Transition towards a single Australian territory

Since 2014 The Salvation Army in Australia has been transitioning towards a national structure, where the two territories will merge. The merger is expected to be completed by January 2019. On 1 June 2016, Commissioner Floyd Tidd started as the inaugural National Commander of The Salvation Army Australia. Commissioner Tidd gave evidence to the Royal Commission that a national structure would allow the organisation to operate more efficiently and interact with government, business and community organisations, and to make a greater difference in the lives of people in need.⁴⁷

We discuss The Salvation Army's transition towards a single Australian territory further in Chapter 20, 'Making religious institutions child safe'.

Salvation Army homes in Australia

From 1881, The Salvation Army operated children's homes across Australia, including juvenile correctional facilities and 'training farms'. These homes were to care for and train young people, including those who engaged in delinquent behaviour. Homes for boys were opened in Victoria at Heidelberg (1893), Pakenham (1895) and Bayswater (1897). The first homes for girls were established at Riverview in Queensland and Pakenham in Victoria in 1897. However, academic Esther Daniel noted that:

[Booth] opposed long-term institutional care, claiming that it was detrimental to the physical, moral and social well being of a child and did not provide the child with the healthy and wholesome life to which the Army subscribed. He only preferred short-term institutional care for children in preference to fostering or adoption. He wanted children to be raised in a healthy, wholesome and spiritual family environment.⁴⁸

In *The Salvation Army case studies*, we heard that the managerial structure of children's homes generally consisted of:⁴⁹

- the manager, a senior ranking Salvation Army officer, who had primary responsibility for the operation of the home
- the matron, often the wife of the manager, who was responsible for the domestic staff of the home
- a second officer, who was the second highest ranking officer at the home
- 'house parents', married couples who were low-ranking officers, who lived in the dormitories
- domestic staff, including cooks, laundry staff and farmhands.

Managers had a very high level of control in homes, which they exercised with only limited supervision by divisional or territorial headquarters.⁵⁰ Their control over both staff and residents was authoritarian, and with respect to residents was often enforced through physical punishment and violence.⁵¹

Managers also had the central role in determining all complaints about the children's care and discipline, including child sexual abuse. In theory, a child or junior staff member could complain to the manager, but this was neither advertised nor encouraged.⁵² In *The Salvation Army boys' homes, Australia Eastern Territory* case study, Major Peter Farthing, a senior officer responsible for The Salvation Army's response to the Royal Commission, told us that the focus on individual managers resolving complaints showed an 'over-reliance on the character and decision-making ability of individuals within the hierarchy at The Salvation Army'.⁵³

14.2 Private sessions about The Salvation Army

You don't get over it ... I think it's probably determination that's got me through it, and I can see why others have really failed. See, I only had four years in the home. What about some of those who had 10 years? I got off lightly to be honest.⁵⁴

Private session, 'Archie'

As of 31 May 2017, of the 4,029 survivors who told us during private sessions about child sexual abuse in religious institutions, 294 survivors (7.3 per cent) told us about abuse in institutions managed by The Salvation Army. Of all the religious organisations we heard about during private sessions, The Salvation Army was the third most frequently named, after the Catholic Church and the Anglican Church. The experiences we heard about during private sessions contributed to our understanding of the nature and extent of child sexual abuse that occurred in Salvation Army institutions.

As discussed in Chapter 6, 'The extent of child sexual abuse in religious institutions', information gathered during private sessions may not represent the demographic profile or experiences of all victims of child sexual abuse in an institution managed by The Salvation Army. Survivors attending private sessions did so of their own accord, and in this respect they were a 'self-selected' sample. Further, as discussed in Volume 4, *Identifying and disclosing child sexual abuse*, delays in reporting are common and some people never disclose that they were abused. Consequently, private sessions information almost certainly under-represents the total number of victims of child sexual abuse, and likely under-represents victims of more recent abuse.

The relative size of The Salvation Army in Australia, including the extent to which the organisation has provided services to children, may have affected the number of allegations of child sexual abuse made in relation to Salvation Army institutions. As noted, The Salvation Army managed a large number of residential institutions for children in Australia, from the 1880s to the 1990s. It has not been possible for us to quantify the extent to which The Salvation Army has provided services to children over time, or the number of children who have had contact with the organisation. In the absence of this information, it is not possible to estimate the incidence or prevalence of child sexual abuse in The Salvation Army.

Of the 294 survivors who told us during private sessions about child sexual abuse in Salvation Army institutions, the majority (215 survivors, or 73.1 per cent) were male, while 79 survivors (26.9 per cent) were female. Of those who provided information about the age of the victim at the time of first abuse, the average age was 10.3 years.

Many survivors told us about other forms of abuse they experienced with sexual abuse. Of those who told us during private sessions about child sexual abuse in Salvation Army institutions, 223 survivors (75.9 per cent) also told us about other forms of abuse. Of those, 174 survivors (78.0 per cent) told us about emotional abuse and 173 survivors (77.6 per cent) told us about physical abuse. More than half (51.6 per cent) of those who told us about child sexual abuse in Salvation Army institutions, and who provided information on the type of sexual abuse and other forms of abuse, told us about experiencing both penetrative sexual abuse and physical abuse.

Many survivors told us about experiencing abuse by more than one perpetrator. Of those who told us during private sessions about child sexual abuse in Salvation Army institutions, 113 survivors (38.4 per cent) told us about abuse by more than one perpetrator (not necessarily at the same time).

Of the 174 survivors who told us during private sessions about child sexual abuse in Salvation Army institutions and who provided information about the age of the person who sexually abused them, 126 survivors (72.4 per cent) told us about abuse by an adult, and a considerable proportion (71 survivors or 40.8 per cent) told us about abuse by another child (under 18 years). Some survivors told us about abuse by both an adult and by another child. Most of those who told us about child sexual abuse by adult perpetrators said they were abused by a male adult (112 survivors, or 88.9 per cent), while 18 survivors (14.3 per cent) said they were abused by a female adult. Some survivors told us about abuse by both a male adult and a female adult.

Of the 294 survivors who told us during private sessions about child sexual abuse in Salvation Army institutions, 274 survivors (93.2 per cent) told us about the position held by a perpetrator. Of those, 20 survivors (7.3 per cent) told us the perpetrator was a person in religious ministry. Most survivors told us about child sexual abuse by a residential care worker (127 survivors, or 46.4 per cent) or by a housemaster (55 survivors, or 20.1 per cent). Some perpetrators may have held more than one position.

A substantial proportion (82.7 per cent) of the survivors who told us during private sessions about child sexual abuse in Salvation Army institutions told us about abuse that occurred in residential institutions before 1990. Proportionately, more people told us during private sessions about child sexual abuse in residential institutions run by The Salvation Army than in residential institutions run by any other religious organisation.

Part C, 'Nature and extent of child sexual abuse in religious institutions', discusses what we heard from people in private sessions about child sexual abuse in religious institutions including The Salvation Army. It also discusses the quantitative information we gathered from private sessions in relation to child sexual abuse in all religious institutions.

14.3 The Salvation Army responses to child sexual abuse

In this section we outline the policies and procedures that applied to The Salvation Army as an international organisation, and those specific to the Southern Territory and the Eastern Territory in Australia, for responding to allegations of child sexual abuse in the periods relevant to *The Salvation Army case studies*. We then consider The Salvation Army's responses to alleged perpetrators, and victims and survivors who sought redress.

14.3.1 Policies for responding to allegations of child sexual abuse

In *The Salvation Army claims handling, Australia Eastern Territory* and *The Salvation Army children's homes, Australia Southern Territory* case studies we heard that before 1990, The Salvation Army did not have any specific policies or procedures for responding to complaints of child sexual abuse in its children's homes.⁵⁵ Instead, The Salvation Army Southern Territory and Eastern Territory were guided by the *Orders and regulations*.⁵⁶

Orders and Regulations

As discussed, the *Orders and regulations* is an operations manual that is issued by IHQ for The Salvation Army worldwide. It governs the conduct of staff, officers and soldiers and applies to all, regardless of rank, appointment or territory.⁵⁷

In addition to the *Orders and regulations*, there are a number of ancillary volumes of regulations that apply to different facets of The Salvation Army's work.⁵⁸ These are collectively referred to in this report as the *Orders and regulations*.

Since 1895, The Salvation Army has had *Orders and regulations* that deal with the discipline of officers and appropriate conduct when dealing with children. From this time, the physical or sexual abuse of a child in the care of The Salvation Army constituted a sufficient basis for disciplinary action under the *Orders and regulations*.⁵⁹

On receipt of an accusation of a breach of the *Orders and regulations*, the officer responsible for discipline – the divisional commander for officers, local officers and soldiers of his division – was required, among other things, to investigate the truth of the allegation. In the case of serious disciplinary breaches, the matter had to be referred to the 'immediate leader' for instruction.⁶⁰

The aims of disciplinary action were to 'lead to the repentance and restoration of the offender, discourage a repetition of the offence and hinder others from acting similarly'.⁶¹

In *The Salvation Army children's homes, Australia Southern Territory* case study, documents revealed that in many instances the Southern Territory failed to follow the *Orders and regulations* in responding to allegations of physical and sexual abuse in the children's homes examined. Commissioner Tidd agreed that in failing to follow its *Orders and regulations*, The Salvation Army failed to protect children in its care.⁶²

Officers Review Board

In 1989 IHQ established an Officers Review Board in each of its territories to deal with disciplinary matters. The board is an internal advisory body for dealing with officers alleged to have perpetrated abuse, including child sexual abuse.⁶³ It became the primary body responsible for considering disciplinary matters and for making recommendations to the territorial commander.⁶⁴

We heard that at the time of *The Salvation Army children's homes, Australia Southern Territory* case study, the *Orders and regulations* required that certain matters be referred to and investigated by the Officers Review Board unless the General directed otherwise. Once the board investigated the allegations, it made recommendations to the territorial commander. The territorial commander was not bound by the recommendations.⁶⁵

In *The Salvation Army children's homes, Australia Southern Territory* case study, we found that before 2014 the Southern Territory did not refer to the Officers Review Board all officers against whom allegations of child sexual abuse had been made. By not doing so, we found that the Southern Territory failed to follow the board process and failed to hold some officers accountable for sexually abusing children.⁶⁶

The Eastern Territory's 'Sex offenders minute'

In September 2007, the Eastern Territory issued the *Official minute on the management of sex offenders in The Salvation Army Fellowship (Sex offenders minute)*.⁶⁷ It set out a number of policy aims and principles, including that:

This policy is designed to protect children and other persons within The Salvation Army against sexual offences ...

The abused person (and their family) may be emotionally vulnerable long after the event, even after they forgive. It is unjust to insist these persons be exposed to the presence of an abuser ...

Convicted or cautioned sex offenders may not be employed or engaged as volunteers or ministry workers in any Salvation Army corps or centre that has children or families on its premises.⁶⁸

Clauses 7(c) and (d) of the *Sex offenders minute* stated:⁶⁹

- (c) 'No one who has been convicted or cautioned for a sexual offence will be considered for officership within The Salvation Army.'
- (d) 'No one who has been convicted or cautioned for a sexual offence will be re-accepted for officership or readmitted to officership regardless of whether their name has been removed from the sex offenders register. This ruling equally applies to retired officers who will not be reinstated as retired officers.'

In *The Salvation Army claims handling, Australia Eastern Territory* public hearing, senior members of The Salvation Army told us that the *Sex offenders minute* was not intended to be applied retrospectively.⁷⁰ As such, we found that it did not prohibit those who had admitted sexually abusing a child and had been readmitted as officers of The Salvation Army before 2007 from continuing as officers.⁷¹

The Southern Territory's review of policies and procedures

In 2013, after the Victorian parliamentary inquiry, the Southern Territory instructed Mr Trevor Walker of the territory's Professional Standards Unit to investigate the territory's responses to historical child sexual abuse.⁷² Mr Walker considered whether there were cultural, endemic or systemic failings as an institution in relation to the sexual abuse that occurred.⁷³

Mr Walker delivered his report on 20 August 2015. The executive summary of the report concluded that the Southern Territory:⁷⁴

- 'did fail to implement, and failed to adequately implement, policies, practices and procedures to protect children from child sexual abuse. The failure was systemic ...'
- 'did fail to identify situations in which children were at risk of being victims of child sexual abuse. This failure was systemic.'
- 'did fail to fully explore and investigate claims of child sexual abuse. This failure was both systemic and cultural ...'
- 'did fail to appropriately respond to claims of child sexual abuse, having specific regard to the needs, or possible needs, of the victim and the victim's friends and family. This failure was both systemic and cultural ...'
- 'did fail to make provision in this organisation structure for an appropriately qualified and experienced person, or persons, to deal with claims of child sexual abuse. This failure was systemic ...'

- 'did not take steps to conceal claims of child sexual abuse'
- 'did not take steps to protect alleged perpetrators of child sexual abuse'
- 'inadvertently, but not deliberately, facilitated the incidence or concealment of child sexual abuse ... [This] was a cultural failing of the organisation ...'
- 'did not take steps, or implement policies, practices or procedures that, whether deliberately or inadvertently, discouraged persons from disclosing that they, or someone they know, had been the victim of child sexual abuse ...'
- 'did not operate children's homes at which there existed a 'cluster of paedophiles ...'

In his statement to us, Commissioner Tidd unreservedly accepted Mr Walker's findings and conclusions.⁷⁵

In *The Salvation Army children's homes, Australia Southern Territory* case study we considered Mr Walker's conclusions on whether the Southern Territory took steps to either conceal claims of child sexual abuse or protect alleged perpetrators.⁷⁶ In some respects, our findings differed from those in Mr Walker's report.⁷⁷

National Professional Standards Council

In December 2014, the Southern Territory and Eastern Territory convened the National Professional Standards Council⁷⁸ to provide a national perspective on all matters pertaining to child sexual abuse and other abuse.⁷⁹

We heard that the relevant functions of the council include:⁸⁰

- harmonising the responses of both territories to care-leavers who suffered abuse, to ensure that just compensation and adequate pastoral care are provided, and seek reconciliation where appropriate
- harmonising disciplinary processes and a National Officers Review Board procedure for dealing with sexual offences and allegations of other forms of abuse
- monitoring the work of the Royal Commission with a view to identifying any lessons to be learned which can be incorporated into national policies and procedures and which may have wider application to The Salvation Army internationally
- developing a transfer of information protocol to limit the opportunity for offenders to establish themselves in positions of trust within either territory.

We discuss the National Professional Standards Council further in Chapter 20.

14.3.2 The Salvation Army responses to allegations of child sexual abuse

Responses to alleged perpetrators

I think that people felt they had such power over children, they could exercise physical violence and, if inclined, sexual abuse. And I just think that there wasn't – there weren't the controls in place to stop that ... It's a betrayal of their values, their beliefs; it's a betrayal of the organisation they worked for; but especially a betrayal of the children.⁸¹

Major David Eldridge, retired Salvation Army officer

In *The Salvation Army boys' homes, Australia Eastern Territory* case study, we examined the Eastern Territory's response to allegations of child sexual abuse at four Salvation Army homes:⁸²

- Gill Memorial Home, Goulburn, New South Wales
- Bexley Boys' Home, Bexley, New South Wales
- Riverview Training Farm (also known as Endeavour Training Farm), Queensland
- Alkira Salvation Army Home for Boys, Indooroopilly (also known as Indooroopilly Boys' Home), Queensland.

We discuss four Salvation Army officers who served at one or more of these institutions below: Captain Lawrence Wilson,⁸³ Captain Donald Schultz,⁸⁴ Captain John McIver⁸⁵ and X17.⁸⁶

In *The Salvation Army claims handling, Australia Eastern Territory* case study, we examined the Eastern Territory's response to claims for redress by survivors of child sexual abuse. In this context we considered its response to contemporaneous allegations of child sexual abuse against Salvation Army officer Captain Colin Haggart⁸⁷ and allegations of historical child sexual abuse against Salvation Army Sunday schoolteacher Envoy John Lane.⁸⁸ Both Haggart and Lane are discussed below.

In *The Salvation Army children's homes, Australia Southern Territory* case study, we examined the Southern Territory's response to allegations of child sexual abuse against a number of Salvation Army officers or employees and subsequent claims by survivors for redress related to the following institutions:⁸⁹

- Eden Park Boys' Home, South Australia
- Box Hill Boys' Home, Victoria
- Bayswater Boys' Home, Victoria
- The Salvation Army Boys' Home (also known as Hollywood Children's Village or Nedlands Boys' Home), Nedlands, Western Australia.

We heard allegations of child sexual abuse against a number of Salvation Army officers or employees at these homes, but only discuss below the Southern Territory's response to those against Captain Charles Allan Smith⁹⁰ and Captain Arthur Clee.⁹¹

In all three Salvation Army case studies we identified occasions when the Eastern and Southern territories did not follow their own policies and procedures when responding to allegations of child sexual abuse. This was particularly the case in relation to what action, if any, was taken against the alleged perpetrator of that abuse. In the absence of consistent policy application, the responses of senior Salvation Army officers in the Eastern and Southern territories to alleged perpetrators varied, but generally fell into the following categories:

- taking no action against the perpetrator and allowing them to continue in service
- transferring the perpetrator to another position in The Salvation Army
- taking disciplinary action that led to the dismissal or resignation of the perpetrator.

In some of these cases, the perpetrator was re-admitted to The Salvation Army after having been dismissed or resigning due to child sexual abuse allegations. This includes Smith, who was convicted of child sexual abuse offences in the intervening period.⁹²

Inaction and continued service

In *The Salvation Army boys' homes, Australia Eastern Territory* case study, we heard about cases where The Salvation Army received multiple complaints that a Salvation Army officer was sexually abusing children in his care, but took no action. As a result of this inaction, the alleged perpetrators continued to hold positions of authority in The Salvation Army, often with access to children. Some were alleged to have continued to physically and sexually abuse children in their care.

Captain Lawrence Wilson

You feel so awful, dirty and filthy, like you can never get clean sort of thing from it. When the sex act finished, Lieutenant Wilson flogged me across the backside and said, 'Don't be saying anything to anybody about this. This is nothing to what you'll get'.⁹³

Survivor, Mr Raymond Carlile

We heard that Captain Lawrence Wilson was the subject of allegations of child sexual abuse by 17 boys at four Salvation Army boys' homes between 1957 and 1974.⁹⁴ The Salvation Army Eastern Territory accepts that Wilson was its most serious child sex offender.⁹⁵

From 1957 to 1959, Wilson served as a probationary lieutenant with The Salvation Army at Riverview Training Farm. We heard that Wilson sexually abused two boys during this period.⁹⁶

In 1964 and 1965 a major in The Salvation Army received information that Wilson had been 'interfering with a boy or boys'. This information was passed to the territorial headquarters but the allegation was not properly investigated.⁹⁷

From 1970 to 1973, Wilson was the manager at Gill Memorial Home. We heard that Wilson sexually abused two boys during this period. In about 1972, a Salvation Army officer raised concerns about Wilson's general conduct, including rumours of child sexual abuse, with a senior Salvation Army officer from the territorial headquarters. Again, The Salvation Army did not investigate these allegations and no action was taken.⁹⁸

In January 1973, Wilson was transferred from Gill Memorial Home to Indooroopilly Boys' Home, where he again served as manager. We heard that Wilson sexually abused five boys during the year that he was at Indooroopilly Boys' Home.⁹⁹

In late 1973 a house parent at Indooroopilly, Mr Clifford Randall, separately informed senior Salvation Army officers at both the divisional and territorial headquarters that Wilson was sexually abusing boys at the home.¹⁰⁰ This included the allegation that Wilson inspected the anuses of boys under the guise of conducting medical examinations. Again, The Salvation Army did not investigate the allegations and took no action.¹⁰¹

In January 1974, Wilson was transferred to Bexley Boys' Home. We heard that Wilson sexually abused a further six boys in his care in that year.¹⁰²

Wilson resigned from The Salvation Army in September 1982, having never been the subject of disciplinary action for the sexual or physical abuse of children.¹⁰³

In 1996 and 1998, charges were laid against Wilson in relation to the sexual abuse of five boys while at Bexley Boys' Home and Gill Memorial Home.¹⁰⁴ In 2000, Wilson was acquitted of all charges. A Salvation Army legal representative told us 'we were surprised' by the acquittal. Wilson is now deceased.¹⁰⁵

At the time of the public hearing in *The Salvation Army boys' homes, Australia Eastern Territory* case study, The Salvation Army had paid over \$1.2 million to those who had reported sexual abuse by Wilson.¹⁰⁶

Captain John McIver

Captain McIver was brutal. You'd have to take your pants down and bend over a table. He'd whip you over a table. He'd hit you on the back of the legs and the backside ... Captain McIver said GOD LOVES YOU and he flopped out his penis ... He got my hands and made me touch it.¹⁰⁷

Survivor, GA

Captain John McIver was the manager at Bexley Boys' Home when ET, FV and Mr Kevin Marshall said they were the subject of sexual abuse (by others).¹⁰⁸ In addition, survivor GA alleged that McIver both physically and sexually abused him at Bexley from 1968 to 1971.¹⁰⁹

In January 1974, McIver replaced Wilson as the manager of Indooroopilly Boys' Home.¹¹⁰

In 1974, Mr Randall, who remained a house parent at Indooroopilly Boys' home, reported McIver's physical abuse of the boys, which included using the strap to hit boys between the legs, on the testicles, to the divisional commander at divisional headquarters, Brigadier Leslie Reddie.¹¹¹

In early 1975, Mr Randall also reported McIver's excessive physical abuse to Colonel Gordon Peterson at territorial headquarters. The complaint was referred back to McIver as manager of the home, and no further action was taken.¹¹²

In May 1975, Mr Randall witnessed McIver dislocate a boy's shoulder after the boy (HM) reacted violently to being whipped on his genitals with a strap. After Mr Randall and his wife tried to take HM to the hospital, McIver gave them 48 hours to pack up and leave. Mr Randall complained to Brigadier Reddie, who said, 'I have the truth from the Manager, nothing has happened. You are telling lies and we want you off the property'.¹¹³

McIver was the subject of further complaints of physical abuse at Indooroopilly Boys' Home, made by fellow Salvation Army officers and the Queensland Department of Children's Services. In 1976, McIver was transferred to a Salvation Army aged care facility.¹¹⁴ He retired from The Salvation Army in 2004.¹¹⁵

We found that a senior member of The Salvation Army did not investigate allegations made by Mr Randall about child sexual abuse at Indooroopilly in 1975. Similarly, Brigadier Reddie did not adequately investigate allegations of physical abuse of HM, accepted McIver's account without further investigation and supported the dismissal of the Randalls. We also found that between 1974 and 1976, Colonel Peterson received allegations of physical abuse of HM by McIver but did not start disciplinary proceedings or refer the matters to the police.¹¹⁶

Ultimately we found that The Salvation Army did not adequately investigate or take any action in relation to the allegations of physical and sexual abuse that it received about Wilson and McIver.¹¹⁷ The Salvation Army's failure to take action against them, despite the numerous reports that they were physically or sexually abusing boys in their care, enabled them to remain in positions of authority in Salvation Army homes where they could continue to physically and sexually abuse children.

Transfer to another position in The Salvation Army

In *The Salvation Army boys' homes, Australia Eastern Territory* case study, we considered the movement of Salvation Army officers and employees accused of, or found to have engaged in, child sexual abuse. We found that a number of alleged perpetrators had worked in more than one of the four boys' homes we examined. Two (Wilson and Captain Victor Bennett) had worked in all four.¹¹⁸

Major Farthing, the senior officer responsible for The Salvation Army's response to the Royal Commission, told us that The Salvation Army had no policy of moving 'offenders between boys' homes', or to 'non-child related roles'. He said that 'to his knowledge' there was never a time when senior people at territorial headquarters knew someone was a child sex offender and moved them.¹¹⁹

Nonetheless, we found that between 1965 and 1977, officers who were alleged or found to have engaged in child sexual abuse were transferred between the four homes. In the majority of those cases, knowledge of incidents of child sexual abuse was not conveyed to those in The Salvation Army outside the four homes. This meant that in these cases the senior officer responsible for transfers was simply unaware of allegations, because of the inadequate oversight and complaint systems, the failure to investigate and the lack of policies and procedures to deal with child sexual abuse.¹²⁰

While the senior officers responsible for transfers may have been unaware of allegations of child sexual abuse, we certainly heard of occasions when a Salvation Army officer was transferred following an allegation of child sexual abuse. Major Farthing acknowledged that such a transfer occurred in the case of Wilson, discussed above.¹²¹ Separately, Captain Donald Schultz was transferred at the direction of a senior Salvation Army officer following an allegation of child sexual abuse. His case is discussed below.

In *The Salvation Army children's homes, Australia Southern Territory* public hearing, we heard of occasions when senior Salvation Army officers responded to allegations of child sexual abuse by transferring the alleged offender to another position in The Salvation Army. The cases of Captain Arthur Clee and Captain Charles Allan Smith are discussed below.

Captain Donald Schultz

An allegation that Captain Donald Schultz had sexually abused two Indooroopilly Boys' Home residents was reported to both The Salvation Army and the Queensland Department of Children's Services in June 1973.¹²² While an investigation by the department did not substantiate the allegations, the Eastern Territory conducted an internal inquiry and determined that Schultz should not continue to work at the home. However, Schultz was allowed to remain at Indooroopilly for another six weeks because the assistant state social secretary could 'hardly think Captain Schultz will allow himself to be indiscreet in this manner again'.¹²³

In September 1973 Schultz was transferred.¹²⁴ The then manager of Indooroopilly Boys' Home, Wilson, reportedly said:

I needed to move Schultz out of Queensland and back to New South Wales in a hurry, otherwise he would have ended up in jail.¹²⁵

Following his removal from Indooroopilly Boys' Home, Schultz was moved out of the social services division, the division that included boys' homes.¹²⁶ He went on to work at a number of Salvation Army institutions where allegations of unlawful or inappropriate sexual conduct towards adults were made against him.¹²⁷

Captain Arthur Clee

In October 1949 the manager of Box Hill Boys' Home found that Captain Arthur Clee had indecently touched four boys after 'lights out'.¹²⁸ A Salvation Army file note from March 1950 recorded that the manager said of the incident:

The Captain had been so sincerely penitent and so shamed, that the Major agreed to give him a chance to live the experience down and re-establish himself in the eyes of both Officers and boys.¹²⁹

The Southern Territory's response to Clee's sexual offending was to transfer him to another home, where he was placed in a position of trust with other boys. Four months later the Southern Territory placed Clee on sick leave after he confessed to 'irregular conduct' at Box Hill Boys' Home to a superior officer.¹³⁰

Captain Charles Allan Smith

Also in *The Salvation Army children's homes, Australia Southern Territory* case study we considered the case of Captain Charles Allan Smith, who the Southern Territory transferred twice following allegations of child sexual abuse.¹³¹

Smith first came to the attention of the Southern Territory in 1964, when he was reported to have engaged in 'unseemly behaviour' with a young bandsman associated with the Rivervale Corps in Western Australia.¹³² The Southern Territory transferred Smith to Nedlands Boys' Home in 1965, where he was placed in a position of responsibility for children.¹³³

In January 1974, Smith pleaded guilty to three counts of aggravated assault, which related to his sexual abuse of three 'band lads' in the Rivervale Corps in 1973.¹³⁴ Salvation Army correspondence from the time of his arrest provided a compelling insight into the Southern Territory's priorities when addressing child sexual abuse. Describing the moment Smith admitted he was guilty of the charges, the divisional commander wrote:

On New Year's Day the Captain rang me and asked could he call me and see me at my quarters as he was in trouble. I replied that he could come over at his convenience and he arrived about 3pm and told me about the charges and that he was guilty. My first aim was to protect the name of the Salvation Army and then to do what I could to help with the Captain.¹³⁵

In the same letter he indicated that he had suspended Smith and that he felt that 'we cannot do other than to accept the resignation of the Captain [Smith]'. Smith left The Salvation Army in 1974, though it was unclear from the documentary material whether he resigned or was dismissed.¹³⁶

In 1979 Smith was re-accepted into The Salvation Army and later promoted to the rank of captain.¹³⁷ We found that the decision to readmit and promote Smith defeated one of the purposes of The Salvation Army's own *Orders and regulations*: to protect children in its care.¹³⁸

In 1985 the Southern Territory received a report that Smith had made 'homosexual advances' to a 16-year-old boy referred to a Salvation Army-run hostel where Smith was positioned.¹³⁹ In a subsequent interview with a senior Salvation Army officer, Smith denied 'any such advances' but admitted to 'a friendship with a lad in the past'.¹⁴⁰ He received six months' probation for the 'indiscretions', among other things, and was transferred to another position in The Salvation Army.¹⁴¹

In April 1997, Smith was dismissed after he pleaded guilty to over 50 charges related to child sexual abuse and was sentenced to 15 years' imprisonment.¹⁴²

In these three examples we found that by moving the alleged perpetrators, often without corresponding risk management or disciplinary action, The Salvation Army placed children in their care at further risk of sexual abuse. In *The Salvation Army boys' homes, Australia Eastern Territory* case study we found that the Eastern Territory put boys at risk of further sexual abuse by Schultz in 1973 by not removing him from his position at Indooroopilly after allegations of sexual abuse had been received.¹⁴³ In *The Salvation Army children's homes, Australia Southern Territory* case study, we found that by not complying with its own *Orders and regulations* in relation to Smith and Clee, the Southern Territory failed to protect children in its care from further sexual abuse.¹⁴⁴

Disciplinary action

In some cases The Salvation Army dismissed alleged perpetrators of child sexual abuse from officership because of the allegations against them. In two cases, alleged perpetrators who were dismissed nevertheless continued to receive various forms of support from The Salvation Army.¹⁴⁵ In one of these cases, the alleged perpetrator who had been dismissed for child sexual abuse was later readmitted to The Salvation Army and appointed to positions that allowed him access to children.¹⁴⁶

The disciplinary action taken by The Salvation Army in respect of three perpetrators: X17, Envoy John Lane and Captain Colin Haggar, is discussed below.

X17

[X17] started abusing me about one month or six weeks after I arrived at the Home ... Many times he would drag me out of bed at around 3am for allegedly making a noise. He would punish me by taking me down to the bathrooms and making me scrub the toilets with a toothbrush. I was always there on my own. He would then sexually abuse me and send me back to bed at about 5am. I would then have to get up at 6am to start my chores.¹⁴⁷

Survivor, Mr Mark Stiles

In 1972, officer X17 was appointed to a position at Gill Memorial Home. We were told that X17 sexually abused six boys in his care at the home between 1972 and 1974.¹⁴⁸

In February 1974, a freelance photographer who visited Gill Memorial Home was told by the boys that X17 'had been involved with 2 boys ... involving both oral and anal sex'. The photographer reported this information to the New South Wales Department of Child Welfare, and the matter was later passed on to the police.¹⁴⁹

In 1974, X17 was convicted of two counts of indecent assault as a result of the police investigation and was subsequently dismissed from The Salvation Army. Nevertheless, The Salvation Army made arrangements for X17's employment outside The Salvation Army, his psychiatric care, and defrayed the costs of his legal representation.¹⁵⁰

Just months after X17's conviction on two charges of indecent assault against a child in his care at Gill Memorial Home, senior members of The Salvation Army recommended that X17 be reinstated to the Soldiers' Roll six months after his dismissal. The recommendation was not accepted.¹⁵¹

Envoy John Lane

John Lane raped me in his car on the way home from Sunday school. I remember the dates because it was after I attended the Brisbane Exhibition in August, but before my 10th birthday. I remember it was excruciatingly painful, and I was bleeding afterwards. I can remember John saying to me after he had finished, 'You're the best I've had', but at the time I didn't know what he meant by that. He took me home and threatened me not to tell anyone. He also told me that even if I did tell, no one would believe me anyway because I was a child.¹⁵²

Survivor, JG

Envoy John Lane taught Sunday school at the Fortitude Valley Salvation Army Corps in Brisbane in the 1970s and 1980s. We heard that Lane sexually abused two girls, JG and JD, who attended his Sunday school classes during this period. Neither of the victims reported the sexual abuse to The Salvation Army at the time.¹⁵³

In 1992 the victims reported the sexual abuse to the divisional commander of The Salvation Army.¹⁵⁴ In March 1992 the divisional commander interviewed Lane, who initially denied the allegations but admitted to 'certain activities' taking place with one of the victims. Following this admission, the divisional commander informed Salvation Army headquarters of the allegations. In a subsequent 'counselling' session, Lane admitted he 'touched the girls between the legs' but denied raping JG.¹⁵⁵ On 10 June 1992, Lane attended Salvation Army premises and was asked 'to take off [his] uniform'. He resigned the following day.¹⁵⁶

We found that The Salvation Army's response to the allegations made by the two victims against Lane represented a failing on the part of The Salvation Army and that the allegations should have been dealt with more swiftly and seriously. We found that the divisional commander did not investigate JD's allegations and that in 1992, despite Lane having been asked to 'remove his uniform', he attended a Salvation Army corps and remained listed on The Salvation Army's Soldiers' Roll.¹⁵⁷

Captain Colin Haggar

In 1989, Captain Colin Haggar and his wife were stationed in central west New South Wales. In late 1989, Haggar disclosed to a fellow Salvation Army soldier, JH, and her husband, that he had sexually abused their daughter, JI.¹⁵⁸ JH recounted:

Colin said he had something to tell us and asked if he could lead us in a prayer first ... he led us in a prayer about forgiveness and acceptance of God's love ... After the prayer, Colin Haggar told us both that he had been abusing our daughter, who was eight or nine years old at the time. I remember feeling frozen and numb and I just sat there, staring at Colin ... Colin said something that I still recall to this day. He said 'don't worry, it wasn't that serious. I only fingered her'.¹⁵⁹

JH and her husband subsequently related Haggar's admission to divisional headquarters in Bathurst.¹⁶⁰

On 22 February 1990, following a report by the Officers Review Board, both Haggar and his wife were dismissed from officership. Despite their dismissal, both continued to receive support from The Salvation Army, including accommodation in Sydney and employment at a Salvation Army facility. Counselling was provided to Haggar.¹⁶¹

In October 1992, Haggar and his wife were approved for re-acceptance as officers of The Salvation Army from January 1993. JH told us that when she heard that Haggar had been reinstated she 'could not believe it' and she 'felt sick hearing this, knowing what he could do'.¹⁶²

We found that Haggar subsequently occupied a position of managerial responsibility for children, even though The Salvation Army knew he had admitted to sexually abusing a child in 1989.¹⁶³

In January 2012, Haggar was promoted to lieutenant-colonel. We found that The Salvation Army should not have promoted him.¹⁶⁴

In April 2013, Major Farthing, the senior officer responsible for The Salvation Army's response to the Royal Commission, received further allegations that Haggar had sexually abused two adult women. Haggar denied the new allegations.¹⁶⁵

In July 2013, a Salvation Army officer raised concerns that Haggar continued to serve as an officer when he had a history of sexual offending. Haggar was subsequently asked to 'move towards his retirement'. On 8 October 2013 Haggar did retire and was demoted to the rank of major.¹⁶⁶

On 17 March 2014, following further allegations of sexual abuse made by JI, Haggar was suspended. He was told that he was not to wear his uniform or represent The Salvation Army while the suspension was in place.¹⁶⁷

On 23 June 2014, on the final day of our public hearing, The Salvation Army informed us that the Officers Review Board had considered Haggar's matter and he had been dismissed as an officer of The Salvation Army.¹⁶⁸

As these three examples demonstrate, while The Salvation Army did take some disciplinary action against perpetrators of child sexual abuse, it was:

- not part of a formal investigation or disciplinary process
- in some cases undermined by continued support for the alleged perpetrator
- in some cases undermined by later allowing the alleged perpetrator back into The Salvation Army.

Reporting to police or civil authorities

In *The Salvation Army case studies* we heard of allegations of child sexual abuse against Salvation Army personnel being reported to the police or other civil authorities by The Salvation Army only on a few occasions.

Between 1965 and 1977, the Eastern Territory did not have clear policies for reporting allegations of criminal offences to the police. This was reflected in evidence considered in *The Salvation Army boys' homes, Australia Eastern Territory* and *The Salvation Army claims handling, Australia Eastern Territory* case studies. In both, we heard of occasions when senior Salvation Army officers did not report allegations of child sexual abuse to police, or resisted their involvement in complaints of child sexual abuse.

In *The Salvation Army boys' homes, Australia Eastern Territory* case study we found that Captain Victor Bennett did not report allegations of child sexual abuse received from ES, GY and FO, discussed below, to the police or to divisional or territorial headquarters of The Salvation Army.¹⁶⁹

We also found that The Salvation Army (and the Queensland Department of Children's Services) did not refer the allegations of child sexual abuse against Schultz by two victims, GG and HN, to the police for investigation in 1973. As noted, Mr Clifford Randall gave evidence that on his arrival at Indooroopilly Boys' Home in 1973, Wilson told him, 'I needed to move Schultz out of Queensland and back to New South Wales in a hurry, otherwise he would have ended up in jail'.¹⁷⁰

The Eastern Territory referred allegations against Schultz to police in 2005, after GG and another victim, GB, came forward. Police records reveal that Schultz was formally cautioned in 2006 for indecent treatment of a child. Schultz had no criminal record when the Queensland courts considered the matter.¹⁷¹

The Eastern Territory's response to the arrest of Salvation Army officer X17 in 1974 on charges related to child sexual abuse was particularly revealing in terms of The Salvation Army's attitudes towards involving police in its response to child sexual abuse.¹⁷² On 21 March 1974, the day after X17 was arrested, The Salvation Army social services secretary wrote to the chief secretary to confirm that a Salvation Army officer, X4, had secured bail for X17 and that:

It appears that there has not been actual sexual intercourse but the report is that since November last year there have been repeated acts of indecency up to a fortnight ago, at which time the processes of indictment began without our knowledge. Major [X4] reports that the police have been most helpful and they regret the manner in which the affair has been handled and share our wish that the matter had been dealt with without it having to be treated as a criminal offence. Being a criminal offence means that the police are powerless to stop all the usual processes of law but they have assured Major [X4] arrangements are being made for all details of the case to be withheld from the press ...

Major [X4] ... has offered to accommodate Captain [X17] during the period of remand. This will give us the opportunity of assessing whether intervention can be arranged through the Justice Department or whether we have to arrange for legal representation to see the case through the Quarter Sessions ... Captain [X17] confessed that he has not been involved in this way other than at Goulburn but that he has been battling with this problem since he was 17 years old.¹⁷³

That same day, the territorial commander of the Eastern Territory wrote to the New South Wales Minister of Justice about X17's arrest to say that 'Any action which will minimise publicity and not hinder our work in the Home would be appreciated'.¹⁷⁴

In addition to failures to report allegations of child sexual abuse to police, we also heard of occasions when Salvation Army officers discouraged victims from reporting. In *The Salvation Army claims handling, Australia Eastern Territory* case study, JG gave evidence that she clearly recalled Colonel Stanley Everitt, the South Queensland Divisional Commander, telling her and JD in 1992 not to go to the police or the media when they reported Lane's sexual abuse of them.¹⁷⁵ JD also recalled that Colonel Everitt encouraged them not to go to the police and said he would 'handle it'.¹⁷⁶ The allegations against Lane were not referred to the police until 1996, when JG and JD made police statements. Major Farthing told us that it was a matter of regret that the allegations were not referred to police straight away.¹⁷⁷

In *The Salvation Army claims handling, Australia Eastern Territory* case study we considered a case in which allegations of child sexual abuse by a Salvation Army Officer, Haggar, were reported to NSW Police and later to the NSW Ombudsman.¹⁷⁸ In 1989, Haggar admitted to sexually abusing JI and as a result was dismissed by The Salvation Army in 1990.¹⁷⁹ Despite this, in 1992 he was reinstated into The Salvation Army and promoted to the rank of lieutenant-colonel in 2012.¹⁸⁰

Commissioner James Condon, Eastern Territory Territorial Commander, gave evidence that after Haggar's dismissal in 1990 he suggested that Haggar report the matter to the police, to which Haggar agreed.¹⁸¹ We found that Haggar and Commissioner Condon attended a NSW police station in 1990 but that the information given by Haggar was insufficient for the police to commence an investigation of the matter.¹⁸² We heard that in January 2014 a Salvation Army professional standards officer informed the NSW Police that there were allegations that Haggar had sexually abused JI in 1989.¹⁸³

Captain Michelle White, Director of The Salvation Army's Young Hope program, was the first to alert the Eastern Territory that it had an obligation to report Haggar to the NSW Ombudsman, in July 2013. She also raised concerns that Haggar remained in a position where he had access to children.¹⁸⁴ We found that before this The Salvation Army did not obtain written advice about its obligations to report allegations of historical child sexual abuse to the NSW Ombudsman under section 25C of the *Ombudsman Act 1974* (NSW).¹⁸⁵

Further, we found that notwithstanding specific advice provided by the NSW Ombudsman in October 2013, Commissioner Condon did not take steps to report the allegation of Hagggar's child sexual abuse to the Ombudsman until 10 December 2013, because he had received equivocal legal advice as to whether he was required to do so.¹⁸⁶

During *The Salvation Army children's homes, Australia Southern Territory* public hearing, Commissioner Tidd agreed that at the time of operation of the children's homes examined in that case study and subsequently, Salvation Army Southern Territory members received complaints of sexual abuse that were not passed on to the police. We accepted that in the absence of policy or procedure, the Southern Territory did not wilfully conceal allegations of child sexual abuse by not reporting those allegations to the police. However, it had the effect of concealing child sexual abuse and protecting alleged perpetrators.¹⁸⁷

As a result of the Royal Commission, The Salvation Army Southern Territory has said it will 'now report all allegations of abuse, current or historical, to the police regardless of their legal obligation to do so. Failure to do so is considered to be serious misconduct and may result in dismissal or termination of appointment or employment'.¹⁸⁸

Immediate responses to victims

People say to us, 'Why did you not tell anyone?' I think it is about time people started to look for a new line to ask because I cannot answer the question myself. No one would believe a home boy over a Salvo officer. We were told this by them while it was happening to us.¹⁸⁹

Survivor, FV

In *The Salvation Army case studies*, 34 survivors gave evidence regarding sexual abuse they experienced at Salvation Army institutions. We also received evidence from over 20 additional survivors in the form of police and victim impact statements.

Importantly, we found in both *The Salvation Army boys' homes, Australia Eastern Territory* and *The Salvation Army children's homes, Australia Southern Territory* case studies that many boys in Salvation Army residential institutions did not report their experiences of abuse at the time.¹⁹⁰ The following section only considers cases where an allegation of child sexual abuse came to the attention of a senior Salvation Army officer or employee at or close to the time of the abuse. It includes discussion of The Salvation Army's response to contemporaneous reports of child sexual abuse by child residents and by Salvation Army personnel.

Responses to contemporaneous reports by child residents

As discussed in Section 14.1.2, at the time of the public hearings, The Salvation Army's Eastern and Southern territories were independent entities that reported directly to IHQ. Despite their reported autonomy, they responded similarly to allegations of child sexual abuse, at least in their children's homes.

In *The Salvation Army boys' homes, Australia Eastern Territory* case study, we found that in most cases boys in the four homes who reported sexual abuse to the manager or other officers were punished, disbelieved or accused of lying, or no action was taken.¹⁹¹ Similarly, in *The Salvation Army children's homes, Australia Southern Territory* case study, we found that some former residents were physically punished after telling officers or employees of The Salvation Army about their complaints of sexual abuse and this stopped them from disclosing any further incidents of sexual abuse.¹⁹²

In the two case studies we heard of four occasions when a boy's allegation of sexual abuse was dismissed by Salvation Army officers:

- EF gave evidence that he reported sexual abuse he experienced by the manager of Indooroopilly Boys' Home, Bennett, to another Salvation Army officer. EF said the officer told him his hands were tied, that he could not do anything to prevent it and that he was worried about the 'consequences it would have on his own employment'.¹⁹³
- EY told us that he attempted to report sexual abuse he experienced by an older boy at Riverview Training Farm to the manager, Bennett, by telling him 'something's happened to me'. EY said Bennett replied, 'If you don't get over to the dining room something will happen to you'.¹⁹⁴
- GY said he reported to Bennett the repeated sexual abuse of his brother by a man and woman outside Indooroopilly Boys' Home. According to GY, Bennett said nothing, but his brother was never sent to the couple again.¹⁹⁵
- Mr David Reece gave evidence that when he approached Brigadier Van Kralingen and Major Charles Hewitson about another Salvation Army officer's physical and sexual abuse of him at Box Hill Boys' Home, they did not listen to him and told him to go back to the dormitory.¹⁹⁶

In *The Salvation Army case studies* we also heard of occasions when boys were physically punished for reporting an allegation of sexual abuse to Salvation Army officers or to police:

- In addition to telling us that his own report of sexual abuse was dismissed, EF gave evidence that those who complained about the abuse and treatment at Indooroopilly Boys' Home were characterised as liars by Bennett, and that retribution for reporting abuse included further physical and sexual punishment.¹⁹⁷
- When EQ reported sexual abuse at Bexley Boys' Home by the manager, Wilson, to other Salvation Army officers, he was not believed and was beaten for making the allegation.¹⁹⁸

- After a police officer informed Bennett that FO had alleged that he was sexually abused by a man, Bennett severely beat FO for 'lying'. We also heard that FO was labelled a 'troublemaker' when he was a resident at Riverview after he reported the sexual abuse of himself and other boys to Bennett.¹⁹⁹
- FV told us that he was sexually abused by a woman from a couple who the manager at Bexley Boys' Home, Wilson, had arranged for him to visit on the weekend. FV told us that when he reported the abuse, Wilson replied that the couple were 'good people' and caned him up to 18 times. According to FV, Wilson also sexually abused him on two occasions and sent him away with others who sexually abused him.²⁰⁰
- Mr Mark Stiles told us that he was hit on the head, chest and upper body with an open palm for 'telling lies' by the manager of Gill Memorial Home, Wilson, after he told a police officer that Wilson had been physically abusing the boys and that he had been sexually abused by Salvation Army officer X17.²⁰¹
- Mr David Wright stated that a few days after he told a matron at Box Hill Boys' Home that a Salvation Army officer was in his bed the previous night, Colonel Charles Stevenson physically abused him and called him a 'liar'. Mr Wright said he believed that Colonel Stevenson was referring to his disclosure to the matron.²⁰²
- Mr Philip Hodges told us that after he disclosed sexual abuse by 'the Captain' to Major John Kirkham, Kirkham took Mr Hodges to the captain, who denied the allegation. Following the disclosure, Mr Hodges said that Major Kirkham locked him in the fire escape stairwell for a number of days.²⁰³

In *The Salvation Army case studies*, we heard of two occasions when a boy reported an allegation of child sexual abuse to a Salvation Army employee or officer and was then sexually assaulted:

- In *The Salvation Army boys' homes, Australia Eastern Territory* case study, ES told us that, when he reported being sexually abused by an older boy to the manager at Riverview Training Farm, Bennett, Bennett stuck a towel in his mouth and anally penetrated him in his office.²⁰⁴
- In *The Salvation Army children's homes, Australian Southern Territory* case study, Mr Graham Rundle told us that after he reported sexual abuse by other boys to an Eden Park Boys' Home employee, Mr William John Keith Ellis, Ellis sexually assaulted him then and on several subsequent occasions.²⁰⁵

The Salvation Army has made a number of public and national apologies to those affected by child sexual abuse in Salvation Army institutions. These have occurred in the context of apologies to those known as the Forgotten Australians, who were placed in orphanages and similar institutions by state governments and religious organisations.²⁰⁶

In December 2010, at Old Parliament House in Canberra, the then General of The Salvation Army, Shaw Clifton, publicly apologised to ‘former residents of any of its children’s homes who experienced abuse of any sort during the period up until the early 1990s’.²⁰⁷ In February 2014 the General of The Salvation Army, André Cox, echoed the words of former General Clifton’s apology in a letter to the Chair of the Royal Commission.²⁰⁸

During *The Salvation Army boys’ homes, Australia Eastern Territory* hearing, Commissioner Condon also expressed remorse:

Once again I want to express our unreserved apology to all who were harmed in any way at all. We are so sorry for every instance when children were sexually abused by our personnel, or while in our care. We are so very sorry for each instance where they felt unable to complain or for when they did, they were not believed. It is our firm resolve to do what is right by care-leavers who were abused.²⁰⁹

Responses to contemporaneous reports by other Salvation Army personnel

In 1973, before becoming Salvation Army officers themselves, Mr Clifford Randall and his wife, Mrs Marina Randall, replaced Schultz and his wife as house parents at Indooroopilly Boys’ Home.²¹⁰

As discussed above, in *The Salvation Army boys’ homes, Australia Eastern Territory* case study, Mr Randall told us that in 1973 he reported Wilson’s sexual abuse of boys to the divisional commander, Brigadier Leslie Reddie. In response, Brigadier Reddie told him that Wilson was the manager and ‘he called the shots’.²¹¹

In 1975, Mr Randall alerted Colonel Gordon Peterson, the territorial social services secretary, to allegations of child sexual abuse in Indooroopilly Boys’ Home and excessive physical abuse by McIver. After the territorial headquarters was alerted, the complaint was referred back to McIver, as manager of the home. McIver then accused Mr Randall of being disloyal, saying that ‘everything has got to stay within the house’, and that any complaints should have gone to him first.²¹²

In May 1975, following the physical assault of HM by McIver, and the Randalls’ efforts to seek medical attention for HM, McIver gave the Randalls 48 hours to pack up and leave Indooroopilly Boys’ Home.²¹³ We found that Brigadier Reddie accepted McIver’s account of the incident without further investigation and supported the dismissal of the Randalls.²¹⁴

Three months later, the Randalls were informed by Colonel Peterson that the number of boys at Indooroopilly had gone from 63 to fewer than 10, as the Queensland Department of Children’s Services had refused to send any boys there until McIver was moved. Mr Randall recalled that Colonel Peterson said, with tears in his eyes: ‘I’m sorry I didn’t believe you’. He apologised to the Randalls and offered them another appointment, which they declined.²¹⁵

The Randalls told us their treatment by The Salvation Army left them ‘hurt’.²¹⁶ Mrs Randall described how difficult it was to leave Indooroopilly Boys’ Home at short notice. She said:

Cliff and I didn’t know where we were going to go, what we were going to do. We quickly packed up and we left. It was made plain to us that we were not to have any interaction with the boys. If they came to speak to us, we were not to speak to them. I was devastated that I couldn’t say goodbye. It felt awful to know we’d left the boys in that way.²¹⁷

In 2004, Major Farthing, then secretary for personnel, offered to pay for the counselling Mr Randall was attending to deal with the abuse he witnessed at Indooroopilly Boys’ Home.²¹⁸ In 2013 the Personal Injuries Complaints Committee agreed to pay Mr Randall a further \$7,500 for counselling in recognition of his treatment by the Eastern Territory in 1974.²¹⁹

In *The Salvation Army children’s homes, Australia Southern Territory* case study, we heard about the Southern Territory’s response to an allegation of child sexual abuse made by an employee, a ‘living-in domestic’ at Eden Park Boys’ Home. In a memorandum dated 17 July 1963 from the ‘Supervisor of Institutions’ to ‘the Secretary’, the supervisor wrote:

[A living-in domestic] has been disturbed and distressed at night by sudden, violent screams from some boys in their dormitories. In the morning, she has found, it is alleged, that some boys’ sheets are blood stained. The portions of sheeting so stained, she claims, strongly suggests that there are sexual malpractices towards some of the boys ...

[She] has complained to those in charge about the boys’ screams at night, but she says they take no notice and discount all suggestions of misbehaviour, saying ‘they’re only having nightmares’. I understand that there is not official supervision of the boys at night. [She] suspects some staff member may be interfering with the boys. Boys of perverse habits could also be responsible.²²⁰

We heard that a police inquiry was conducted but that it concluded that ‘certain alleged sexual activities was inconclusive and no further action was to be taken at that time’. It was not clear from that document whether the outcome of the police inquiry was raised with The Salvation Army manager of Eden Park Boys’ Home.²²¹

We found that it was likely that those in charge of Eden Park Boys’ Home, and possibly the manager, received a complaint from an employee about violent screams in the night and bloodstained sheets. If the manager of Eden Park received the complaint, the manager should have interviewed staff members and boys and referred the matter to the state social program secretary. We concluded that for any Southern Territory officer or employee to dismiss the allegations as ‘nightmares’ without further action was an inadequate response and did not comply with The Salvation Army’s *Orders and regulations*.²²²

Responses to survivors who made a claim for redress

The Salvation Army did not stop and ask what I wanted. They assumed that all I wanted was money, but an apology is worth so much more. I do not think The Salvation Army has ever understood this.²²³

Survivor, Mr David Reece

In *The Salvation Army case studies*, we heard that in the 1990s the Eastern and Southern territories started receiving claims for redress for child sexual abuse at their institutions.²²⁴ Initially both territories adopted an ad hoc approach to the claims, assessing each on a case-by-case basis, either internally (Eastern Territory)²²⁵ or with external legal advice (Southern Territory).²²⁶ By the mid-to-late 1990s, they had developed independent schemes for redress relating to child sexual abuse. The Eastern Territory's Personal Injuries Complaints Committee and the Southern Territory's 'model scheme' are discussed below.

In the *Institutional review of The Salvation Army* hearing, we heard that both territories are committed to the proposed Australian Government national redress scheme.²²⁷ In the interim, they have made changes to their policies and procedures regarding claims handling and support offered to survivors. In its submission to our consultation paper on redress and civil litigation, The Salvation Army indicated that it was committed to offering survivors a broad range of services in addition to ex gratia payments and counselling.²²⁸ This includes access to family tracing and survivor reunions, which we identified in our 2015 *Redress and civil litigation* report as services that contribute to an effective direct personal response.²²⁹

The Eastern Territory's Personal Injuries Complaints Committee

In *The Salvation Army claims handling, Australia Eastern Territory* case study, we heard that until about 1996 the Eastern Territory dealt with claims for redress related to child sexual abuse by referral to the secretary for personnel, who could investigate the claim and provide a response to the claimant.²³⁰

In 1997 the Eastern Territory established the Personal Injuries Complaints Committee (PICC) to assist the secretary for personnel to consider claims of child sexual abuse.²³¹ The committee was not a disciplinary body, as such matters were referred to the Officers Review Board.²³²

All members were either officers or members of the Eastern Territory. Major Farthing said:

[The] strong participation by Salvationists is intentional ... because PICC is not an independent tribunal for assessing restitution ... [but] ... a pastoral body which seeks to play an integral role in the entire restorative justice process. By deciding on appropriate responses to claims, it seeks to express the heart and mind of The Salvation Army in these matters.²³³

We were told that the PICC was responsible for dealing with complaints of sexual abuse but was mostly focused on 'historic' allegations.²³⁴ Its stated objectives were:²³⁵

- to consider all complaints of an abusive and/or sexual nature against Salvation Army officers, local officers and employees
- to ensure that assistance is provided to the complainant in the preparation of his or her statement of complaint
- to ensure that professional counselling is made available to the complainant
- to ensure that all matters coming before PICC are carefully and thoroughly investigated
- to provide an opportunity for the alleged perpetrator to prepare his or her statement of response to the complaint, with assistance
- to make recommendations to the Officers Review Board where appropriate.

In *The Salvation Army claims handling, Australia Eastern Territory* case study we noted that the PICC's stated objectives did not include the payment of money to claimants.²³⁶

Major Farthing told us that the committee initially adopted a legalistic approach where monetary compensation was involved. He said his predecessor, the secretary for personnel from 1998 to 2000, told him the general approach was that neither an apology nor an offer of compensation would be given until legal proceedings had commenced.²³⁷

Major Farthing also said that the main outcomes from the early committee process included reporting to police 'if appropriate', a written response to the complainant, a written apology, the offer of counselling and mediation, and/or reconciliation. He said that apologies and ex gratia payments to claimants started to emerge after a solicitor engaged by the Eastern Territory who had opposed apologies and ex gratia payments was removed from the decision-making process.²³⁸

By 2005, we understand, the Eastern Territory had adopted the following claims process, generally in this order:²³⁹

- A victim impact statement will be requested from the claimant when the claimant first contacts The Salvation Army.
- The Salvation Army will offer to pay for professional counselling for the claimant.
- The Salvation Army may also offer assistance by a psychologist or counsellor to prepare a victim impact statement.
- The claimant or his or her representative will submit a victim impact statement.
- PICC will consider the victim impact statement and may nominate an ex gratia payment amount for internal consideration.

- The Salvation Army's Professional Standards Office will undertake a basic investigation of the claim.
- A representative from The Salvation Army will meet with the claimant to 'hear their story' and to apologise to the claimant in person.
- Information provided by the victim at the meeting and from any investigation will be presented to PCCC in summary form.
- PCCC, chaired by the secretary for personnel, will apply the matrix and recommend (as appropriate) an ex gratia payment, an apology and counselling.
- The offer will be communicated in writing to the claimant, together with a written apology.
- If a complainant wishes to accept an ex gratia payment offer, he or she will be required to sign a deed releasing The Salvation Army from further liability.

In 2005, Major Farthing, then secretary for personnel, developed a matrix for calculating payments to claimants as part of the Eastern Territory's claims process.²⁴⁰ Previously, PCCC took an 'intuitive approach' to calculating the amount to be paid.²⁴¹

The matrix was divided into two parts. The first part provided for a payment of up to \$35,000 where a person was under 12 years old at time of admission into a home, was a resident there for more than three years and suffered from at least three of the listed types of treatment: deprivation of liberty, psychological or emotional abuse, physical assault, and cultural separation.²⁴²

The second part allowed for a payment of \$500 a day for 'isolation' and up to \$15,000 for indecent assault, \$30,000 for sexual assault, \$10,000 for profound impact and up to \$20,000 as the secretary for personnel's discretionary component. A payment of \$5,000 was allocated for counselling.²⁴³

Major Farthing acknowledged that assessment of particular parts of the matrix was 'intuitive'.²⁴⁴

The Southern Territory's Model Scheme

In or about the early 1990s, the Southern Territory started to receive complaints of child sexual abuse from former residents of its children's homes. At this time, the Southern Territory did not have in place any policies or procedures for responding to claims by residents in relation to child sexual abuse.²⁴⁵

In 1994 and 1995 the Southern Territory sought and received advice from law firm Nevett Ford about how it should respond to such claims.²⁴⁶ We found that there was no evidence that the Southern Territory adopted or implemented any of Nevett Ford's recommendations at those times.²⁴⁷

In 1997 the Southern Territory adopted a 'model scheme' (the Model Scheme) to compensate victims of child sexual abuse in Salvation Army homes.²⁴⁸ The Model Scheme was initially drafted by law firm Parker & Parker to address claims in relation to a Salvation Army officer (Smith), who was convicted of child sexual offences earlier that year. Following modifications by Nevett Ford, the Model Scheme was applied to all claims made to the Southern Territory in relation to child sexual abuse at Salvation Army institutions. Before this, each claim was dealt with on a case-by-case basis.²⁴⁹

We found that the Southern Territory's failure to develop a model scheme for resolving former residents' claims before 1997 undermined its ability to respond to those claims in a consistent manner.²⁵⁰

Under the Model Scheme, the assessment of claims has two parts: first, an initial assessment based on the provided documentation, and second, an assessment either during or after meeting with the claimant at an informal settlement conference.²⁵¹

Between 1997 and 2000, Nevett Ford acted for the Southern Territory in relation to six claims of abuse. It represented the territory in all claims from 2000. We heard that the reason The Salvation Army asked Nevett Ford to handle the claims was to ensure centralisation and consistency of the process.²⁵² The assessment of claims under the Model Scheme requires the exchange of information, the provision of medical reports and statements, and the claimant's attendance at a 'settlement conference'.²⁵³ On settlement of a claim, the Southern Territory requires all claimants to sign a deed of release.²⁵⁴ Following this, a written apology is provided to the claimant if they request it.²⁵⁵

Claimants' experiences of the Eastern and Southern territories' redress schemes

In this section we consider how those who made claims related to child sexual abuse experienced the relevant territory's redress scheme. We examined this issue in both *The Salvation Army claims handling, Australia Eastern Territory* and *The Salvation Army children's homes, Australia Southern Territory* case studies.²⁵⁶ In 2015 we published our *Redress and civil litigation* report, which drew on both of these case studies.²⁵⁷

In *The Salvation Army claims handling, Australia Eastern Territory* case study, we heard that between 1993 and 2013, 111 claims were made to the Eastern Territory. These included claims related to child sexual abuse at Bexley Boys' Home, Gill Memorial Home, Indooroopilly Boys' Home and Riverview Training Farm. Of these 111 claims, 92 resulted in a payment.²⁵⁸ The total amount paid to claimants from the four homes in this period was \$5,398,151.²⁵⁹

We considered the experiences of 10 survivors who made claims against the Eastern Territory. Most of these claimants reported that they were sexually abused in children's homes run by the Eastern Territory, though Mr Allan Anderson's claim related to physical (rather than sexual) abuse at Bexley Boys' Home,²⁶⁰ while JG and JD reported being sexually abused at a Salvation Army corps.²⁶¹ All these claims were considered by the Eastern Territory's Personal Injuries

Complaints Committee between 2003 and 2013.²⁶² However, three survivors, Mr Ralph Doughty, JD and JG, gave evidence that they lodged their complaints with The Salvation Army earlier than this.²⁶³

In *The Salvation Army children's homes, Australia Southern Territory* case study, we heard that The Salvation Army received 418 claims from former residents of Southern Territory–operated institutions between 1 January 1995 and 31 December 2014. It paid out a total of almost \$18 million. Unlike the claims data considered in *The Salvation Army claims handling, Australia Eastern Territory* case study, the Southern Territory's claims data was not limited to the institutions considered in the case study.²⁶⁴

We inquired into the experiences of a number of survivors of child sexual abuse at Southern Territory–run institutions, many of whom had made claims against The Salvation Army in or after 1997, when, we heard, the Southern Territory's Model Scheme was operating.

Not surprisingly, in both case studies we heard varied and at times conflicting evidence as to how survivors experienced the relevant territory's redress scheme. While we heard of occasions when survivors had a positive experience with an aspect of their claim, most reported being disappointed with their experience. Some told us that the territory's handling of their claim exacerbated the trauma they experienced as victims of child sexual abuse. In both case studies, we also heard from senior members of The Salvation Army regarding the development and intent of the relevant territory's redress scheme.

Concerns about process

The Eastern Territory

In *The Salvation Army claims handling, Australia Eastern Territory* case study a number of survivors, including JD and JG, told us that they were confused about the Eastern Territory's claims process.²⁶⁵

Major Daphne Cox, who worked as the Assistant Secretary for Personnel in the Professional Standards Office from 2004 to 2010, told us that standard letters were used to advise claimants of the nature of the process.²⁶⁶ In relation to the letter that he received, JF told us that:

Although Major Cox's letter said she'd take my complaint to the Committee, I wasn't really sure what the process was. I did not receive any further information or explanation about what was going to happen, apart from what was written in the letter.²⁶⁷

In a number of cases, we found that the Eastern Territory did not clearly indicate to claimants what steps it would take to discipline officers or members of The Salvation Army who were implicated by the claimants.²⁶⁸

The Southern Territory

In *The Salvation Army children's homes, Australia Southern Territory* case study we found that the Model Scheme was experienced by some claimants as legalistic.²⁶⁹ Many told us that they had little to no contact with The Salvation Army throughout the process and that communication was conducted through their legal representatives.

BMA told us that he did not recall 'receiving any explanation about how The Salvation Army would deal with my complaint or any documents about the process'.²⁷⁰ He described feeling disappointed in his meeting with The Salvation Army lawyers as he felt 'they just wanted to protect their organisation'.²⁷¹

Mr Steven Grant told us that he would 'not wish the experience of dealing with The Salvation Army on anyone. All the information went through the lawyers and nothing came directly from The Salvation Army'.²⁷² Mr David Reece told us that he was 'treated like a number'.²⁷³

We heard that law firm Nevett Ford conducted informal settlement conferences with the claimants (and their solicitors if they were represented) to discuss their allegations.²⁷⁴ A Southern Territory representative was not usually present at this conference. Mr Philip Brewin of Nevett Ford told us that in his experience this often enabled the claimant to feel more comfortable speaking about their criticisms of the Southern Territory and about the abuse. Despite this, some former residents told us that they would have liked to have a Southern Territory representative present to hear their experience and they were upset that the territory did not participate.²⁷⁵

We found that the Model Scheme failed some complainants because members of the Southern Territory were not routinely present at the settlement conferences and negotiations were conducted by their solicitors. We found that this may have conveyed the impression that the Southern Territory lacked interest in claimants.²⁷⁶

Mr Brewin told us that the Southern Territory generally offered counselling sessions to claimants who were not legally represented. He also told us that the Southern Territory agreed to pay for reasonable costs of counselling where a claimant was legally represented and a request for counselling was made. Several claimants told us that the topic of counselling was never raised with them and that counselling was never offered as part of any settlement.²⁷⁷

Concerns about investigations and assessments

The Eastern Territory

We heard that in addition to not communicating information about the process, the Eastern Territory did not communicate information about how payments and investigations would be handled. In *The Salvation Army claims handling, Australia Eastern Territory* case study, a number of claimants told us that they did not understand how their ex gratia payments were

calculated or the workings of the Personal Injuries Complaints Committee.²⁷⁸ For example, JF told us that he had no idea how the Eastern Territory arrived at its offer of \$30,000. He thought it was ‘pretty good’ at the time, but later considered it inadequate and said he knew people who received the same amount, but, unlike him, had not been raped.²⁷⁹ JE questioned whether the length of time a person was in The Salvation Army’s care should be a factor in calculating ex gratia payments (as was her experience). She said ‘even if the abuse only occurs for 5 minutes, it really stays forever’.²⁸⁰

We found that in a number of the claims, the Eastern Territory did not clearly explain to claimants the claims process to be followed by The Salvation Army, what matters should be addressed in a victim’s impact statement, the basis on which ex gratia payments were to be calculated, or whether like claims would be treated alike.²⁸¹

Further, we found that in a number of the claims examined, the Eastern Territory did not give the claimant an opportunity to respond to information obtained that was adverse to their claim, and made a low offer of an ex gratia payment, or reduced the amount to be offered, because of adverse information it had obtained during the investigation of the claim.²⁸²

We heard that the Eastern Territory’s investigation of claims was limited to ‘checking of the records of the person when they were in The Salvation Army’s care, the staff at that time etc’. However, the investigation of the claims made by JE, EF, JF and Ms Cheryl Eldridge went deeper.²⁸³ The outcome of those investigations had an effect on the ex gratia payment offered in some of those cases. In submissions, the Eastern Territory explained:

This is a difficult issue ... While The Salvation Army acknowledges the importance of allowing the survivor to respond to accounts that contradict their own, The Salvation Army is also mindful of not re-traumatising the survivors by conducting a process that is adversarial in nature and placing the survivor in a position where they feel they are not believed or that they need to defend their account of events.²⁸⁴

In the case of JF’s claim, we found that he was not given an opportunity by the Eastern Territory to reply to doubts about the factual basis of his claim raised by the alleged abuser, officer X18.²⁸⁵ We heard that JF was not even aware that X18 had been contacted about his claim.²⁸⁶

In relation to EF’s claim of abuse by Bennett, Major Farthing gave evidence that, as secretary for personnel, he ‘did not accept EF’s account on face value’ and agreed that ‘there seems to be ... a questioning of the veracity of’ EF’s claim.²⁸⁷ Here, we found that The Salvation Army offered a comparatively low ex gratia payment because Major Farthing and the Personal Injuries Complaints Committee considered that EF’s allegations were not proven.²⁸⁸

The Southern Territory

In our report on *The Salvation Army children's homes, Australia Southern Territory* case study, we concluded that in settling a claim, the Model Scheme considered factors that a lawyer engaged in personal injury litigation would usually consider before settling a claim for financial compensation.²⁸⁹ However, the amounts paid by the Southern Territory under the scheme did not aim to compensate claimants. Settlement amounts did not include a component for economic loss or medical expenses and, until 2014, were inclusive of legal fees. Claimants were also required to provide a psychological or psychiatric report, rather than a counsellor's report, in support of their claim.²⁹⁰

BML described his frustration at having to 'accurately convey information regarding traumatic childhood events'²⁹¹ and conduct his own investigation to provide evidence for his claim.

He said:

I felt so worn down by The Salvation Army's hard line approach and arrogance to my claim and to me, I had no choice but to settle my claim in the sum of \$15,000. I wrote on the Release they wanted me to sign that I was signing only under extreme duress. I felt angered and humiliated by having to take this offer. I am still angry that instead of The Salvation Army assisting me in tracking down the people who abused me and assisting me in establishing their true identities, I was frustrated, bullied, humiliated and disbelieved.²⁹²

BMA was critical of the way lawyers for the Southern Territory negotiated his compensation.

He said:

Initially, The Salvation Army lawyer offered me \$7,000 in compensation. I thought this was ridiculous. I felt that he was dictating to us without giving me the opportunity to express what I wanted from the process. It was all right for them to sit behind a table and tell me how much they thought my claim was worth, but I believed that it should have been us telling them what I needed in order to be compensated for what was done to me.²⁹³

Disappointment with apologies

The Eastern Territory

In *The Salvation Army claims handling, Australia Eastern Territory* case study, we heard that giving an apology to a claimant was an integral part of The Salvation Army's claims-handling process. Mr John Lucas, a victim advocate used by some claimants, told us that he felt that the apologies from The Salvation Army were genuine, recognised the suffering of a person and assumed responsibility for what had occurred.²⁹⁴ Major Daphne Cox told us that her apologies on behalf of the Eastern Territory were 'very, very sincere'.²⁹⁵

Despite this, we found that a number of the claimants were disappointed with the apology provided by the Eastern Territory.²⁹⁶ The reasons given for this disappointment included the lack of a personal apology, a failure to accept responsibility for abuse, a lack of genuineness, a lack of specificity about the conduct attracting the apology, and a lack of engagement with the claimant.²⁹⁷

In our *Redress and civil litigation* report, we recommended that an apology from the relevant institution be part of the minimum response an institution should offer and provide on request by a survivor. We also highlighted the importance of apologies as an element of redress and noted that apologies can have a significant impact on survivors. Survivors' accounts to us indicated that a genuine, effective apology can have a positive and healing impact, while other apologies can have negative impacts and potentially cause further harm.²⁹⁸

We also noted that one of the strongest themes in survivors' accounts was the importance of the institution taking responsibility for the wrong and the harm caused. Partial apologies – those which express sorrow but fail to take responsibility – can significantly limit the effectiveness of an apology.²⁹⁹

Major Farthing explained that apologies were one matter that the Eastern Territory had grappled with and that it was initially careful not to make unqualified admissions in any apologies because it was concerned about the legal implications. However, he said that it subsequently decided, in about 2005, to drop the use of qualifiers.³⁰⁰

Commissioner James Condon, Eastern Territory Territorial Commander, acknowledged that the Eastern Territory's apologies have been 'less than desirable' and 'inadequate'. He said that he wanted to 'get apologies right' and was committed to continuing to look at how The Salvation Army can do that.³⁰¹

Survivors JG and JD specifically sought apologies from the Eastern Territory for its handling of their initial complaints of child sexual abuse. As discussed above, JG and JD reported being sexually abused by Lane at a Salvation Army corps in the 1970s and 1980s. Both JG and JD told us that Colonel Stanley Everitt, South Queensland Divisional Commander, accused them of lying when they first disclosed the sexual abuse in 1992.³⁰²

In 2007³⁰³ and 2008³⁰⁴ JD and JG initiated separate claims with the Eastern Territory, in which they sought apologies for Colonel Everitt's handling of their complaints in 1992. While both received written apologies from The Salvation Army, and offers for counselling, they remained concerned that they had not received an apology from Colonel Everitt himself. JD told us that they 'basically built up his character and said that he's not a bad man, he just didn't know what to do'.³⁰⁵ This was evident in Major Farthing's correspondence to JD in August 2007:

Sometimes there was still a tendency to support the perpetrator and overlook the person who had been abused.

I suspect that if Lieut Colonel Everitt failed in any of these ways he was representative of his generation. This kind of failure was sadly not uncommon in Australian society and even Christian churches.

I am trying to be very frank with you here and to admit our failure. I do not excuse it. But I do not know that we will accomplish anything by further confrontation with Lieut Colonel Everitt. I believe what I have said explains his behaviour. He is not a bad man, but he certainly did not know how to properly assist you.³⁰⁶

The Southern Territory

In *The Salvation Army children's homes, Australia Southern Territory* case study we found that the Southern Territory's Model Scheme failed some claimants because the generic apologies provided by the Southern Territory before 2013 did not acknowledge and accept that abuse had occurred.³⁰⁷

We heard that The Salvation Army provided a written apology to the former resident if requested, on settlement of a claim.³⁰⁸ In their evidence, some survivors were critical of the generic nature of the apologies, including The Salvation Army's use of the phrase, 'what you say happened, should not have happened'.³⁰⁹ For example, survivor BMB told us:

The way the letter was worded, it seemed to me to say, 'if anything untoward did happen to you, then we are sorry'. I don't know if The Salvation Army even acknowledged that I was at Eden Park. I don't know if I can call this letter an apology or an acknowledgement.³¹⁰

Survivor BMS told us that he felt the letter of apology he received was 'completely insincere and insulting' and at no time did it accept or admit responsibility.³¹¹ Survivor Mr Steven Grant told us he was so offended by his letter of apology he returned it to The Salvation Army:

I had really wanted an apology from The Salvation Army. The letter of apology I received from The Salvation Army after the settlement was a joke. It wasn't an apology but just used words with no meaning. There wasn't any acknowledgement of wrongdoing by The Salvation Army. You could tell it was written by a lawyer. It meant nothing to me, so I sent it back.³¹²

Commissioner Tidd agreed that an important part of any apology was The Salvation Army's acknowledgment of the abuse. He accepted that the generic apologies that The Salvation Army provided to former residents did not satisfactorily acknowledge their experience of abuse.³¹³

Deeds of release and the effect of legal defences

The Eastern Territory

In *The Salvation Army claims handling, Australia Eastern Territory* case study, we heard that all the claimants who received an ex gratia payment from the Eastern Territory were required to sign a deed of release in order to receive the payment offered as part of the claims process.³¹⁴

We heard that the deed of release JF was asked to sign set out that The Salvation Army and others protected by the release did ‘not make any admissions of wrongdoing or liability’ to the claimant. It also required that both parties keep the ‘Agreed Sum’ confidential and that the claimant acknowledge ‘that he has had an opportunity to obtain independent legal advice in relation to this Deed’.³¹⁵ The deed of release that JF signed was almost identical to others signed by claimants we heard from, although in JE’s and FE’s cases a simpler ‘Acknowledgement and Release’ was used to similar effect.³¹⁶

JF, Ms Eldridge, JD, JG and FE gave evidence that before signing their deeds of release, they did not obtain legal advice. Some told us they did not even consider it or that they could not afford it in any case. Three claimants who said they had received legal advice after signing thought that the Eastern Territory had ‘conned’ them because they had been advised they could not commence civil proceedings. In their evidence, Major Robyn Smartt (who worked in the Professional Standards Office), Major Daphne Cox and Commissioner Condon said that they had expected that survivors would seek advice about the deeds of release from their legal advocates.³¹⁷

We found that the Eastern Territory required claimants to enter into a deed that released it from liability for the abuse suffered, without encouraging them to seek independent legal advice on the effect of the deed or offering them money for such advice. A number of claimants said that they had accepted the amount of money offered by The Salvation Army and signed the deed of release with a sense of resignation.³¹⁸

The Southern Territory

While technical legal defences, statutes of limitations and vicarious liability principles were not used to preclude settlements under the Model Scheme, Commissioner Tidd accepted that because the Southern Territory did rely on these in civil proceedings, lawyers representing claimants were required to advise their clients that such defences could potentially defeat any civil claims they might make.³¹⁹ This would have led to the impression that if they could not settle their claims at an informal settlement conference, the Southern Territory would rely on those defences to defeat any ensuing court proceedings. In *The Salvation Army children’s homes, Australia Southern Territory* case study, we were satisfied that this placed claimants at a disadvantage. Claimants may have been prepared to accept a settlement offer that they would not otherwise have accepted.³²⁰

Survivor Mr Ross Rogers told us that he settled his claim for compensation with The Salvation Army because he feared that the matter would go to the Supreme Court. He said:

The matter felt that it was going on for years and that it might incur extensive costs. Throughout the process I developed a desire to just have The Salvation Army take responsibility for what happened to me. I had assumed and expected that The Salvation Army would approach me and acknowledge me, what happened to me, and offer an apology. However this never happened. It was never even mentioned.³²¹

Survivor BMA described feeling intimidated when he spoke to 'The Salvation Army lawyer' about compensation. He said:

I was warned that I should accept the deal they put forward, because I was out of time and a personal attempt would cost me many dollars and I would certainly lose the case, so I took the deal.³²²

Survivor Mr David Wright told us in a statement that the mediation process left him feeling 'vulnerable and scared'.³²³ He said:

I attended a mediation with The Salvation Army in Melbourne. Whilst I had been quite defiant up until this point, after the mediation I saw the lawyer for The Salvation Army on TV. He appeared to be defending somebody up against many serious charges and I thought to myself that the lawyer for The Salvation Army seemed like a 'big gun', and I thought I did not want to try to test him in court and test the statute of limitations. It was all quite imposing, and I was scared that I would lose and end up having to pay costs of my lawyers and The Salvation Army's lawyers ... I only ever expected to get a few crumbs from the rich man's table, and that is what I got.³²⁴

Reporting to police

In *The Salvation Army children's homes, Australia Southern Territory* case study we considered the Southern Territory's reporting of child sexual abuse allegations to police in the context of redress. We heard conflicting evidence about whether, until 2014, the Southern Territory had a policy or practice of encouraging or advising claimants to report allegations of sexual abuse to police.³²⁵ We found that the Southern Territory and lawyers acting on its behalf did not always encourage claimants to report allegations of abuse to the police. We found this was particularly the case for survivors Mr Graham Rundle and BMJ, discussed below.³²⁶

Allegations that Mr Rundle was sexually abused at Eden Park Boys' Home came to the attention of The Salvation Army in 2000.³²⁷ In July 2001 The Salvation Army's Counsel, Mr Paul D'Arcy, advised the Southern Territory that it was not obliged to inform the police under the relevant legislative provisions given that Mr Rundle was an adult at the time the allegations were brought to its attention.³²⁸

On 18 July 2001, after receiving advice from counsel, Mr Brewin of Nevett Ford wrote to the Southern Territory:

Mr D’Arcy’s preliminary view is that the Army are not obliged to inform the police concerning the allegations and that it may be better to deal with the matter on an informal basis without encouraging Rundle to make a complaint to the police.³²⁹

Mr Brewin said he could not recall why he wrote that it was better to deal with Mr Rundle’s claim informally without encouraging him to report to the police. Mr Brewin said that while he did not encourage Mr Rundle to report the matter to police, when Mr Rundle wanted to know what the Southern Territory was doing about the alleged abuser, Mr Brewin told him that ‘he should take [it] up with the South Australia Police’.³³⁰

In an interview in December 2008 with Southern Territory officers and Mr Brewin, Captain David Osborne admitted to having indecently touched BMJ, a former Eden Park Boys’ Home resident. During *The Salvation Army children’s homes, Australia Southern Territory* public hearing, Commissioner Tidd agreed that there was no evidence that any person encouraged BMJ to report his allegations to the police.³³¹ He told us that there were those in the Southern Territory who felt that it was important to protect the reputation of The Salvation Army, and that a perpetrator’s admission may not have been shared with the police for fear of damaging The Salvation Army’s reputation.³³²

We were satisfied that the Southern Territory did not report Osborne’s admission that he had indecently touched BMJ to the police in 2008 or 2011. This was despite knowing that in 2008 BMJ had made sexual abuse allegations against Osborne and that in 2011 Osborne had been charged with sexual offences against Mr Steven Grant, another Eden Park Boys’ Home resident who had made a claim against the Southern Territory for sexual abuse.³³³ We concluded that in failing to always encourage claimants to report their allegations to police and in not reporting Osborne’s admission to police, the Southern Territory placed other children at risk of sexual abuse.³³⁴

As noted, during *The Salvation Army children’s homes, Australia Southern Territory* public hearing, Commissioner Tidd agreed that at the time of operation of the children’s homes and subsequently, Salvation Army Southern Territory members received complaints of child sexual abuse that were not passed on to the police. We found that this had the effect of concealing child sexual abuse and protecting alleged perpetrators.³³⁵

14.4 Contributing factors in The Salvation Army

During our inquiry we considered the factors that may have contributed to the occurrence of child sexual abuse in religious institutions and to inadequate responses to child sexual abuse by those institutions. During the *Institutional review of The Salvation Army* hearing in December 2016, we explored these factors in relation to child sexual abuse in Salvation Army institutions, particularly its children's homes.

We identified some contributing factors broadly associated with the operation of children's residential institutions. When combined with the particular structure, culture and regulation of The Salvation Army, children were at significant risk of being sexually abused in residential institutions managed by The Salvation Army. These and other factors also contributed to The Salvation Army's inadequate responses to allegations of child sexual abuse.

We note that The Salvation Army held a roundtable discussion, independent of the Royal Commission, on 13 February 2015, to consider the question, 'Why did sexual abuse happen in The Salvation Army children's institutions?'.³³⁶ The roundtable participants included senior staff of The Salvation Army, experts in child safety, academics including criminologists and social workers, and representatives from the survivor organisations Bravehearts and Broken Rites.³³⁷ Some of the themes discussed in the roundtable report were further explored in our *Institutional review of The Salvation Army* hearing, and the report has assisted to inform the following section.

While our discussion of contributing factors is framed in terms of Salvation Army residential institutions, those factors related to organisational culture apply more broadly to other types of institutions run by The Salvation Army.

14.4.1 The environment in historical residential care institutions

As set out in Volume 11, *Historical residential institutions*, and Volume 12, *Contemporary out-of-home care*, children in out-of-home care are especially vulnerable to abuse for several reasons. In Volume 11, we discuss the features of children's residential institutions in Australia before 1990, and the historical context in which the institutions operated, that rendered children extremely vulnerable to many forms of abuse. As noted, The Salvation Army ran a significant number of these residential institutions for children.

Resourcing constraints

During the *Institutional review of The Salvation Army* hearing, we heard that Salvation Army institutions were subject to resourcing constraints that affected the quality of care provided to children and may have contributed to conditions that increased the risk of child sexual abuse.

Major David Eldridge, a retired Salvation Army officer explained:

the need to perform within a particularly tight budget led to young people not being fed adequately or cared for adequately, and it also meant that the staff numbers were low in terms of the ratio of staff to residents ...³³⁸

He told us that a manager's performance was assessed on their ability to keep a home running within this limited budget. He also said:

The food was often bolstered by food that was, in a sense, begged from local grocery stores or fruit shops.

I think that the dietary issues were not well addressed; that food wasn't plentiful. I think that the conditions, particularly in the boys' homes, around adequate numbers of blankets, the conditions of the buildings, were not good.³³⁹

Staff turnover was high and homes were often understaffed.³⁴⁰ Staff shortages meant The Salvation Army had a limited capacity to supervise and care for individual children.³⁴¹ Poor living and working conditions were exacerbated by the quality of officers and staff that The Salvation Army attracted. This was in part due to financial constraints and poor remuneration. Major Eldridge told us that:

Officers' allowances have all been, in the past, comparatively low. Staff were not well paid, as well. I think that that meant that you weren't recruiting the best people for the homes ... if there was a good Salvationist who would work in the home, or a Christian, that was the selection process, I think.³⁴²

Staff training and practices

In addition to being understaffed, we heard that a lack of sufficiently trained staff affected The Salvation Army's ability to prevent and respond to child sexual abuse in its children's homes.³⁴³ In *The Salvation Army boys' homes, Australia Eastern Territory* case study, we heard that staff who arrived at homes were put to work without any training in relation to the indications, investigation or handling of child sexual abuse. Generally they had been transferred to the homes from elsewhere in The Salvation Army without going through a selection process or background check.³⁴⁴ We found that between 1965 and 1977 The Salvation Army failed to provide sufficient appropriately trained staff at Indooroopilly Boys' Home, Riverview Training Farm, Bexley Boys' Home and Gill Memorial Home to ensure an environment that was suitable for the care and safety of children.³⁴⁵

As discussed in Section 14.3.1 above, in 2015 The Salvation Army's Walker report presented findings on the Southern Territory's historical responses to child sexual abuse and the institution's failings. The report referred to a definite lack of training, policies and procedures in past practices in the way children's homes were operated. It said that there was inadequate training and knowledge in place about the occurrence of child sexual abuse, how to detect it and how to manage issues as they arose. It also found that the Southern Territory failed to make provisions in its organisational structure for an appropriately qualified and experienced person, or persons, to deal with claims of child sexual abuse. The report concluded that this was both a systemic and a cultural failing.³⁴⁶

A lack of child-specific training and social service experience extended beyond officers and staff in residential institutions to those in leadership positions. In the *Institutional review of The Salvation Army* hearing, we heard that leadership positions were predominantly filled from 'the church side', meaning officers, rather than individuals experienced in social services.³⁴⁷ We received into evidence a document prepared by Major Eldridge outlining the evidence he would give in the *Institutional review of The Salvation Army* hearing. In that document Major Eldridge said that in The Salvation Army Training College:

the primary focus of the curriculum was on equipping people for Corps leadership and, in the past, those without the attributes to lead a Corps were appointed to serve in the Social Department. This led to a sense within the organisation that Social Officers were 'second class citizens'.³⁴⁸

Further, in *The Salvation Army case studies*, we heard that the children's homes failed to keep records of personnel and failed to report allegations of child sexual abuse.³⁴⁹ Inadequate or non-existent complaint handling policies meant that allegations made against officers and staff at the children's homes were often not recorded. Those in The Salvation Army responsible for transferring officers were not always aware of previous allegations and complaints made against those officers. Poor recordkeeping and the common practice of transferring officers every two to four years created greater opportunity for perpetrators to sexually abuse children in The Salvation Army homes.³⁵⁰

During the *Institutional review of The Salvation Army* hearing, Commissioner Tidd told us that The Salvation Army's social service programs are now 'much more professionalised'.³⁵¹ We also heard from Major Eldridge that 'the people who run the facilities are qualified social workers, experienced social workers, not a predominance of Salvationists'.³⁵²

Limited government oversight

Limited government oversight and poor external accountability of those running The Salvation Army's children's homes contributed to the poor living conditions, and ongoing mistreatment and physical and sexual abuse of the children in those homes.

In *The Salvation Army children's homes, Australia Southern Territory* case study, we found there was limited interaction between government authorities and the children in the homes. We concluded that the Victorian Government had statutory oversight of and responsibility for the Bayswater and Box Hill boys' homes but did not inspect them with the required frequency.³⁵³ Further, records indicated that the focus of inspections was the physical environment, with only general observations made on residents' wellbeing.³⁵⁴ In *The Salvation Army boys' homes, Australia Eastern Territory* case study, we concluded that the limited contact between officers of the NSW Department of Child Welfare and residents in the homes was a factor that led to sexual abuse not being considered as a cause for the absconding of boys from Bexley Boys' Home in 1974.³⁵⁵

In other cases we found that the relevant government bodies were aware of the physical and sexual abuse of children but failed to investigate.³⁵⁶ In *The Salvation Army boys' homes, Australia Eastern Territory* case study, Ms Janice Doyle, a former officer of the Queensland Department of Children's Services, told us that one Salvation Army boys' home remained open, despite the department's knowledge of frequent sexual activity, including occasions of rape, because the 'Minister was reluctant to move against an institution run by any religious organisation'.³⁵⁷ This is discussed further in Chapter 18, 'Responses of other key institutions to child sexual abuse in religious institutions'.

14.4.2 Organisational culture

I think a culture emerged about the exercise of power, and I think that, unchecked, it opens up not only physical abuse, but opportunities for sexual abuse of children.³⁵⁸

The Salvation Army has come to terms with the reality that our reputation does not need to be protected; children need to be protected; and, in doing so, the reputation of The Salvation Army will take care of itself. Doing that which is right for survivors and for children, creating safe environments, will look after the reputation.³⁵⁹

Major David Eldridge, retired Salvation Army officer

It was evident in *The Salvation Army case studies* that the managers of The Salvation Army institutions that we examined wielded absolute authority over the children in their care. The children, many of whom were placed in institutions because of a family crisis or hardship, were devalued and disempowered. This increased their vulnerability to abuse. In the *Institutional review of The Salvation Army* hearing, Commissioner Tidd agreed that extreme power and vulnerability had coexisted in Salvation Army institutions, creating a 'strong foundation stone' for abuse and an ever-present opportunity for it to occur.³⁶⁰

Leadership

The Salvation Army is a hierarchical movement and has been since its earliest days and will likely always be by virtue, to some degree, of its military metaphor. I think there are significant risks inherent in that, that we have seen in the past. I think there also is the opportunity for a stronger option for cultural change because of the hierarchical element. It's not a constituency voting in a democracy. There's a directive that can be given.³⁶¹

Commissioner Floyd Tidd, National Commander, The Salvation Army Australia

As discussed above, The Salvation Army operated in accordance with a strict hierarchical management structure which meant that managers had absolute authority in Salvation Army children's homes.³⁶²

In *The Salvation Army boys' homes, Australia Eastern Territory* case study, we found that between 1965 and 1977, the four boys' homes we examined were each headed by a manager with a very high degree of control over the residents, other officers and staff at the home.³⁶³ We also found that in the same period, the divisional and territorial headquarters of The Salvation Army had a practice of referring to the home's manager all complaints about that manager made by residents or subordinate officers.³⁶⁴ In some of these cases, the manager was himself the subject of child sexual abuse complaints.

During *The Salvation Army boys' homes, Australia Eastern Territory* case study, Mr Mark Stiles, a former resident of Gill Memorial Home, told us of his physical abuse by the then manager, Captain Wilson:

In my experience I could not rely on any of the other officers to intervene to protect me. Captain Wilson had ultimate authority at the home, and I believe that the other officers were scared of him. Wilson was the authoritarian, so dished out most of the physical beltings.³⁶⁵

The absolute authority given to local managers of Salvation Army homes discouraged dissent and significantly limited the degree to which they were held accountable. Subordinate officers and staff did not challenge the managers about the abuse for which they were responsible, or their response to complaints, and there was no higher authority from whom children could seek help.

In addition to the fact that children in these homes were generally not listened to if they complained, we heard that the view of Salvation Army officers as ‘good Christian’ men and women resulted in people not recognising their behaviour as abusive, or not believing that they could be abusive.³⁶⁶ In the *Institutional review of The Salvation Army* hearing, Commissioner Tidd agreed that elements of ‘clericalism’ may have applied in The Salvation Army.³⁶⁷

In addition to the absolute authority invested in managers through The Salvation Army’s hierarchical structure, our inquiries revealed an absence of specific policies and procedures for responding to complaints of child sexual abuse in Salvation Army homes before 1990.³⁶⁸ While both the Southern and Eastern territories were guided by the *Orders and regulations*, Commissioner Tidd told us that ‘the failure of The Salvation Army to implement many of the *Orders and regulations* which governed the officers and staff who worked at the homes contributed to the opportunity for sexual abuse’.³⁶⁹

In the *Institutional review of The Salvation Army* hearing, we heard that The Salvation Army has taken measures to improve complaint handling in The Salvation Army’s hierarchical structure. Commissioner Tidd told us that the Southern Territory has introduced pathways to raising complaints or concerns, outside the chain of command. These include:

- the Professional Standards Unit, an independent body outside The Salvation Army hierarchy
- employing in senior positions non-Salvation Army individuals who are outside the organisation’s hierarchy
- providing members with direct access to The Salvation Army’s senior leaders.³⁷⁰

Despite these changes, the style of management in The Salvation Army remains at the discretion of the Commissioner. Major Eldridge told us that although ‘a more collaborative’ approach has been taken to hierarchical management in recent years, there has been no formal structural change to management and nothing to prevent a Commissioner reverting to the rigid hierarchy observed in the 1950s and 1960s.³⁷¹ While The Salvation Army no longer operates the type of large residential institutions for children that existed in the 20th century, it still provides services for children around Australia.³⁷²

Devaluing children

In the *Institutional review of The Salvation Army* hearing, Major Eldridge agreed that the culture in Salvation Army children's homes was one where children were devalued.³⁷³ We have no doubt that such a culture increased their vulnerability and created the opportunity for them to be treated inhumanely, including by being physically and sexually abused both by staff and other children.

This culture was reflected in the survivor accounts we heard during *The Salvation Army case studies*. Many former residents of Salvation Army homes described incidents of brutal sexual abuse, which was at times accompanied by extreme physical punishment.³⁷⁴ Often, the punishment meted out by Salvation Army officers appeared to be designed to degrade and humiliate the children. For example, in *The Salvation Army boys' homes, Australia Eastern Territory* case study, a number of former residents described being locked in a 'cage' as punishment, often for small misdemeanours.³⁷⁵ We heard that one resident was chained to a tree via a metal collar and another was dangled headfirst into a well, his ankles bound with rope.³⁷⁶ In *The Salvation Army children's homes, Australia Southern Territory* case study, we heard of children being locked in small, sometimes windowless, rooms for long periods.³⁷⁷ One resident recalled that boys were made to stand with their hands above their heads for hours.³⁷⁸ Another recalled being thrown into a large skip bin used for 'pig slops' and being told that 'this is where garbage like you belong and end up'.³⁷⁹

We heard that residents were made to feel worthless and ashamed. Some recall being called names including 'filthy little beast',³⁸⁰ 'dirty little bugger'³⁸¹ or 'ungrateful little bastard'³⁸² during violent physical or sexual assaults. A number of survivors told us that they believed their treatment by Salvation Army officers was intended to 'break them' or 'break their spirits'.³⁸³ During private sessions we heard similar accounts from people who told us they were sexually abused as children in Salvation Army institutions. Some told us they believed their treatment by The Salvation Army was intended to save or redeem them.

The environment of extreme power and vulnerability that existed in Salvation Army homes created a fear of disclosure among children abused by officers, staff and other residents, which enabled the abuse to continue. In *The Salvation Army boys' homes, Australia Eastern Territory* case study, we found in most cases that boys who disclosed sexual abuse to the manager or another officer were punished, disbelieved or accused of lying, or that no action was taken. We also found that many boys who were sexually abused did not disclose the abuse to anyone because they were scared of punishment by the officers or did not think they would be believed.³⁸⁴ Similarly, in *The Salvation Army children's homes, Australia Southern Territory* case study, we found that many former residents of the Southern Territory institutions did not disclose sexual abuse at the time it occurred because, among other reasons, they were threatened with physical harm. We were also satisfied that some former residents were physically punished after telling Salvation Army officers or employees about being sexually abused and that this stopped them from disclosing any further incidences of abuse.³⁸⁵

This was acknowledged by Major Eldridge during the *Institutional review of The Salvation Army* hearing, in the following exchange with Senior Counsel Assisting:

Q. ... the children were treated in such a way that it would be very surprising if they had the courage to speak up?

A. Yes.

Q. Because there would be fear of retribution?

A. Yes.

Q. There would be fear that they wouldn't be believed?

A. Yes.

Q. And both of those fears were real?

A. Absolutely.³⁸⁶

‘Muscular Christianity’

One of the factors identified in The Salvation Army's roundtable report was termed ‘muscular Christianity’, which it described as a guiding theory by which Men's Social Services (services run by male officers for men and boys) ran Salvation Army boys' homes.³⁸⁷ In his written outline of evidence, Major Eldridge described ‘muscular Christianity’ as a commitment to piety and physical health, which brought together ‘energetic evangelism and vigorous masculinity’.³⁸⁸

A letter sent by Commissioner Condon to us on 29 May 2015 described the damage this culture caused to the boys in Salvation Army homes:

The culture of The Salvation Army in the Men's Social Services supported harsh physical treatment of boys ... ‘Muscular Christianity’ obscured the emotional needs of the boys and denied a psychological understanding of them as vulnerable young people traumatised by separation from family.³⁸⁹

We heard that the practice of ‘muscular Christianity’ led to boys' homes being treated more like reformatories than out-of-home care facilities. In the *Institutional review of The Salvation Army* hearing, Major Eldridge told us that this attitude contributed to higher rates of physical and sexual abuse in the boys' homes:³⁹⁰

Men's Social Department institutions were very much focused on reform and modelled, in some ways, on reformatories, so they did have a very negative view of the young people who came in there. They viewed them as people needing reforming, needing to be corrected, needing to have attitudes dealt with and changed.³⁹¹

In his written outline of evidence, Major Eldridge told us that the focus on reform promoted an aggressively interventionist approach from staff, where physical punishment was used to discipline and rationalised as necessary to ‘make men’ of the boys and to instil ‘good morals and right feelings’.³⁹²

Concern for institutional reputation

A factor in inadequate responses to allegations of child sexual abuse that we have found to be common across religious organisations and institutions has been a concern for the reputation of the organisation. As discussed above, The Salvation Army often did not report officers who were alleged to have sexually abused children to the police or other external agencies. During *The Salvation Army children’s homes, Australia Southern Territory* case study, Commissioner Tidd gave evidence that:

there were those within [The Salvation Army Southern Territory] who felt that it was important to protect the reputation of The Salvation Army, and the reason why a perpetrator’s admission was not shared with the police may have been for fear of damaging The Salvation Army’s reputation.³⁹³

According to The Salvation Army’s roundtable report, the organisation’s desire to protect its reputation was in part financially motivated: ‘So much of The Salvation Army operations depended on community and Government financial support ...’.³⁹⁴ The report concluded that the concern for the organisation’s reputation contributed to the continuation of the abuse in its children’s homes: ‘The good reputation of The Salvation Army, and the need to protect that reputation, discouraged accountability and criticism of the standard of care in the institutions’.³⁹⁵ This finding was accepted by Commissioner Tidd during the *Institutional review of The Salvation Army* hearing.³⁹⁶

Commissioner Tidd told us that the reputation of The Salvation Army is no longer prioritised over the interests of children. He told us that the Southern Territory’s Keeping Children Safe Policy is ‘built on two key premises. The first is that every incident of abuse must be reported, and the second is that the interest of a child always comes before anyone else or the institution’.³⁹⁷ The Keeping Children Safe Policy is discussed further in Chapter 20.

14.5 Conclusions about The Salvation Army

The accounts we heard during our case studies of the abuse of children in Salvation Army residential institutions are profoundly disturbing. We heard that vulnerable children were preyed upon by those responsible for their care, as well as by other abused and traumatised children. Such abuse was not inevitable, but resulted from the failures of individuals, including many in positions of authority and leadership.

The failure of Salvation Army personnel and leaders to respond appropriately and with compassion when victims had the courage to disclose their experience of abuse is appalling. We found that in many instances, despite having in place policies and procedures to deal with the discipline of officers and appropriate conduct in relation to children, The Salvation Army failed to follow them. As a consequence, The Salvation Army failed to protect children in its care.

In 2015, the internal report by Mr Walker documented The Salvation Army's failures in relation to the protection of children, including failing to adequately implement policy, practices and procedures to protect children from child sexual abuse; to identify situations where children were at risk; to fully investigate claims of child sexual abuse; and to appropriately respond to claims of child sexual abuse. The report also found that the organisation 'inadvertently' facilitated the concealment of child sexual abuse.

We found that The Salvation Army left some alleged perpetrators in positions where they had access to children, despite multiple complaints that they had sexually abused children in their care. Some were transferred to other Salvation Army institutions. While some alleged perpetrators were dismissed from officership in The Salvation Army because of allegations of child sexual abuse, in some cases this was undermined by their later readmission to The Salvation Army. Allegations of child sexual abuse against Salvation Army personnel appear to have been reported to police or other civil authorities by The Salvation Army on only a few occasions.

Victims of child sexual abuse in Salvation Army homes who disclosed that they had been abused were frequently punished, disbelieved or accused of lying, or no action was taken in response to their disclosures. In some cases victims who disclosed sexual abuse were physically punished or further abused as a result. Many survivors who later sought redress, including apologies, from The Salvation Army were disappointed or further traumatised by the manner in which their claims were handled.

We considered a number of factors that may have contributed to the occurrence of child sexual abuse in Salvation Army institutions, or to an inadequate institutional response to such abuse. Some of these factors were broadly associated with the operation of children's residential institutions up to the 1990s. This included resourcing constraints that affected both staffing levels and living conditions, in turn affecting the quality of care provided to children. Staff were inadequately trained and complaint handling policies were inadequate or non-existent. Further, there was limited government oversight and poor external accountability of those running The Salvation Army residential institutions.

Other contributing factors related to aspects of the organisational culture in which managers of Salvation Army institutions wielded absolute authority over the children in their care. The hierarchical management structure of The Salvation Army contributed to an inadequate response to child sexual abuse. Subordinate officers and staff did not challenge managers about the abuse which they perpetrated, or their response to complaints of child sexual abuse, and children did not have a higher authority from whom to seek help. Within this organisational culture, children were devalued and often treated harshly.

Finally, as was common across many religious institutions, underpinning The Salvation Army's responses to allegations of child sexual abuse was a concern for the reputation of the organisation.

We note that in December 2014 The Salvation Army convened a National Professional Standards Council to provide a national perspective on all matters pertaining to issues of child sexual abuse and other forms of abuse. The Salvation Army Southern and Eastern territories will form one national territory by January 2019.³⁹⁸ According to Commissioner Tidd, at this point it is intended that all policies and procedures will be uniform across Australia.³⁹⁹ In Chapter 20, we discuss The Salvation Army's work establishing a national territory in more detail.

In Part E, 'Creating child safe religious institutions', we make recommendations that should be considered by all religious organisations in Australia, including The Salvation Army. We recommend that religious organisations adopt the Royal Commission's 10 Child Safe Standards as nationally mandated standards for each of their affiliated institutions and drive a consistent approach to the implementation of those standards. The Child Safe Standards articulate the essential elements of a child safe institution and set benchmarks against which institutions can assess their child safe capacity and set performance targets. We also make recommendations with respect to leadership, governance, training and complaint handling that are relevant to some of the contributing factors we identified in The Salvation Army.

Endnotes

- 1 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 5: Response of The Salvation Army to child sexual abuse at its boys' homes in New South Wales and Queensland*, Sydney, 2015.
- 2 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 10: The Salvation Army's handling of claims of child sexual abuse 1989 to 2014*, Sydney, 2015.
- 3 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 33: The response of The Salvation Army (Southern Territory) to allegations of child sexual abuse at children's homes that it operated*, Sydney, 2016.
- 4 Exhibit 5-0001, 'Caring for Children – A history of institutional care provided by The Salvation Army for Australian children and youth (1893–1995), prepared by Dr Sharon Cleland', Case Study 5, IND.R-001331.PS.0057_R at 0062_R.
- 5 Exhibit 49-0001, 'Statement of Commissioner Floyd John Tidd', Case Study 49, TSAS.0014.001.0001 at 0014; Exhibit 49-0006, 'Statement of Lt Colonel Christine Reid', Case Study 49, STAT.1281.001.0001 at 0003–0009.
- 6 Senate Community Affairs References Committee, *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children*, Parliament House, Canberra, 2004, p 183.
- 7 Senate Community Affairs References Committee, *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children*, Parliament House, Canberra, 2004, p 183.
- 8 Family and Community Development Committee, *Betrayal of trust: Inquiry into the handling of child abuse by religious and other non-government organisations*, Parliament of Victoria, Melbourne, 2013, p 157.
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15 Jehovah's Witnesses

In July 2015, the Royal Commission held a public hearing inquiring into the responses of the Jehovah's Witness Church (Jehovah's Witness organisation) and its corporation, the Watchtower Bible and Tract Society of Australia Ltd (Watchtower Australia), to allegations, reports or complaints of child sexual abuse. The case study explored in detail:

- the experiences of two survivors of child sexual abuse in the Jehovah's Witness organisation and the response of the organisation to the survivors' complaints
- the systems, policies and procedures in place in the Jehovah's Witness organisation for raising and responding to allegations of child sexual abuse and for the prevention of child sexual abuse within the organisation.

Our findings are set out in the report on *Case Study 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse (Jehovah's Witnesses)*, which was published in October 2016.¹

In March 2017 we held a further public hearing in relation to the Jehovah's Witness organisation in *Case Study 54: Institutional review of Church of the Jehovah's Witnesses and its corporation, the Watchtower Bible and Tract Society of Australia (Institutional review of the Jehovah's Witnesses)*. This hearing provided the Jehovah's Witness organisation with an opportunity to inform us of its current policies and procedures in relation to child protection and child safe standards, including responding to allegations of child sexual abuse.

In addition to the matters examined in the *Jehovah's Witnesses* case study and *Institutional review of the Jehovah's Witnesses* hearing, as of 31 May 2017 we had heard in private sessions from 70 survivors who told us about child sexual abuse in the Jehovah's Witness organisation.

In this chapter, where we refer to the policies and procedures of the Jehovah's Witness organisation, they are those available to us at the time of the *Institutional review of the Jehovah's Witnesses* public hearing.

15.1 Structure and governance of the Jehovah's Witness organisation

15.1.1 Establishment

The Jehovah's Witness organisation is a millenarian group – that is, it believes that the end of the world and the establishment of a new world order is imminent. It was founded in Pennsylvania, United States, by a small group of Bible students led by Charles Taze Russell (1852–1916).² Russell had become disillusioned with mainstream Christianity, believing it had strayed from the 1st century vision of Christianity described in the Bible.³

Between 1870 and 1879, Russell distributed his views through a newsletter called *Zion's Watch Tower and Herald of Christ's Presence*. By 1880, Russell's publications had helped to expand the movement to 30 congregations across the United States, and in 1884 the Zion's Watch Tower Tract Society, which was managed by Russell, was given legal charter. The society was principally responsible for carrying on the business of publishing and disseminating millenarian literature.⁴ In 1896 the Zion's Watch Tower Tract Society changed its name to the Watch Tower Bible and Tract Society; since 1955, it has been known as the Watch Tower Bible and Tract Society of Pennsylvania.⁵ In 2017, *The Watchtower* is published monthly in over 200 languages.⁶

Following Russell's death in 1916, he was succeeded as leader of the organisation by Joseph Franklin Rutherford (1869–1942), a lawyer who had financed his legal studies as a door-to-door encyclopedia salesman.⁷ Academic George Chryssides, in *Jehovah's Witnesses: Continuity and Change*, noted that Rutherford was responsible for many of the features associated with the Jehovah's Witnesses to this day, including house-to-house visits.⁸ In 1931, he gave his followers the new name of 'Jehovah's Witnesses'.⁹

Chryssides stated that the Jehovah's Witness organisation has 'moved from being a literature distribution organisation to a worldwide religious organisation that claims to be the sole purveyor of "the truth" and the only means of salvation'.¹⁰

At the time of the *Jehovah's Witnesses* public hearing in 2015, there were more than 8.2 million active Jehovah's Witnesses worldwide.¹¹

15.1.2 Structure

The Watch Tower Bible and Tract Society of Pennsylvania

The primary legal entity used by the Jehovah's Witness organisation today is the Watch Tower Bible and Tract Society of Pennsylvania (Watchtower Pennsylvania).¹² Jehovah's Witnesses refer to the world headquarters as 'Bethel', meaning 'house of God'.¹³

The Governing Body

The activity of Jehovah's Witnesses around the world is overseen by the Governing Body, a council of senior male elders based at the world headquarters, in the United States. It sits at the apex of the Jehovah's Witness organisation's highly centralised and hierarchical structure.¹⁴

The Governing Body is considered to be the representative of Jehovah (God) on earth. It is responsible for providing definitive scriptural interpretation of the Bible to Jehovah's Witnesses, developing and disseminating the organisation's policies, and 'giving direction and impetus to the Kingdom Work' in all matters.¹⁵ This includes policies on child sexual abuse.¹⁶

The teachings and direction of the Governing Body are published in the *Awake!* and *The Watchtower* magazines, letters containing directives to branch offices and elders, handbooks and other publications.¹⁷ Jehovah's Witnesses believe that the teachings promulgated by the Governing Body are 'based on God's Word'. Devotees are expected to adhere to all doctrines that the Governing Body establishes through its interpretation of the Bible. Branch committees and congregational leaders in each country or region oversee the implementation of that doctrine.¹⁸

During the *Jehovah's Witnesses* public hearing, we heard evidence from Mr Geoffrey Jackson, then one of the seven members of the Governing Body.¹⁹ Mr Jackson said that the Governing Body is 'a spiritual group of men who are the guardians of our doctrine' and that the primary role of the Governing Body is to interpret the scriptures.²⁰ Decisions of the Governing Body typically require unanimous agreement from the members.²¹ Mr Jackson told us that all policies of the Jehovah's Witness organisation are subject to scriptural principles and that the Governing Body approves all policies to ensure that they are in keeping with the scriptures.²²

Branch offices

A branch office is the headquarters of the Jehovah's Witness organisation in a particular country or region, and is also referred to as 'Bethel'. Each branch office is supervised by a branch committee, which oversees districts in the branch. Branch committee members are appointed by the Governing Body. The Governing Body oversees more than 90 branch offices worldwide, providing 'unified theocratic direction to Branch and Country Committee members worldwide'.²³

Congregations

Congregations are the basic organisational unit of the Jehovah's Witness organisation.²⁴

Congregations are organised into groups of about 20, known as 'circuits'. Branch offices are represented in their geographic area by 'circuit overseers', male elders who have pastoral responsibility for the congregations in their circuit. A circuit overseer travels weekly to different congregations in his circuit and his responsibilities include ensuring that each congregation is complying with all theocratic direction from the Governing Body. Circuit overseers are appointed by the Governing Body.²⁵

Jehovah's Witnesses worship and praise Jehovah by attending organised meetings and Bible studies, and engaging in 'field service' (door-to-door preaching). Jehovah's Witnesses meetings are generally held at a place of worship referred to as the 'Kingdom Hall'. Each month the Governing Body publishes an issue of *The Watchtower* magazine, which contains four or five articles for the global congregations to study during the month.²⁶

Elders and ministerial servants

Each congregation is overseen by a body of elders. Elders are appointed to 'shepherd' the congregation, and to oversee spiritual matters. Their primary responsibilities include organising fieldwork (door-to-door preaching), running congregational disciplinary committees, leading the congregation services and Bible studies, and attending to the pastoral care of the congregation.²⁷

Ministerial servants predominantly provide administrative support and practical assistance to the elders and service to the congregation. They perform organisational tasks such as acting as attendants at congregation meetings, handling sound equipment, distributing literature, and managing congregation accounts and general maintenance at the Kingdom Hall.²⁸

Congregational responsibilities are split between elders and ministerial servants. The Jehovah's Witness organisation does not have a salaried clergy and therefore considers that it has no employees. Appointment to the position of ministerial servant or elder is based on meeting scriptural qualifications, and there is prescriptive guidance as to how elders and ministerial servants should serve, act and behave at all times.²⁹

Before it announces the appointment of an elder, the Jehovah's Witness organisation requires that the candidate obtain a Working With Children Check in Australian states and territories where it is required.³⁰

In accordance with the Jehovah's Witness organisation's beliefs, women are not able to qualify to be elders or ministerial servants.³¹

15.1.3 The Jehovah's Witness organisation in Australia

Jehovah's Witnesses have been in Australia since 1896. The first Jehovah's Witnesses branch office was established in Australia in 1904.³² In 2015, at the time of the *Jehovah's Witnesses* public hearing, there were 821 Jehovah's Witnesses congregations in Australia, with over 68,000 active members. This represents 29 per cent growth in membership since 1990, when there were about 53,000 active members.³³

The Australia Branch Office is responsible for all congregations in Australia.³⁴ Its work is overseen by the Governing Body.³⁵ Structures in the Australia Branch Office are:

- the Branch Committee, an ecclesiastical body of 12 full-time elders, which oversees and manages the operation of the Australia Branch Office³⁶
- the Legal Department, which provides legal advice to elders, including in relation to mandatory reporting requirements³⁷
- the Service Department and Desk, which cares for all aspects of the spiritual activities of the Jehovah's Witness organisation.³⁸

The Jehovah's Witness organisation's legal entity in Australia is the Watchtower Bible and Tract Society of Australia Ltd (Watchtower Australia). Watchtower Australia facilitates the production and distribution of Bible-based literature for the Jehovah's Witness organisation throughout Australasia. Watchtower Australia is a public company limited by guarantee and is a registered charity.³⁹ Each congregation in Australia is, in the legal sense, a voluntary association and a separately registered charity.⁴⁰

15.1.4 Beliefs and practices

The Kingdom of God and the 'last days'

Jehovah's Witnesses believe that the Kingdom of God is a real government in heaven, not a condition in the hearts of Christians. They believe that Jesus rules as king in heaven, and that 144,000 people will be resurrected to rule with him.⁴¹ Jehovah's Witnesses believe that one day the Kingdom of God will replace human governments and accomplish God's purpose for the Earth.⁴²

Jehovah's Witnesses believe that we are living in the 'the last days' of the current world order.⁴³ They believe that Jesus will then judge the living and the dead,⁴⁴ and that those receiving favourable judgment will enjoy everlasting life in paradise on Earth.⁴⁵ Those who choose to rebel against God will be permanently destroyed.⁴⁶

Evangelism

The Jehovah's Witness organisation places significant emphasis on the requirement for its members to evangelise (convert or seek to convert) others to glorify Jehovah. Jehovah's Witnesses are instructed to go and make disciples of all people. We heard that the Jehovah's Witness organisation expects each member to place his or her obligation to evangelise others above secular employment.⁴⁷

Scriptural literalism

Jehovah's Witnesses believe that the Bible is the inspired word of God. They interpret much of the Bible literally.⁴⁸ They use the Bible to set policies and religious practices, including those relating to child sexual abuse. In our *Jehovah's Witnesses* case study, Mr Geoffrey Jackson described the Bible as the Jehovah's Witness organisation's 'constitution'.⁴⁹

Male headship

The Jehovah's Witness organisation teaches that being in subjection to Jehovah is essential, and that it is important to observe the 'headship principle'. The 'headship principle' accepted by Jehovah's Witnesses is that 'the head of every man is the Christ, in turn the head of a woman is the man'.⁵⁰

This belief is reflected in the patriarchal structure of the organisation, where men hold positions of authority in congregations and headship in the family. Women are expected to defer to the authority of their husbands, and children are taught to obey their parents.⁵¹

Separateness from the world

The Jehovah's Witness organisation teaches that 'it was of great importance to Jesus that his followers keep separate from the world' and offers guidance on how its members might themselves go about emulating Jesus and keeping separate from the world. The organisation encourages its members to exercise caution when associating with those who are not members. People who are not Jehovah's Witnesses are referred to in the organisation as 'worldly' people and as those who are 'not in the Truth'.⁵²

The practice of shunning

Jehovah's Witnesses are counselled against associating, fraternising or conversing with a person who has been disfellowshipped (excluded or excommunicated as a form of punishment for serious scriptural wrongdoing) or who has chosen to disassociate from the Jehovah's Witness organisation.⁵³ Even family members are instructed not to associate with (to shun) a disfellowshipped or disassociated relative unless the association is unavoidable. Violation by a Jehovah's Witness of the decree against associating with a disfellowshipped or disassociated person may itself be a disfellowshipping offence in certain circumstances.⁵⁴

15.2 Private sessions and data about the Jehovah's Witnesses

In addition to the evidence put before us in the *Jehovah's Witnesses* case study, two sources of information have provided us with some understanding of the nature and extent of child sexual abuse occurring in the Jehovah's Witnesses. These are private sessions and data from case files produced by the organisation during the case study.

As discussed in Chapter 6, 'The extent of child sexual abuse in religious institutions', information gathered during private sessions may not represent the demographic profile or experiences of all victims of child sexual abuse in the Jehovah's Witnesses. Survivors attending private sessions did so of their own accord, and in this respect they were a 'self-selected' sample. Further, as discussed in Volume 4, *Identifying and disclosing child sexual abuse*, delays in reporting are common and some people never disclose that they were abused. Consequently, private sessions information almost certainly under-represents the total number of victims of child sexual abuse and likely under-represents victims of more recent abuse.

The relative size of the Jehovah's Witness organisation in Australia, including the extent to which it encourages or organises religious activities involving children, may have affected the number of allegations of child sexual abuse made in relation to the organisation. It has not been possible for us to quantify the extent to which the Jehovah's Witness organisation has provided services to children over time, or the number of children who have had contact with the organisation. In the absence of this information, it is not possible to estimate the incidence or prevalence of child sexual abuse within the Jehovah's Witnesses.

15.2.1 Private sessions about the Jehovah's Witnesses

As of 31 May 2017, of the 4,029 survivors who told us during private sessions about child sexual abuse in religious institutions, 70 survivors (1.7 per cent) told us about child sexual abuse in the Jehovah's Witnesses.

Of the survivors who told us during private sessions about child sexual abuse in religious institutions, 70.1 per cent were male and 29.7 per cent were female. However, 80.0 per cent of those who told us during private sessions about child sexual abuse in the Jehovah's Witnesses were female.

The average age of victims of child sexual abuse in religious institutions that we heard about during private sessions was 10.3 years at the time of first abuse. However, the victims of child sexual abuse in the Jehovah's Witnesses that we heard about during private sessions were typically younger. They were, on average, 8.4 years old at the time of first abuse.

Of the 53 survivors who told us during private sessions about child sexual abuse in the Jehovah's Witnesses and who provided information about the age of the person who sexually abused them, 44 survivors (83.0 per cent) told us about abuse by an adult, and 12 survivors (22.6 per cent) told us about abuse by another child (under 18 years). A small number of survivors told us about abuse by both an adult and another child. The vast majority of those who told us about child sexual abuse in the Jehovah's Witnesses by adult perpetrators said they were abused by a male adult.

Of the 70 survivors who told us during private sessions about child sexual abuse in the Jehovah's Witnesses, 65 survivors (92.9 per cent) told us about the role of the perpetrator. Of these, 26.2 per cent told us about abuse by family members, 13.8 per cent told us about abuse by volunteers, 9.2 per cent told us about abuse by lay leaders, and 9.2 per cent told us about abuse by other adults who attended the institution.

Where complaints about child sexual abuse by family members or by other religious perpetrators in family homes were reported to and handled by the Jehovah's Witnesses, this fell within our Terms of Reference because of the institutional response.⁵⁵

Part C, 'Nature and extent of child sexual abuse in religious institutions', discusses what we heard from people in private sessions about child sexual abuse in religious institutions, including the Jehovah's Witnesses. It also discusses, the quantitative information we gathered from private sessions in relation to child sexual abuse in all religious institutions.

15.2.2 Data provided by the organisation

In preparation for the *Jehovah's Witnesses* public hearing, we compelled Watchtower Australia to produce all documents evidencing or relating to allegations or complaints of child sexual abuse involving members of the Jehovah's Witness organisation in Australia. Watchtower Australia produced about 5,000 documents, including case files relating to 1,006 alleged perpetrators of child sexual abuse that dated back to 1950. We analysed these files and produced data that was mostly uncontested by Watchtower Australia.⁵⁶

Analysis of the Jehovah's Witness organisation's files showed that:

- the allegations, reports or complaints that the organisation received relate to at least 1,800 alleged victims of child sexual abuse⁵⁷
- 579 (about 57 per cent) of the alleged perpetrators had confessed to having committed child sexual abuse
- 108 (about 11 per cent) of the alleged perpetrators were elders or ministerial servants at the time of the first instance of alleged abuse
- 28 (about 3 per cent) of the alleged perpetrators were appointed as elders or ministerial servants after an allegation of child sexual abuse was made against them
- 401 (about 40 per cent) of the alleged perpetrators were disfellowshipped as a result of an allegation of child sexual abuse, and
- of the alleged perpetrators who were disfellowshipped, 230 (about 57 per cent) were later reinstated and 78 (about 19 per cent) were disfellowshipped more than once as a result of an allegation of child sexual abuse.⁵⁸

In addition to the case files, we heard evidence in the *Jehovah's Witnesses* case study regarding the frequency with which the Australia Branch Office received telephone calls regarding child sexual abuse. During the public hearing, the then head of the Australia Branch Office's Legal Department told us that for the two years preceding mid-2015 he was responsible for receiving telephone calls from congregational elders about allegations of child sexual abuse.⁵⁹ He estimated that he received 'three, sometimes four' calls a month in that period.⁶⁰

This evidence on the frequency of calls about child sexual abuse was consistent with the number and frequency of allegations of child sexual abuse that was shown in the files that Watchtower Australia produced to us.⁶¹

As discussed, the case files produced by the Jehovah's Witness organisation captured allegations of both familial and non-familial child sexual abuse. This suggests that, since at least 1950, the Jehovah's Witness organisation has systematically recorded allegations of child sexual abuse made against its members, regardless of whether those allegations concerned familial or non-familial abuse.⁶² This differs from other religious organisations, which we found largely limit their engagement with, and response to, allegations of child sexual abuse to those against people who hold or held positions of authority in the organisation. However, the recording of familial and non-familial abuse is consistent with the Jehovah's Witness organisation's focus on responding to scriptural wrongdoing and its policy that 'gross sins', including child sexual abuse, should be reported to and investigated by congregational elders. These policies are discussed further in Section 15.3.1 below.

During our *Jehovah's Witnesses* case study, Watchtower Australia and the Jehovah's Witness elders who gave evidence made a joint submission, stating:

Familial child sexual abuse is not institutional sexual abuse, as has been acknowledged by the Commission. Similarly it is self-evident that when child sexual abuse occurs outside 'institutional' contexts as defined, the response to it does not fall within the Terms of Reference of this Commission.

The Commission proceeds on the basis that when an allegation of familial sexual abuse becomes known to an elder and is subsequently scripturally investigated by congregation elders, it ceases to be familial abuse and becomes institutional abuse. This conflation of familial and institutional sexual abuse does not accord with the Terms of Reference.⁶³

We did not, and still do not, accept that the child sexual abuse revealed in our *Jehovah's Witnesses* case study has no connection with the activities of the Jehovah's Witness organisation.⁶⁴

15.3 The Jehovah's Witness organisation's responses to child sexual abuse

15.3.1 Policies for responding to allegations of child sexual abuse

The Jehovah's Witness organisation relies primarily on Bible passages to set policies and practices. Senior members of the organisation told us that it has had Bible-based policies on child sexual abuse for at least 30 years and that the organisation is authorised to address child sexual abuse only in accordance with scriptural direction.⁶⁵ As Governing Body member Mr Geoffrey Jackson told us, 'The Bible is our constitution'.⁶⁶

Formation and promulgation of policy

As discussed, the Governing Body is responsible for developing and disseminating all policies of the organisation worldwide, including in relation to child sexual abuse. These policies are subject to scriptural principles, as interpreted by the Governing Body.⁶⁷ Branch offices are expected to implement and follow the direction of the Governing Body. If necessary, branch offices may adjust policies issued by the Governing Body to reflect the requirements of local civil laws in the country in which they are located.⁶⁸

In the *Jehovah's Witnesses* case study, we found that the Governing Body retains authority over the general principle and framework of all publications of the Jehovah's Witness organisation. Any view or perspective contrary to the Governing Body's interpretation of the scriptures is not tolerated.⁶⁹

At the time of the public hearing, Mr Rodney Spinks, an elder on the Service Desk of the Australia Branch Office,⁷⁰ told us that the policies of the Jehovah's Witness organisation for dealing with an allegation of child sexual abuse were outlined in:⁷¹

- the Bible (the English edition published by the Jehovah's Witness organisation is the *New World translation of the Holy Scriptures*)
- the elders' handbook, *Shepherd the flock of God*
- Jehovah's Witness organisation publications available to all congregants approaching baptism, such as *Organized to do Jehovah's will*
- guidelines issued by the Governing Body to all branch offices in August 2013 on how service desks should field questions from elders about child abuse matters
- letters sent to all bodies of elders – in particular, a letter of 1 October 2012, which consolidated the spiritual advice and guidance provided in various letters from preceding years as to how Jehovah's Witnesses should handle allegations of child abuse
- *The Watchtower* article, 'Let us abhor what is wicked', published in January 1997, which clarifies in biblical terms the principles a congregation should have regard to in considering how a 'child molester' should be viewed and treated.

Scriptural wrongdoing and child sexual abuse

The official position of the Jehovah's Witness organisation is that it abhors child sexual abuse and that it will not protect any perpetrator of such repugnant acts.⁷² In the *Jehovah's Witnesses* case study, we heard that elders had been instructed that child sexual abuse includes:

sexual intercourse with a minor; oral or anal sex with a minor; fondling the genitals, breasts, or buttocks of a minor; voyeurism of a minor; indecent exposure to a minor; soliciting a minor for sexual conduct; or any kind of involvement with child pornography. Depending on the circumstances of the case, it may also include 'sexting' with a minor. 'Sexting' describes the sending of nude photos, seminude photos, or sexually explicit text messages electronically, such as by phone.⁷³

For the purposes of the Jehovah's Witness organisation's internal disciplinary process, which is discussed further below, the organisation instructs elders that child sexual abuse is captured by one or more of the following scriptural offences:⁷⁴

- 'porneia', which includes sexual intercourse, oral or anal sex, and 'immoral use of the genitals, whether in a natural or perverted way, with lewd intent'
- 'brazen or loose conduct', which is conduct that reflects 'an attitude that betrays disrespect, disregard, or even contempt for divine standards, laws, and authority' and includes child sexual abuse
- 'gross uncleanness', which can include, to the extent that an adult involves a child, 'an entrenched practice of viewing, perhaps over a considerable period of time, abhorrent forms of pornography that is sexually degrading', including child pornography.

15.3.2 Procedures for responding to allegations of child sexual abuse

The Jehovah's Witness organisation handles allegations of child sexual abuse in accordance with the organisation's internal disciplinary process for addressing all forms of alleged sins or 'wrongdoing' committed by its members. When an allegation of child sexual abuse is made in a congregation, congregational elders are required to conduct a 'spiritual investigation' to establish the truth of the allegation and to determine the degree of repentance of, and appropriate sanction for, the alleged perpetrator.⁷⁵

The key steps of the organisation's internal disciplinary process (both at the time of this report and as they were in the case of the two survivors who gave evidence at the *Jehovah's Witnesses* public hearing) are set out below.

Reporting scriptural wrongdoing to elders

The Jehovah's Witness organisation advises its members that 'gross sins', which we understand includes child sexual abuse, 'should be reported to the elders'. Once a member reports this conduct, they are advised that they 'will have taken the matter as far as [they] can', that the matter should be left in the hands of the elders and that they should 'trust in Jehovah that it will be resolved'.⁷⁶

Since 1992, the Jehovah's Witness organisation has directed elders to whom child sexual abuse is reported to immediately contact the relevant branch office's legal department for advice about mandatory reporting obligations that apply to them as ministers of religion.⁷⁷

Reporting to civil authorities

The Jehovah's Witness organisation told us that it instructs elders to comply with mandatory reporting laws where relevant. However, there was no evidence that the organisation had any general policy requiring or advising elders to report child sexual abuse to the authorities when not required to do so by law. This included cases involving a child complainant.⁷⁸

Elders were advised that, if asked, they should not discourage congregation members from reporting an allegation of child sexual abuse to the authorities. They were to ensure that the complainant and/or their family also knew that it was their right to do so.⁷⁹

In the *Jehovah's Witnesses* case study we were satisfied that it was the general practice of the Jehovah's Witness organisation in Australia not to report allegations of child sexual abuse to the police or other authorities unless required to do so by law.⁸⁰ The effect of this general practice of not reporting allegations of child sexual abuse to authorities is discussed further in Section 15.4.2 below.

During the *Institutional review of the Jehovah's Witnesses* public hearing, we heard that the Australia Branch Office informs elders on reporting to police in its newly developed *Child safeguarding policy of Jehovah's Witnesses in Australia (Child safeguarding policy)*.⁸¹ Mr Terrence O'Brien, Director, Watchtower Bible and Tract Society of Australia, told us that although the *Child safeguarding policy* was not publicly available at the time of the hearing, the Branch Committee had recently approved it and intended for it to be 'made available' to congregations throughout Australia in the weeks following the hearing.⁸²

Notably, the *Child safeguarding policy* provides that where elders learn of a case of child sexual abuse in which a child may still be at risk of harm, they will ensure that a report to police or other appropriate authorities is made immediately.⁸³ This requirement does not appear in any other policy document of the Jehovah's Witness organisation. It is absent from the revised child sexual abuse policies and instructions addressed to members of the Service Desk at the Australia Branch Office and to elders in Australia.⁸⁴

Mr O'Brien told us that the revised policies mean that elders will comply with requirements for mandatory reporting and, if the child or other children are at risk because of a perpetrator, will report that perpetrator. He also said that even if there is no risk to the child or other children and there is no mandatory reporting requirement, elders should inform the parents of the child concerned, or the survivor if they are an adult, that they have the absolute right to report and that the elders will support them if they do that.⁸⁵

Investigating a complaint

The Jehovah's Witness organisation mandates that every allegation of child sexual abuse be investigated by two elders. The purpose of the investigation is for the elders to establish the truth of the allegation and whether a so-called judicial committee should be formed to consider the most appropriate sanction to impose on the alleged perpetrator.⁸⁶

Complainant to face abuser

In the *Jehovah's Witnesses* case study, we heard evidence that it was the policy of the Jehovah's Witness organisation before at least 1998 to require a complainant of child sexual abuse to make their allegation before the investigating elders in the presence of the alleged perpetrator. Witnesses who appeared on behalf of the Jehovah's Witness organisation gave evidence that from at least 1998 the organisation has had other ways for a complainant of child sexual abuse to place their allegation before the 'accused', such as through a written statement. Despite this, the elders handbook, *Shepherd the flock of God*, appears to require the complainant to face the alleged abuser.⁸⁷

In the *Jehovah's Witnesses* case study, we found that the documented policies and procedures in evidence before us did not make clear that a complainant of child sexual abuse must never be required to confront the abuser. We recommended that the written policies and procedures that Jehovah's Witness elders are required to follow clearly state this. Similarly, we recommended that members of the organisation be advised in writing of the exemption from the requirement for a complainant to confront the alleged abuser in cases of child sexual abuse.⁸⁸

During the *Institutional review of the Jehovah's Witnesses* public hearing, we heard that the policies of the Jehovah's Witness organisation now provide that a victim of child sexual abuse is never required to confront the alleged abuser and that allegations can now be made in the form of a written statement.⁸⁹

The 'two-witness rule'

In establishing the truth of an allegation, the investigating elders have regard to and are bound by scriptural standards of proof. Elders are not authorised to take internal disciplinary action, including in relation to an allegation of child sexual abuse, unless the 'wrongdoing' is proven according to these standards.⁹⁰

Scriptural standards of proof require that, in the absence of a confession from an alleged perpetrator, wrongdoing may only be established on the basis of testimony from two or more 'credible' eyewitnesses to the same incident, strong circumstantial evidence testified to by at least two witnesses, or the testimony of two or more witnesses to separate incidents of the same kind of wrongdoing, 'although it is preferable to have two witnesses to the same occurrence of wrongdoing'. We refer to this as the 'two-witness rule'.⁹¹

In the absence of this level of proof, a complaint can progress no further in the Jehovah's Witness internal disciplinary system and the matter is left 'in Jehovah's hands'.⁹² Thus the Jehovah's Witness organisation considers that if a person accused of child sexual abuse denies the allegation, without the evidence of a second witness 'the congregation will continue to view the one accused as an innocent person'.⁹³

In the *Jehovah's Witnesses* case study, we found that the application of the two-witness rule in cases involving child sexual abuse is wrong.⁹⁴ We recommended that the Jehovah's Witness organisation revise and modify its application of the two-witness rule, at least in cases involving complaints of child sexual abuse.⁹⁵ Our reasons are discussed in Section 15.4.1.

Judicial committee

In the event of a confession and/or satisfaction of the two-witness rule, the elders in the congregation are required to form a 'judicial committee'. The judicial committee comes together to assess the degree of repentance of, and provide assistance to, the alleged perpetrator and to determine an appropriate scriptural sanction.⁹⁶ Where guilt and repentance have been established, the primary task of the elders on a judicial committee is to rehabilitate and 'restore' the wrongdoer, regardless of the gravity of the wrongdoing or sin.⁹⁷

In the *Jehovah's Witnesses* case study, we heard that elders were required to explain the purpose of the committee process to an alleged perpetrator appearing before the judicial committee. We heard that elders were not similarly required to explain the purpose of the committee process to the complainant, including to child complainants.⁹⁸

We also heard that if the alleged perpetrator did not confess to the wrongdoing before the judicial committee, two or more witnesses to the wrongdoing (including the survivor or survivors) were required to put their allegation(s) before the judicial committee in the presence of the alleged perpetrator, unless it was impractical for them to do so. There was no clear provision in evidence given during the *Jehovah's Witnesses* case study that a survivor of child sexual abuse appearing before a judicial committee could be accompanied by a support person of their choice.⁹⁹

As discussed, during the *Institutional review of the Jehovah's Witnesses* public hearing we heard that the policies of the Jehovah's Witness organisation now provide that a victim of child sexual abuse is never required to confront the alleged abuser, either during the investigation by elders or the judicial committee.¹⁰⁰ The policies of the organisation also now provide that a victim may be accompanied by 'a confidant of either gender to provide them with moral support when meeting with elders'.¹⁰¹

Sanctions

The sanctions available in the Jehovah's Witness organisation's internal disciplinary system for a person found to have committed child sexual abuse include 'deletion' (if the perpetrator is an elder or ministerial servant), 'reproval', and 'disfellowshipping'.¹⁰²

Deletion

Deletion as an elder or ministerial servant means the person is removed from their position of authority in the congregation but remains in the congregation. Mr Spinks told us that an elder or ministerial servant found to have engaged in child sexual abuse is immediately deleted.¹⁰³

Reproval

If a judicial committee determines that a perpetrator of child sexual abuse is genuinely repentant it can 'reprove' the perpetrator. Reproval is a form of discipline that allows a perpetrator to remain in the congregation. It involves telling the perpetrator that they are 'reproved'. This can take place in private or before those who are aware of the accusation.¹⁰⁴

A reproval, including the identity of the reprovved perpetrator, may be announced to the congregation, but the grounds for the reproval are not.¹⁰⁵

Disfellowshipping

If a perpetrator of child sexual abuse is unrepentant, that person is disfellowshipped from the congregation, meaning they are excommunicated from, or cast out of, the Jehovah's Witness organisation. The organisation directs its members not to associate with disfellowshipped persons.¹⁰⁶

When a person is disfellowshipped for child sexual abuse, the elders make an announcement to the congregation to the effect that they are 'no longer one of Jehovah's Witnesses'. As with reproval, the elders do not disclose to the congregation the reason(s) for which the person has been disfellowshipped.¹⁰⁷

The Jehovah's Witness organisation requires its elders to notify the branch office when a person is disfellowshipped. A person may make an appeal to the judicial committee within seven days of the date of the decision.¹⁰⁸

Reinstatement

The Jehovah's Witness organisation instructs its elders that a disfellowshipped person may be reinstated into the congregation after the passage of 'sufficient' time. This can occur if the judicial committee determines that the individual is truly repentant and the reason(s) for their removal from the congregation have been abandoned.¹⁰⁹

Risk management

In the *Jehovah's Witnesses* case study, we did not receive any evidence that indicated the Jehovah's Witness organisation has any specific formal or uniform procedures for the adoption or imposition of precautionary measures where a person has been reproved, or disfellowshipped and then reinstated, for child sexual abuse.¹¹⁰

However, we received evidence that some informal precautionary measures have been taken when a person is known or alleged to have perpetrated child sexual abuse. When elders are not able to establish the truth of an allegation of child sexual abuse according to the scriptural standards of proof, because there are not two witnesses to an incident of child sexual abuse, they can be advised to 'remain vigilant with regard to the conduct and activity of the accused'. When a person is reproved, the congregation can be put 'on guard concerning the repentant wrongdoer'. We also received evidence that when a person is disfellowshipped it serves to 'protect the flock and safeguard the cleanness of the congregation'. When a person has been reproved and/or disfellowshipped in relation to child sexual abuse, and then reinstated, elders can impose 'restrictions' on the person. For example, an offender may be counselled by the elders about not displaying affection for children or not being alone with children other than their own.¹¹¹

In the *Jehovah's Witnesses* case study, we found that reproof and disfellowshipping are not effective mechanisms for protecting children in the congregation and in the broader community.¹¹² We also found that the sanctions available in the organisation's internal disciplinary system are weak and leave perpetrators of child sexual abuse at large in the organisation and in the community.¹¹³

15.3.3 The Jehovah's Witness organisation's responses to allegations of child sexual abuse

In the *Jehovah's Witnesses* case study, we examined in detail two cases where allegations of child sexual abuse were brought to the attention of congregation elders.

BCG was born in Queensland and grew up in a strict Jehovah's Witness family. Her father, BCH, was a ministerial servant in the Mareeba Congregation. BCG told us that she was sexually abused by BCH over two weeks as a 17-year-old in 1988 or 1989, while her mother and siblings were away on holiday.¹¹⁴

The first time that he tried to have sex with me, he came naked into my bed at night whilst I was sleeping and touched me all over my body. When I protested, I remember him saying to me, 'Shhhh, it's okay, I'm your father. Be obedient to your father' ... While my father sexually assaulted me, he quoted Bible scriptures and referred to the scriptures about being more obedient that he made me put up on my bedroom wall. He said to me while he sexually assaulted me, 'You have to be obedient to me'.¹¹⁵

BCG attempted to tell Mr Dino Ali and Mr Kevin Bowditch – two elders in the Mareeba Congregation who were also friends of her father – about what her father had done. Both refused to speak with her before she spoke to her father or without her father being present. As a result, BCG did not disclose the abuse until eight months later, when she told a male friend who subsequently reported it to Mareeba Congregation elders in 1989.¹¹⁶

Another survivor, BCB, grew up in Western Australia and started attending Jehovah's Witness meetings with her mother when she was 10 years old. BCB told us that she was sexually abused by Mr Bill Neill, a family friend and an elder in the Narrogin Congregation, from when she was 15.¹¹⁷

I didn't really know what to do. I was scared and ashamed. I felt that I was somehow responsible for what Bill was doing to me. [...] I respected Bill because he was an Elder. He was ... head of the Neill household. But I had also come to fear him. Because of his position as an Elder, I felt that I couldn't tell anyone about what he was doing to me. I felt that if I told someone, it would upset [his family] as well as the members of the congregation.¹¹⁸

About a week after she disclosed the abuse to a Jehovah's Witness acquaintance in 1991, another elder in the Narrogin Congregation, Mr Max Horley, approached her about Mr Neill's conduct. It appeared that the acquaintance had passed BCB's disclosure on to Mr Horley.¹¹⁹

Reporting to police and civil authorities

As discussed above, Watchtower Australia produced about 5,000 documents to the Royal Commission, including case files relating to 1,006 alleged perpetrators of child sexual abuse, which dated back to 1950. In the *Jehovah's Witnesses* case study, we found that there was no evidence of the Jehovah's Witness organisation in Australia having reported to police or any other civil authority a single one of the 1,006 perpetrators of child sexual abuse recorded in the case files held by Watchtower Australia.¹²⁰

No witness appearing on behalf of the Jehovah's Witness organisation in the *Jehovah's Witnesses* case study could identify an instance of the organisation reporting an allegation of child sexual abuse to the police or other authorities. Mr Spinks told us 'we are not going to at any point suggest that we have telephoned the authorities or have instructed elders to do that'.¹²¹

There was no evidence of the Jehovah's Witness organisation having reported BCG's or BCB's complaints to police or any other civil authority.¹²² BCG told us:

The Jehovah's Witnesses believe that they should not take one another to court. They use a scripture in First Corinthians, 6:1–8. I understand that this includes reporting child sexual abuse to the police. I was told and believed that to take such matters outside the Church would bring reproach upon Jehovah's name.¹²³

BCG said that she was 'told and believed' that she could not report the abuse outside the organisation.¹²⁴ We accepted her evidence that when she told Mareeba Congregation elder Mr Albert De Rooy that she intended to report her father to the police after he was reinstated, he responded by quoting to her 'the scripture that says that we don't take brothers to court'.¹²⁵ In the case of BCB, we found that the elders did not tell BCB that she could, let alone that she should, report the abuse she had experienced to the authorities.¹²⁶

We found that the organisation's general practice of not reporting serious instances of child sexual abuse to police or other authorities – particularly where the complainant was a child – is a serious failure to provide for the safety and protection of children in the organisation and in the community.¹²⁷

Immediate responses of Jehovah's Witness congregations

Following the disclosure of BCG's and BCB's allegations of child sexual abuse to their congregational elders, both allegations were dealt with in accordance with the internal disciplinary procedures for addressing 'wrongdoing' outlined in the elders' handbook and discussed in Section 15.3.2.

At the time they were made aware of BCG's allegation, Mareeba Congregation elders Mr Ali, Mr Bowditch and Mr De Rooy were already members of a judicial committee that had been formed to consider BCG's father's involvement in an extramarital relationship. We heard evidence that the two matters were dealt with concurrently. BCG told us that she was interviewed on her own by these three congregation elders on a number of occasions. On at least one occasion BCB, her father, was also present.¹²⁸

At the time of BCB's disclosure, Mr Horley and the alleged perpetrator, Mr Neill, were the only two elders serving in the Narrogin Congregation. The Jehovah's Witness organisation's internal disciplinary procedures required Mr Horley and the then circuit overseer, Mr Doug Jackson, to investigate BCB's complaint to decide whether a judicial committee should be formed. Mr Horley convened two meetings with, among others, both BCB and Mr Neill, to establish the truth of BCB's allegation in accordance with the Jehovah's Witness organisation's scriptural standards of proof.¹²⁹

Complainant to face abuser

In their evidence to us, both BCG and BCB described having to make their allegations in the presence of the alleged abuser. Both were required to provide details of the sexual abuse in front of the abuser on more than one occasion.¹³⁰ Both told us about the traumatic impact of this experience.

BCG told us that when her father, BCH, was brought into the room she was extremely terrified.¹³¹ She said:

The Elders asked me to tell my father what I had told them. My father became very angry and I remember him saying to me, 'I will flog you', 'I'll hit you', 'Just wait till I get you out of this room'. The Elders didn't stop him from saying all those things.¹³²

BCG told us that when she called him a hypocrite for lying to the elders she felt physically threatened by her father.

My father got very angry and said to me, 'I will kill you.' He stood up and started to move towards me, but the Elders stopped him. I felt very intimidated and anxious about the threats that he had made and I didn't feel at all protected by the Elders.¹³³

Because the elders were all male and were friends of her father, BCG said she was reluctant to speak in any detail about the abuse.¹³⁴ The elders who were present at the meeting gave evidence at the *Jehovah's Witnesses* public hearing that they accepted that it would have been a difficult and traumatising experience for BCG to be required to make her allegations in front of the abuser. They also accepted that requiring a victim of child sexual abuse to make their allegation in the presence of the alleged perpetrator was not an effective way of reaching the truth.¹³⁵

We found that it was wrong of the elders to require BCG to make her allegations of child sexual abuse while the alleged perpetrator was present. We also found that in requiring BCG to disclose her experience of abuse before a group of men, the elders caused her further trauma and distress. We also found that this requirement was not likely to and did not result in BCG disclosing the full extent of the abuse.¹³⁶

BCB told us that at both meetings she attended with elders, which included the abuser, Mr Neill, she felt uncomfortable discussing the abuse in front of him and that on both occasions she did not disclose the full extent of the abuse to the elders who were present.¹³⁷ She told us that Mr Neill looked at her defiantly throughout the meeting, and that she felt like he was challenging her to tell the full story of what he had done.¹³⁸

It was already very hard to talk about sex in a room full of men. It was especially hard to talk about what Bill had done to me while he was sitting there in front of me. I didn't feel like it was a safe environment and I was scared of what the consequences would be if I told the whole truth.¹³⁹

We observed that the elders appeared to have had little regard to how BCB might feel when confronted by male elders and the person who abused her.¹⁴⁰ We found that it was wrong of the elders to require BCB to make her allegations of sexual abuse against Mr Neill when he was present.¹⁴¹

Application of the two-witness rule

In the *Jehovah's Witnesses* case study we heard that the organisation's reliance on the two-witness rule put congregational elders in a position where they were unable to take disciplinary action even when they believed that allegations of child sexual abuse were true.¹⁴²

In the case of BCG, Mareeba Congregation elders Mr Ali, Mr Bowditch and Mr De Rooy each told us that they believed that BCG had been abused by BCH. Mr Ali and Mr De Rooy said that despite this they had concluded that without a confession from BCH, they were bound by the two-witness rule and did not have enough evidence to act. Mr De Rooy accepted that this outcome was 'not fair' for BCG but told us that the elders were bound by their biblical principles.¹⁴³ This is demonstrated in the following exchange between Mr De Rooy and the Chair of the Royal Commission during the *Jehovah's Witnesses* case study:

The Chair: Did you believe it?

Mr De Rooy: Did I believe it?

Q. Yes.

A. Yes.

Q. So you believed it, you were sickened by it, but you couldn't do anything about it?

A. No, the Bible principle --

Q. Do you think that's a fair position to end up in for a young lady who, you say, was abused in a way that sickened you?

A. No.

Q. No.

A. But it's -- we are following the well-established principle that we've got to have -- it cannot be just one witness.¹⁴⁴

At the time of the judicial committee investigation and proceedings, Mareeba Congregation elders were aware that BCG's two younger sisters and her older sister also alleged they had been abused by BCH, their father.¹⁴⁵ In her evidence, BCG recalled that, when she and her mother reported her younger sisters' abuse, Mr De Rooy told her that the elders could not consider their evidence, as they were too young to know what they were talking about and were not witnesses to the 'same event'.¹⁴⁶

In BCG's case it was apparent that the Mareeba Congregation elders did receive testimony of two witnesses (BCG and her older sister) to separate incidents of the same kind of wrongdoing: child sexual abuse by their father.¹⁴⁷ We did not accept that the elders did not have enough evidence before them to conclude that BCH had sexually abused both daughters.¹⁴⁸

In the case of BCB, Mr Horley gave evidence that because Mr Neill denied any intentional misconduct or deliberate touching on his part and because there were no other witnesses to the misconduct, BCB's allegations could not be proven according to scriptural standards. We heard that as a result, the matter could not progress to judicial committee stage. This was the case even though Mr Horley had no reason to disbelieve BCB's allegations.¹⁴⁹ Due to the application of the two-witness rule, Mr Neill remained at large in the congregation, where he may have posed a risk to other children.¹⁵⁰

Qualifications and impartiality of investigating elders

The Jehovah's Witness organisation's internal disciplinary system is one that puts elders in charge of investigating and responding to allegations of child sexual abuse against members of their own congregation.¹⁵¹ The elders may know these members well, be friends with them or even look up to them.

BCG told us of her concerns about the elders who investigated her allegations:

Although they receive reports and investigate wrongdoing, and then make assessments as to a witness's credibility, it is my understanding that Elders have no training in interviewing techniques, counselling, or psychology. Elders interview and interrogate child victims of sexual abuse and, in my experience, cause more damage to the victim. In my case the Elders, who were friends of my father, interrogated me, offered me no emotional support or protection, and made me feel as though I was insulting them and that I was to blame.¹⁵²

We heard that in BCG's case two of the three elders who investigated her allegations of abuse against her father, and who formed her judicial committee, were friends with her father. BCG told us that this made her feel uncomfortable about disclosing the details of the abuse to the elders.¹⁵³

At the time when BCB made her allegation of child sexual abuse against Mr Neill, the only two elders serving in BCB's congregation were Mr Horley and Mr Neill. Mr Horley told us he had known Mr Neill for 16 years at the time.¹⁵⁴ He described the respect he had had for Mr Neill as a teenager in the congregation, and being mentored by him when he (Mr Horley) became an elder himself.¹⁵⁵

Responses to perpetrators

Sanctions

Despite the congregational elders not upholding either BCG's or BCB's allegations of child sexual abuse, BCH and Mr Neill were subject to internal sanctions. Mareeba Congregation elders ultimately decided to disfellowship BCH. This was not due to the allegations of child sexual abuse but to 'loose conduct' in relation to an extramarital relationship and for 'lying' about that relationship.¹⁵⁶ BCG gave evidence of her devastation at this decision, saying she felt that her father's abuse of her did not qualify as wrongdoing in the eyes of the Jehovah's Witness organisation.¹⁵⁷ She said:

I was mortified and devastated. It felt so wrong that my father's abuse affected me so much yet it did not even qualify as something wrong in the eyes of the Jehovah's Witnesses.¹⁵⁸

When BCH appealed the judicial committee's decision to disfellowship him, BCG was called to appear before the appeal committee, which comprised three different congregation elders. We heard that on this occasion BCH confessed to abusing BCG. The appeal committee upheld the decision to disfellowship BCH for 'loose conduct' and 'lying' and added, relevantly, the ground of 'porneia' to reflect BCH's confession to 'gross sexual acts against' BCG on five or six occasions.¹⁵⁹

Although BCB's complaint never progressed to a judicial committee, Mr Horley gave evidence to us that BCB's allegations had cast a cloud over Mr Neill's qualifications as an elder and that he, together with Mr Doug Jackson, recommended that Mr Neill step down as an elder. BCB told us that a few weeks after the meetings with Mr Horley and Mr Jackson, Mr Neill stepped down from the position of elder. Both she and Mr Horley told us that the fact of, but not the grounds for, Mr Neill's deletion as an elder was announced to the congregation.¹⁶⁰

In a letter dated 1 February 1992, Mr Horley and Mr Doug Jackson reported to the Australia Branch Office on the outcome of their investigation of BCB's allegations. In the letter they noted that they were 'impressed by Brother Neill's acceptance of counsel and his humility throughout the ordeal' and recommended that he be appointed as an elder again 'once this has died down'. Mr Horley told us that in this regard the letter used 'unfortunate wording' and he acknowledged that 'matters of this nature take many years, if ever, to die down completely'.¹⁶¹

Risk management

As discussed in Section 15.3.2, under the Jehovah's Witness organisation's internal disciplinary system, a genuinely repentant perpetrator of child sexual abuse may be subject to the sanction of reproof but would be able to stay in the congregation (and in their family). An unrepentant perpetrator may be disfellowshipped (or expelled) from the congregation (but would remain in their family) until they could demonstrate that they are genuinely repentant.¹⁶²

In the *Jehovah's Witnesses* case study, we found that the organisation had not properly considered the risks this poses to children in congregations. It had not developed precautionary measures for dealing with known or alleged perpetrators of child sexual abuse. This suggested a serious lack of understanding on the part of the Jehovah's Witness organisation about the nature of child sexual abuse and the risk of reoffending. It placed children in the organisation at significant risk of sexual abuse.¹⁶³

Mr Spinks told us that the Jehovah's Witness organisation understands the risk of reoffending, but that it does not use the same processes as society generally to evaluate that risk.¹⁶⁴ He gave evidence that elders do not formally consider the risk of reoffending, other than reliance on the word of the perpetrator, when they assess the degree of repentance of a perpetrator of child sexual abuse. Therefore a decision to reprove a person, rather than expel or disfellowship them from the congregation, involves no objective consideration of the risk that that person might reoffend.¹⁶⁵

Access to the victim or other children

BCB gave evidence that after she disclosed the abuse by Mr Neill, she was expected to attend Bible study held at his house and also continued to see him several times a week at congregational meetings.¹⁶⁶ She told us she felt she was 'being asked to respect the man who had done those things to me, but nobody was offering me any respect or proper support'.¹⁶⁷

Mr Horley told us that he and Mr Doug Jackson did not consider it necessary to impose any specific restrictions on Mr Neill. However, Mr Horley agreed that it would have been appropriate to place a restriction on Mr Neill that prevented him from holding Bible studies at his home.¹⁶⁸

Given that both investigating elders agreed that there was substance to BCB's allegations, they should have taken further steps against Mr Neill to protect BCB and other children from the obvious risk that Mr Neill presented as an alleged perpetrator of child sexual abuse. Instead, Mr Neill was able to remain in the congregation, where he had access to BCB and other children. We found that the rigidity of reliance on the biblical text in not placing any restrictions on Mr Neill in the face of the obvious dangers that he posed to children was wrong.¹⁶⁹

Recording allegations of child sexual abuse

In the *Jehovah's Witnesses* case study we also heard evidence regarding the failure of elders to accurately document or describe child sexual abuse allegations in reports made to the Australia Branch Office of the Jehovah's Witnesses.

The report of the Mareeba Congregation judicial committee to the Branch Office on the decision to disfellowship BCG's father referred only to the charges against BCH of 'loose conduct' and 'lying'. It did not mention BCG's allegation of child sexual abuse or the related investigation.¹⁷⁰

In spite of the appeal committee's decision to add the ground of 'porneia', the form recording BCH's disfellowshipping again only recorded the charges of 'loose conduct' and 'lying'. The only difference between the original form completed by the judicial committee and the updated form completed after the appeal committee decision was the date. It had not been updated with the new charge. In oral evidence to us, Mr De Rooy accepted that this was an oversight.¹⁷¹

Reinstatement

As noted, a disfellowshipped person may be reinstated into the congregation after 'sufficient' time if the judicial committee determines that the individual is truly repentant and that they have 'abandoned' the reason(s) for their removal from the congregation.¹⁷²

As outlined in Section 15.2.2, our analysis of documents produced by Watchtower Australia found that of the 1,006 alleged perpetrators recorded in its case files, 401 were disfellowshipped as a result of an allegation of child sexual abuse and 230 of these alleged perpetrators were later reinstated. Of those who were disfellowshipped, 78 were disfellowshipped more than once as a result of allegations of child sexual abuse. Twenty-eight alleged perpetrators were appointed as elders or ministerial servants after an allegation of child sexual abuse was made against them.¹⁷³

In the *Jehovah's Witnesses* case study, we heard that BCG's father, BCH, made repeated pleas for reinstatement to the Mareeba, Beenleigh and St George congregations and to the Australia Branch Office between September 1990 and April 1992. By November 1992, after some correspondence had passed between the relevant congregations, the Mareeba Congregation agreed that BCH had demonstrated sufficient repentance, and on 13 November 1992 it reinstated him.¹⁷⁴ A letter from the St George Congregation read:

we feel that there is [sic] ample reasons for his re-instatement. [...] He has expressed his sincere remorse over his past conduct and has seen the truthfulness of Gal. [Galatians] 6:7 and has humbly accepted scriptural counsel given him.¹⁷⁵

In a letter to the Loganholme Congregation dated 17 December 1992, the Mareeba Congregation recommended that the congregation place certain restrictions on BCH due to the 'gravity of the wrongs committed'. The letter did not refer to BCG's allegation of child sexual abuse or recommend any restrictions on BCH's exposure to children.¹⁷⁶

BCG told us that the decision to reinstate BCH left her feeling 'very upset and disappointed'.¹⁷⁷ She said:

It seemed that there was to be no justice or acknowledgement for what my father had done to my sisters and me. I felt like we didn't matter; that the abuse was not considered bad enough in the eyes of Jehovah. Once again I felt helpless because I feared Jehovah and I feared being disfellowshipped; my life would be worse than it already was.¹⁷⁸

We found that the decision to reinstate BCH took no account of the risk that BCH may have posed to children.¹⁷⁹ We also found it remarkable that in all the correspondence in evidence (dating from May 2006) between the relevant congregations and the Australia Branch Office regarding BCH's pleas for reinstatement, there does not appear to be a single reference to considerations of child safety.¹⁸⁰

In the case of Mr Neill, once Mr Horley and Mr Doug Jackson concluded that 'uncleanness' had been committed 'on several occasion [sic]', he was subjected to 'reproval'. We found that their recommendation to the Branch Office in their letter dated 1 February 1992, referred to above, that Mr Neill be reinstated as an elder 'once this has died down' and their concern expressed in the letter 'that there may also be worldly people who also know' confirmed that the elders were more concerned about the reputation of the congregation and Jehovah than about the risk that Mr Neill posed to children.¹⁸¹

Responses to survivors

At the first Committee Meeting, the Elders sat me in a room at the Kingdom Hall and came in one at a time and asked me to tell them what had happened. [...] They repeated this process several times. It felt like I was being interrogated and that the Elders were trying to find inconsistencies in my story to catch me out.¹⁸²

Survivor, BCG

Information on internal disciplinary actions

BCG told us that nobody explained the purpose of her meetings with the Mareeba Congregational elders but that she understood that the elders were investigating her allegations.¹⁸³ Similarly, BCB told us that nobody explained the purpose of her two meetings with Mr Horley and Mr Neill. She said that her understanding was that the elders were 'just trying to find out what happened' and that it was her word against Mr Neill's. She said that no one explained what the outcome of the meetings was or if anything would happen to Mr Neill.¹⁸⁴

At the time of Mr Horley and Mr Doug Jackson's investigation of BCB's complaint, high-level and generalised information on reporting and disciplinary procedures was available to ordinary members such as BCB in the form of the then members' handbook, *Organized to accomplish our ministry*. That handbook does not discuss the investigative or judicial committee process or the scriptural standards of proof relevant to the elders' consideration of BCB's complaint.¹⁸⁵

We found that the elders of both the Mareeba and Narrogin congregations did not explain the purpose of their investigations or meetings to BCG or BCB. This left them feeling confused and disempowered.¹⁸⁶

As discussed in Section 15.3.2, the Australia Branch Office has recently published the *Child safeguarding policy of Jehovah's Witnesses in Australia*, which sets out in general terms the organisation's policy on child sexual abuse. It notes that victims have the right to report to civil authorities, that victims will never be required to confront the abuser, and that victims have the right to a confidant of either gender to provide them with moral support when meeting with elders.¹⁸⁷ We understand that this document is made available on request to members of Jehovah's Witness congregations in Australia. In our view it should also be provided to any person who makes a complaint of child sexual abuse in relation to the Jehovah's Witness organisation.

Support

Both BCG and BCB described feeling unsupported by the elders who handled their allegations of child sexual abuse.

BCG told us that she had nobody to support her during the committee interview process and that the elders offered her no emotional support or protection. The Mareeba Congregation elders did not offer BCG the opportunity to have the support and involvement of another woman or women while they were investigating her allegations of abuse.¹⁸⁸

Congregational elder Mr Ali told us that the three elders sought to offer BCG compassion and understanding during the process. He also said that while the interviews with BCG were held as a 'closed session in a room, immediately beyond the door was her fiancé [BCJ], who was providing support'. However, we accepted BCG's evidence and found that the elders proceeded under the misapprehension that BCG did not need any support during the interview process beyond that which they offered her. They had little regard to how BCG might feel in the circumstances.¹⁸⁹

In the case of BCB we also found that the investigating elders, Mr Horley and Mr Doug Jackson, appeared to have had little regard to how BCB might feel when confronted by male elders and the person who abused her. BCB did not have a female support person with her during the investigative process. She told us that as a result she felt too uncomfortable to disclose the full extent of the abuse and that if a female Jehovah's Witness with whom she was comfortable had been present, 'it might have been easier'.¹⁹⁰

Victim blaming

Both BCG and BCB described feeling that the Jehovah's Witness investigation process was a test of their credibility rather than that of the alleged abusers. BCG said:

I had reported my father's abuse to the Elders because that was what I believed I was supposed to do in accordance with Jehovah's expectations. I thought that Jehovah and the Elders would protect me and my sisters. Instead I felt that rather than protect me as the victim, the Elders primarily sat in judgment of me and my credibility as a witness.¹⁹¹

BCG told us that the elders made her feel to blame for what had happened. She also told us that in her meeting with the elders her father threatened her verbally and physically and blamed her for seducing him.¹⁹² She said:

Later in the meeting my father said to me, 'You seduced me'. I responded by saying to him, 'You are my father, ... why would I want to seduce you?'.¹⁹³

BCB told us that during her second meeting with the elders and Mr Neill, Mr Neill was defensive and said that she used to wear revealing clothing. BCB also did not feel supported and felt that the elders were testing her credibility.¹⁹⁴

Silencing victims

Both BCG and BCB gave evidence that they were told by congregation elders not to discuss the child sexual abuse with others.

BCB told us that Mr Horley telephoned her after a meeting and said, 'the Neills have asked that you not tell any more people about Bill out of respect for the family'. Mr Horley told us that he had discouraged further disclosure because he believed 'that gossip and speculation about the matter would be hurtful to BCB and her family, and to Bill and his family'. Mr Horley said, 'we wanted to keep [the matter] as quiet as possible, not to try and cover it up, or anything like that, but just to try and stop the conversation'. We were satisfied that BCB felt silenced and unsupported when Mr Horley discouraged her from speaking with others about the abuse.¹⁹⁵

BCB also informed us that in 2014, after learning that she was considering reporting the abuse to the Royal Commission, an elder asked her husband if [BCB] 'really wants to drag Jehovah's name through the mud'.¹⁹⁶ BCB told us that the elders' comments upset her as, 'it was not me that gave Jehovah a bad name; it was Bill'.¹⁹⁷

Shunning

About 10 years after first reporting the sexual abuse to congregation elders, BCG told us she decided to leave the Jehovah's Witnesses. She said, 'I couldn't stand the hypocrisy anymore and I was finding it hard to believe that the Elders and Ministerial Servants were really appointed by the Holy Spirit'.¹⁹⁸ In line with the Jehovah's Witnesses' practice of shunning members who choose to disassociate from the organisation, BCG told us she was ostracised from the community.¹⁹⁹

Once I left the Church my three children and I were completely shunned, ostracised and actively avoided by members of the Townsville Jehovah's Witnesses congregation.²⁰⁰

...

Well, my family, particularly my oldest sister, would not speak to me anymore. Also, when taking my children to school, there were Jehovah's Witness mothers there with their children, and they used to grab them, their children, away from me and walk around me.²⁰¹

Redress

In the *Jehovah's Witnesses* case study, elder Mr O'Brien told us that the Jehovah's Witness organisation in Australia does not have a redress scheme 'because we've never had a request, so far, for redress'.²⁰²

In her evidence, BCB told us that she had never been offered compensation by the Jehovah's Witnesses.

I have never made any claim for compensation because I didn't think that I would be entitled to any. I am worried about what others will think of me asking for compensation. I know that many people have been through worse suffering than me in their lives. I don't want more than I'm entitled to. I only want to be treated fairly as a victim of abuse that was perpetrated by a member of the Jehovah's Witnesses. I just want fair and just compensation for what Bill did.²⁰³

15.4 Contributing factors in the Jehovah's Witnesses

During our inquiry we considered factors that may have contributed to the occurrence of child sexual abuse in religious institutions or to inadequate institutional responses to such abuse. During the *Institutional review of the Jehovah's Witnesses* hearing in March 2017, we explored these factors in relation to child sexual abuse in the Jehovah's Witnesses.

In the *Jehovah's Witnesses* case study report we concluded that the Jehovah's Witness organisation did not respond adequately to child sexual abuse. Further, we found that children in the organisation were not adequately protected from the risk of sexual abuse.²⁰⁴

As discussed above, there were a number of fundamental problems with the response of the Jehovah's Witness organisation to allegations of child sexual abuse. Our inquiry into that response led us to conclude that policies and procedures relevant to child sexual abuse are firmly located in the Jehovah's Witnesses' beliefs and practices.

Of particular relevance is scriptural literalism: the belief that the Bible is the inspired word of God. As discussed in Section 15.1.4, Jehovah's Witnesses interpret much of the Bible literally and use the Bible to set policy. In the *Jehovah's Witnesses* case study, Mr Spinks told us that if the learnings of science concerning sexual abuse were in conflict with the Jehovah's Witnesses' understanding of the Bible then 'absolutely the Bible will prevail'. We heard that this is particularly the case when there are 'clear scriptural arrangements' or 'clear instructions in the scriptures', regardless of changes in society.²⁰⁵

In the *Jehovah's Witnesses* and *Institutional review of the Jehovah's Witnesses* public hearings, senior members of the organisation told us that there was no scope for flexibility in the interpretation of the scriptures in relation to key policies and practices.²⁰⁶ In his evidence in the *Institutional review of the Jehovah's Witnesses* public hearing, elder Mr O'Brien explained the organisation's refusal to reconsider their interpretation of the scriptures:

'For Jehovah is our judge. Jehovah is our lawgiver. Jehovah is our king.' So that covers every aspect of the legislative, the executive, the judicial process, all Jehovah God reserves to himself. Now, we understand scripturally he delegates some of that authority to congregations, to families, husbands, wives, parents. But ultimately, if God's word provides a direction on a certain doctrine, Jehovah's Witnesses are bound by that, regardless of how others may view that.²⁰⁷

We heard that policies and practices with a scriptural basis included the application of scriptural standards of proof (the two-witness rule), the absence of women as decision-makers in the organisation's internal disciplinary process, the sanctions of disfellowshipping and reproof, and the practice of shunning.²⁰⁸

Also relevant is the Jehovah's Witness teaching in relation to 'separateness from the world'. As discussed in Section 15.1.4, it teaches its members that 'it was of great importance to Jesus that his followers keep separate from the world'. The organisation encourages its members to exercise caution when associating with those who are not Jehovah's Witnesses, who they refer to as 'worldly' people.

We consider that the application of inflexible, scripture-based policies and practices, which are, by and large, inappropriate and unsuitable for application in cases of child sexual abuse, is a central contributor to the inadequate institutional responses to allegations of child sexual abuse by the Jehovah's Witness organisation.

The organisation's retention and continued application of these policies and practices shows a serious lack of understanding of the nature of child sexual abuse.

15.4.1 Scripture-based policies and procedures

The two-witness rule

The two-witness rule remains a procedural rule that is applied in the Jehovah's Witness organisation in all cases of complaints of 'wrongdoing', including child sexual abuse. As described in Section 15.3.2, the rule reflects the scriptural standards of proof elders are bound by in establishing the truth of an allegation. We understood that the two-witness rule is principally derived from Deuteronomy 19:15 and John 8:7,²⁰⁹ though Mr Geoffrey Jackson gave evidence that the principle of 'two-witness testimony' appears throughout the Bible:

basically, this is a theme right through the Christian Greek scriptures, the New Testament, that the rules of evidence for a judicial hearing involve two witnesses.²¹⁰

In the *Jehovah's Witnesses* public hearing, we heard that the organisation's reliance on the two-witness rule put congregational elders in a position where they were unable to take disciplinary action even though they believed that allegations of child sexual abuse were true.²¹¹

Most witnesses appearing on behalf of the Jehovah's Witness organisation at our *Jehovah's Witnesses* hearing told us that there was no scope for flexibility in the interpretation of the scriptures in relation to the application of the two-witness rule in cases of child sexual abuse.²¹² During our 2017 *Institutional review of the Jehovah's Witnesses* hearing Mr O'Brien agreed that it was still the view of the Jehovah's Witness organisation that the two-witness rule was required by the scriptures and could not be changed or avoided.²¹³

Regardless of the biblical origins of the two-witness rule, the Jehovah's Witness organisation's continued application of the rule to complaints of child sexual abuse is wrong. It fails to reflect the learning of the many people who have been involved in examining the behaviour of abusers and the circumstances of survivors. It shows a failure by the organisation to recognise that the rule will more often than not operate in favour of a perpetrator of child sexual abuse, who will not only avoid sanction but also remain in the congregation and the community with their rights intact and with the capacity to interact with their victim and other children.²¹⁴

As the work of this Royal Commission has repeatedly shown, child sexual abuse almost invariably occurs in private, where the only witnesses are the perpetrator and the victim.²¹⁵ The two-witness rule fails to recognise that the victim will be the only witness to the incident of child sexual abuse in the vast majority of cases.²¹⁶

A complainant of child sexual abuse whose allegation has not been corroborated by the confession of the abuser or a second 'credible' eyewitness is necessarily disempowered and subjected to ongoing traumatising. To place a victim of child sexual abuse in such a position is unacceptable and wrong.²¹⁷

We consider that when the Jehovah's Witness organisation receives a complaint or allegation of child sexual abuse, its primary obligation is to report the complaint or allegation to the police. In the event that the Jehovah's Witness organisation conducts an internal inquiry into the truth of an allegation of child sexual abuse, the two-witness rule should not be applied as a standard of proof.

We also consider that, as long as the two-witness rule continues to be applied as a standard of scriptural proof in relation to cases of child sexual abuse the Jehovah's Witness organisation will remain an organisation that fails to protect children and does not respond adequately to child sexual abuse.

Recommendation 16.27

The Jehovah's Witness organisation should abandon its application of the two-witness rule in cases involving complaints of child sexual abuse.

In Chapter 21, 'Improving responding and reporting by religious institutions', we recommend that the standard of proof that a religious institution should apply when deciding whether a complaint of child sexual abuse has been substantiated is the balance of probabilities, having regard to the principles in *Briginshaw v Briginshaw* (see Recommendation 16.55).

The absence of women from the decision-making process

In the *Jehovah's Witnesses* case study, we heard that the principle of male headship means that, scripturally, 'men make the final decisions'.²¹⁸ Only men can be elders and only elders can investigate and preside over judicial hearings involving allegations of serious sin, including child sexual abuse.²¹⁹

We heard from BCG and BCB that the experience of having to tell a group of male elders about the sexual abuse they experienced was distressing. In both cases, the requirement that they disclose their experience of abuse to a group of male elders did not result in their disclosure of the full extent of the abuse. In both cases, the requirement caused the victims further trauma and distress.²²⁰

Witnesses appearing on behalf of the Jehovah's Witness organisation at the *Jehovah's Witnesses* and *Institutional review of the Jehovah's Witnesses* hearings told us that there is no flexibility in relation to the requirement that only men may qualify as elders in Jehovah's Witness congregations.²²¹

It is our experience, after conducting thousands of private sessions with survivors of child sexual abuse, that female and male survivors are not always comfortable speaking with a male Commissioner. We learned that the failure to accommodate a survivor's preference in this regard can further traumatise the survivor.

We consider that the requirement that only elders (that is, men) can participate in making decisions in a Jehovah's Witness investigation of whether someone has committed child sexual abuse is a fundamental flaw in that process and a factor that contributes to the organisation's inadequate response to child sexual abuse.

Recommendation 16.28

The Jehovah's Witness organisation should revise its policies so that women are involved in processes related to investigating and determining allegations of child sexual abuse.

The sanctions of reproof and disfellowshipping for perpetrators of child sexual abuse

As discussed in Section 15.3.3, the sanctions available in the Jehovah's Witness organisation's internal disciplinary system for a person found to have committed child sexual abuse include deletion (if the perpetrator is an elder or ministerial servant), reproof, and disfellowshipping.

In the *Jehovah's Witnesses* case study, we found that reproof and disfellowshipping are not effective mechanisms for protecting children in the congregation and in the broader community. We also found that the sanctions available in the organisation's internal disciplinary system are weak and leave perpetrators of child sexual abuse at large in the organisation and in the community.²²²

We found that in deciding the sanctions to impose and/or the precautions to take in relation to a known or suspected perpetrator of child sexual abuse, the organisation has inadequate regard to the risk that that perpetrator might reoffend. This suggests a serious lack of understanding on the part of the organisation about the nature of child sexual abuse and the risk of reoffending, and it places children in the organisation at significant risk of sexual abuse.²²³ We consider the management of the risk of reoffending to be an essential factor in the development of an institution's policies and procedures for the protection of children from sexual abuse.²²⁴

In Chapter 21, we recommend that any person in religious ministry who is the subject of a complaint of child sexual abuse that is substantiated on the balance of probabilities, or who is convicted of an offence relating to child sexual abuse, be permanently removed from ministry. We also recommend that religious institutions take all necessary steps to effectively prohibit such a person from in any way holding himself or herself out as being a person with religious authority (see Recommendation 16.55). This recommendation applies directly to Jehovah's Witness elders, as they are individuals who hold religious authority within the organisation.

Disassociation and shunning

By the time I was about 16, I was determined to leave home for many reasons, including that I wanted to escape the Jehovah's Witnesses without being disfellowshipped; I wanted to do it on my own terms. By this I mean that I wanted to fade away from the Church and become inactive while retaining my faith as this course was less likely to result in punishment from Jehovah. It is hard to explain, but I didn't want to be shunned by the only people that I knew, as well as live in fear of Jehovah.²²⁵

Survivor, BCG

A person who no longer wants to be subject to the Jehovah's Witness organisation's rules and discipline has no alternative but to leave, or 'disassociate' from, the organisation. A person takes the action of disassociation if that person 'deliberately repudiates his Christian standing' and rejects 'the congregation by his actions or by stating that he no longer wants to be recognised as or known as one of Jehovah's Witnesses'.²²⁶

As discussed in Section 15.1.4, the Jehovah's Witness organisation counsels its members against associating, fraternising or conversing with a person who has chosen to disassociate from the Jehovah's Witness organisation.²²⁷ This is a scripture-based practice known as shunning.

We heard of the difficulty that people experience in deciding to leave the Jehovah's Witness organisation, due to fear of being shunned by friends and loved ones. For example, BCG told us that when she decided to leave the organisation she and her three children 'were completely shunned, ostracised and actively avoided by members' of the congregation of Jehovah's Witnesses that she had left.²²⁸

A survivor of child sexual abuse may no longer want to be part of, or subject to the rules and discipline of, the Jehovah's Witness organisation. This could be the case especially if they feel that their complaint of abuse was not dealt with adequately or if the person who abused them remains in the organisation.²²⁹

A survivor's entire family and social networks may comprise members of the Jehovah's Witness organisation. A survivor of child sexual abuse may therefore be faced with the impossible choice between retaining their social and familial network by staying in an organisation which is protective of the person who abused them, and leaving the organisation and losing that entire network as a result.²³⁰

We consider that the Jehovah's Witness organisation's practice of shunning members who disassociate from it has the potential to put a survivor in the untenable position of having to choose between constant retraumatisation through having to share a community with the person who abused them, and losing that entire community altogether.²³¹

The Jehovah's Witness organisation's policy of requiring its members to shun those who disassociate from the organisation makes it extremely difficult for a person to leave. It can be upsetting for those who leave and for their friends and family who remain. It can be particularly devastating for those who have suffered child sexual abuse in the organisation and who want to leave because they feel that their complaints have not been dealt with adequately or because the person who abused them remains in the congregation.²³² Shunning also separates survivors from their important family and social support networks, and may inhibit their recovery as well as their future wellbeing. Finally, it fails to recognise the role of spiritual support in the ongoing recovery of survivors.

Recommendation 16.29

The Jehovah's Witness organisation should no longer require its members to shun those who disassociate from the organisation in cases where the reason for disassociation is related to a person being a victim of child sexual abuse.

15.4.2 Separateness from the world

Disclosure of abuse

In the *Jehovah's Witnesses* case study, we heard how the teaching of separateness from the world can serve to isolate children from their peers and discourage them from reporting to authorities.²³³

In the *Jehovah's Witnesses* public hearing, we heard evidence that Jehovah's Witnesses members, in addition to being counselled to avoid 'worldly' people, are discouraged from participating in extracurricular activities, watching television and furthering their education.²³⁴ The teaching of 'separateness from the world' and the closed nature of the organisation also have a direct impact on the institutional response to child sexual abuse, particularly with respect to the disclosure of abuse and the organisation's practice of not reporting child sexual abuse to civil authorities.

BCG told us that she was not permitted to associate with people outside the Jehovah's Witness community. She said that she was taught from a young age that 'worldly' people, including the police, were bad and not to be trusted, as they served Satan. BCG's parents did not allow BCG to attend sex education classes at school or participate in extracurricular activities, such as sport, because the organisation advised against it. BCG said that she was not permitted to attend school after Year 10 because choosing higher education over Jehovah was frowned upon by the Jehovah's Witness organisation.²³⁵

In Chapter 20, ‘Making religious institutions child safe’, we consider how to improve children’s empowerment in religious institutions, including through age-appropriate education that aims to increase their knowledge of child sexual abuse and build practical skills to assist in strengthening self-protective skills and strategies. Increased prevention education can assist with disclosure of child sexual abuse. We also consider how religious institutions can be more transparent and accountable to families and the broader community with respect to child safety.

The practice of not reporting child sexual abuse to civil authorities

As discussed in Section 15.3.2, it has been the general practice of the Jehovah’s Witness organisation in Australia not to report allegations of child sexual abuse to the police or other authorities unless required to do so by law.²³⁶ In the *Jehovah’s Witnesses* case study, we heard that the practice of not reporting allegations of child sexual abuse to the police or other authorities allowed perpetrators of child sexual abuse to remain in the Jehovah’s Witness community, and the community at large, where they could continue to pose a risk to children.

We consider that this practice of not reporting child sexual abuse to the authorities unless required to do so by law contributed to the organisation’s poor institutional response to child sexual abuse. As noted, during the *Institutional review of the Jehovah’s Witnesses* hearing we heard of changes made by the introduction of the *Child safeguarding policy* of the Jehovah’s Witnesses in Australia. We were told that it requires elders who learn of a case of child sexual abuse in which a child may still be at risk of harm to immediately report it to the police or other appropriate authorities.²³⁷

In our *Criminal justice* report we recommend that any person associated with an institution who knows or suspects that a child is being or has been sexually abused in an institutional context should report the abuse to police. This recommendation goes beyond the Jehovah’s Witness organisation’s new policy, which requires reporting to police only where a child may still be at risk of harm. In our *Criminal justice* report we also recommend that each state and territory government introduce legislation to create a criminal offence of ‘failure to report’ targeted at institutions. We recommend that this offence apply not only where a person in the institution knows or suspects that a child is being or has been sexually abused by an adult associated with the institution, but also where the person *should have suspected* abuse (relevant recommendations from our *Criminal Justice* report are extracted in Appendix A).

Reporting to external authorities, including the recommendations from our *Criminal Justice* report, is discussed in more detail in Chapter 21.

15.5 Conclusions about the Jehovah's Witness organisation

Our inquiry into the institutional response of the Jehovah's Witness organisation to child sexual abuse revealed a disturbingly high number of incidents of child sexual abuse. The Jehovah's Witness organisation files contained allegations, reports or complaints relating to at least 1,800 alleged victims of child sexual abuse and over 1,000 alleged perpetrators. A requirement of the organisation was that allegations had to be reported internally. While the Jehovah's Witness organisation's files captured allegations of both familial and non-familial abuse, there was an institutional response to both types of allegations and we therefore considered both types to fall within our Terms of Reference. In the Jehovah's Witness organisation, the sexual abuse of children occurred in a closed institutional environment, which we heard isolated children from their peers and discouraged them from reporting to external, civil authorities.

Our examination of the Jehovah's Witnesses showed that the organisation dealt with allegations of child sexual abuse in accordance with internal, scripture-based disciplinary policies and procedures. We found that at least until 1998, individuals making complaints of child sexual abuse were required to state their allegations in the presence of the person against whom the allegations were made. The two-witness rule applied – that is, wrongdoing could only be established on the basis of testimony from two or more 'credible' eyewitnesses to the same incident (or strong circumstantial evidence testified to by at least two witnesses or testimony of two witnesses to the same kind of wrongdoing). Allegations were investigated by elders, all of whom were men and had no relevant training.

We found that in deciding the sanctions to impose and/or the precautions to take in relation to a known or suspected perpetrator of child sexual abuse, the Jehovah's Witnesses organisation had inadequate regard to the risk that the person might reoffend. Alleged perpetrators of child sexual abuse who were removed from their congregations as a result of allegations of child sexual abuse were frequently reinstated. We found no evidence of the Jehovah's Witness organisation reporting allegations of child sexual abuse to police or other civil authorities.

Survivors of child sexual abuse who took part in our *Jehovah's Witnesses* case study told us that they were not provided with adequate information by the organisation about the investigation of their allegations, felt unsupported by the elders who handled the allegations, and felt that the investigation was a test of their credibility rather than that of the alleged perpetrator. We also heard that victims of child sexual abuse were told by congregational elders not to discuss the abuse with others, and that if they tried to leave the organisation, they were ostracised from their religious community.

We considered a number of factors that may have contributed to the occurrence of child sexual abuse in religious institutions or to inadequate institutional responses to such abuse. The Jehovah's Witness organisation addresses child sexual abuse in accordance with scriptural direction, relying on a literal interpretation of the Bible and 1st century principles to set practice, policy and procedure. These include the two-witness rule, the principle of male headship, the sanctions of reproof and disfellowshipping, and the practice of shunning. We consider that as long as the Jehovah's Witness organisation continues to apply these practices in its response to allegations of child sexual abuse, it will remain an organisation that fails to protect children and does not respond adequately to child sexual abuse.

We welcome the recent inclusion in the organisation's *Child safeguarding policy* of a requirement to report child sexual abuse to civil authorities in cases where elders consider that a child may still be at risk of harm. The Jehovah's Witness organisation should also amend all its policies and procedures that relate to child sexual abuse to ensure that this requirement is included.

In Part E, 'Creating child safe religious institutions', we make recommendations that should be considered by all religious organisations in Australia, including the Jehovah's Witnesses. We recommend that religious organisations adopt the Royal Commission's 10 Child Safe Standards as nationally mandated standards for each of their affiliated institutions and drive a consistent approach to the implementation of those standards. The Child Safe Standards articulate the essential elements of a child safe institution and set benchmarks against which institutions can assess their child safe capacity and set performance targets. We also make recommendations with respect to children's participation and empowerment, family and community involvement, and complaint handling that are relevant to some of the contributing factors we identified in the Jehovah's Witnesses.

Endnotes

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- 3 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 13.
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- 13 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 14.
- 14 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, pp 14, 15.
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- 16 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, pp 21–2.
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- 19 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 14.
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- 21 Transcript of GW Jackson, Case Study 29, 14 August 2015 at 15934:33–15935:6.
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- 31 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 15.
- 32 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 13.
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228 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 70.

229 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 71.

230 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 71.

231 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 71.

232 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, pp 71–2.

233 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 56; Exhibit 29-0006, 'Statement of BCG', Case Study 29, STAT.0590.001.0001_R at 0003–0004_R, 0005_R.

234 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, pp 30, 49; Exhibit 29-0006, 'Statement of BCG', Case Study 29, STAT.0590.001.0001_R at 0003_R.

235 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 30.

236 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 61.

237 Transcript of R Spinks, Case Study 54, 10 March 2017 at 26513:44–26514:1.

16 Australian Christian Churches and affiliated Pentecostal churches

In October 2014, the Royal Commission conducted a public hearing inquiring into the responses of the Australian Christian Churches (ACC) and some affiliated churches to allegations of child sexual abuse. We specifically considered the responses of:

- the Northside Christian College and the Northside Christian Centre (now Encompass Church) in Victoria to allegations of child sexual abuse made against former teacher Mr Kenneth Sandilands
- the Sunshine Coast Church in Queensland and the ACC to allegations of child sexual abuse made against Mr Jonathan Baldwin
- the Sydney Christian Life Centre and the Hills Christian Life Centre in New South Wales (now Hillsong Church) and Assemblies of God in Australia (now the ACC) to allegations of child sexual abuse made against Mr Frank Houston.

Our findings are set out in the report on *Case Study 18: The response of the Australian Christian Churches and affiliated Pentecostal churches to allegations of child sexual abuse (Australian Christian Churches)*, published in October 2015.¹

In March 2017, we held a further public hearing in relation to the ACC and affiliated Pentecostal churches in *Case Study 55: Institutional review of Australian Christian Churches and affiliated Pentecostal churches (Institutional review of Australian Christian Churches)*.² This hearing provided an opportunity for the ACC to inform us of its current policies and procedures in relation to child protection and child safe standards, including responding to allegations of child sexual abuse.

In addition to the matters examined in the *Australian Christian Churches* case study and the *Institutional review of Australian Christian Churches* hearing, as of 31 May 2017 we had held private sessions with 37 survivors who told us about child sexual abuse in Pentecostal churches or institutions.

In this chapter, where we refer to the policies and procedures of ACC and affiliated Pentecostal churches, they are those available to us at the time of the *Australian Christian Churches* case study. Consideration is also given to the development of policies and procedures since the case study.

16.1 Structure and governance of the ACC and affiliated Pentecostal churches

16.1.1 History of Pentecostalism

Pentecostalism is a global Christian movement made up of many different churches that share in the belief of the physical manifestation of the Holy Spirit.³ Pentecostalism takes its name from the feast of Pentecost when, according to The Acts of the Apostles, Peter and the other apostles of Jesus were filled with the Holy Spirit and began to speak in tongues.⁴

Pentecostalism has roots in Protestantism and evangelicalism and shares orthodox beliefs about the Bible and central Christian doctrines,⁵ but, as outlined in the *Australian Christian Churches* case study report, its beliefs can also include direct personal experience of the Holy Spirit.⁶ Followers believe that, in addition to water baptism, believers can be baptised in the power of the Holy Spirit,⁷ which bestows spiritual gifts, such as speaking in tongues, prophecy and healing.⁸ Traditionally, Pentecostalism has regarded this type of spiritual empowerment as being available to all.⁹

In his book *The church in the modern age*, Jeremy Morris argued that the remarkable worldwide growth of Pentecostalism is ‘surely the most startling fact about the Christian Church worldwide in the last quarter of the twentieth century’. He estimated that the number of Pentecostal Christians soared from around 980,000 in the early 20th century (about 0.1 per cent of the world population) to over 425 million by the end of the century (about 8 per cent of the world population and a quarter of the world Christian population).¹⁰

Pentecostal churches tend to be congregationalist in their structure – that is, they are locally-based churches that are self-governing and independent rather than part of a single national or international authority structure.¹¹ However, many Pentecostal churches voluntarily affiliate in what is known as a ‘movement’. ‘Movements’ are organised in a similar way to other free-church congregationalist denominations.¹²

Assemblies of God churches place responsibility for the church in ‘Spirit empowered congregations’ who appoint pastors and elders.¹³ The World Fellowship says that Pentecostalism envisages a ‘priesthood of all believers’, and is ‘built around the belief that the Spirit raises up whomever He pleases’.¹⁴ As such, formal ordination either does not exist or carries less weight than in churches where spiritual authority is placed in the ordained priesthood.¹⁵ The World Fellowship describes Pentecostal churches as being democratic and emphasises charismatic models of leadership.¹⁶

16.1.2 Pentecostalism in Australia

Pentecostal churches in Australia date back to 1909, when Sarah Jane Lancaster, a Methodist, opened the Good News Hall in North Melbourne with an all-night prayer meeting.¹⁷ The following year she toured Australia preaching the ‘fourfold gospel’ of salvation in Jesus Christ, baptism in the Holy Spirit, divine healing and the second coming.¹⁸ In its early years, Pentecostalism in Australia spread in Anglican, Methodist and Salvation Army circles.¹⁹ Pastor and author Barry Chant noted that early Pentecostalism in Australia differed from Pentecostalism overseas in having a middle class rather than a poor constituency and in the unique leadership role played by women – by 1930 over half the Pentecostal congregations functioning in Australia were established and led by women.²⁰

After the Second World War, Australian Pentecostalism was increasingly influenced by developments in North America.²¹ Among these influences were a ‘charismatic revival’ emphasising healing and prophecy and, in the 1980s, the rise of charismatic leaders, mega-churches with congregations numbering in their thousands, and an emphasis on contemporary music-led worship.²² Historian Mark Hutchinson argued that, whereas classical Pentecostalism has held that the charismatic ‘gifts’ are available to all believers, these increasingly came to be regarded as the sign of the leader’s apostolic authority.²³

By the late 1970s it was estimated that there were about 30,000 Pentecostals scattered across Australia, with few churches in excess of 100 members.²⁴ But since then its growth has been exponential, in keeping with the growth of Pentecostalism internationally. Based on Australian Bureau of Statistics data, the number of Australians affiliated with Pentecostalism rose from 72,148 in 1981 to 260,600 in 2016.²⁵

Set out below is information about the structure and governance of the Pentecostal institutions that were the subject of the *Australian Christian Churches* case study. These were:

- the ACC
- Northside Christian Centre and its affiliated Northside Christian College
- Sunshine Coast Church
- Hillsong Church.

The Australian Christian Churches

The ACC was founded in 1937 and is the oldest and largest Pentecostal movement in Australia. Prior to 2007 it was known as the Assemblies of God in Australia (AOGA).²⁶ The ACC is a participating member of the World Fellowship – a cooperative body of Assemblies of God national councils of equal standing.²⁷

From the late 1970s, the movement in Australia increased rapidly. Hutchinson noted that the ACC maintained an average growth rate of 20 per cent over 30 years and estimated that the ACC accounted for about 75 per cent of all Pentecostal churches in Australia.²⁸ In 2017, according to the ACC's website, the movement consists of over 1,000 affiliated churches with over 350,000 constituents and more than 3,200 pastors Australia-wide.²⁹ The ACC also has five Bible colleges registered with the movement³⁰ and nine extended ministries and departments that provide a broad range of services, including chaplaincy training, community engagement, and children and youth focused programs.³¹ In recent years, ACC churches have become involved in the welfare sector.³²

Each ACC affiliated church is a separate legal entity, either incorporated under state, territory or Commonwealth legislation or otherwise unincorporated as a gathering of the local members.³³ The 'supreme governing body' of the ACC is the National Conference.³⁴ The National Conference is the gathering of all affiliated churches of the ACC movement. The National Conference elects the National Executive, which is led by a National President.³⁵ The functions of the National Conference as the governing body include promoting possibilities for fellowship between local churches; making necessary decisions in the interests of the movement; receiving and considering reports from the states, departments, officers and committees; and, where appropriate, making any decisions or recommendations arising from them.³⁶

Each state and territory is governed by a state president with a state executive. The state executives are ultimately responsible to the National Executive.³⁷

A primary role of the ACC is to provide ministers in its affiliated churches with credentials (or ministry certificates).³⁸ According to the *United Constitution*, all credentials and certificates are issued by the National Executive, which also has powers to suspend and withdraw ministerial credentials.³⁹ The National Conference delegates to state executives matters such as managing ordination applications and investigating complaints against credentialed ministers but can intervene at any time.⁴⁰ All state conference and state executive decisions must conform to the decisions of the National Conference and National Executive.⁴¹

The ACC National President at the time of the *Australian Christian Churches* case study, Pastor Wayne Alcorn, described the relationship between the ACC and its affiliated churches as 'quasi-contractual' and one where 'the United Constitution is a consensual compact between each affiliated church'.⁴² Pastor Alcorn told us that, at that time, the ACC provided guidance on policies and procedure to affiliated churches, but ultimately they were not obliged to adopt them:

an affiliated church retains complete responsibility for local governance, and the ACC has no authority to direct individual churches or their board of directors/elders regarding this local governance, other than through moral persuasion and provision of policy guidance. This is not an abdication of responsibility, but a recognition that affiliated churches are autonomous and self-governing, and in most cases are incorporated independently.⁴³

The National Executive provides policy guidance to affiliated churches. At the time of the *Australian Christian Churches* case study, while the National Executive strongly advised affiliated churches to apply state policy as a minimum standard,⁴⁴ the ACC had limited oversight of affiliated churches.⁴⁵

However, during the *Institutional review of Australian Christian Churches* hearing we received evidence that, as a condition of affiliation or re-registration, churches are now required to adopt child protection policy and practice guidelines adopted by the National Conference or to use them as a minimum standard.⁴⁶

The ACC does not endorse the use of the title ‘pastor’ by anyone in their affiliated churches who does not hold an ACC credential or certificate.⁴⁷ All persons with ACC credentials must ‘adopt the United Constitution, structure, policies and administration of the Movement’; live in accordance with the ‘Code of Conduct and other policies of the Movement’; ‘complete professional development as required by the National or State Executive’; and ‘sign, as required, a declaration in relation to moral standing, compliance with legal requirements and doctrinal consistency with the Movement’.⁴⁸

Northside Christian Centre and Northside Christian College

Northside Christian College is a primary and secondary school in Melbourne, Victoria. It was founded in 1952. In 1979 it became a ministry of Northside Christian Centre, now known as Encompass Church.⁴⁹

Northside Christian Centre was incorporated in 1985, at which time new governance arrangements were introduced, and these remained in effect until 2002. Under these arrangements, there was a church board that consisted of the senior pastor, associate pastors, assistant pastors and elders of the church.⁵⁰

Throughout the period examined in the *Australian Christian Churches* case study, the college was under the governance and responsibility of the Northside Christian Centre.⁵¹ The church board of the Northside Christian Centre appointed the Northside Christian College Council, which comprised the senior pastor, associate pastors, college principal and parents of students at the college. The Northside Christian College Council and the college principal managed the day-to-day business of the college. Matters such as the appointment of staff, policies and discipline were still referred to the church board for ratification.⁵²

During the period examined in the *Australian Christian Churches* case study, Northside Christian Centre was affiliated with the AOGA, now ACC. The Centre, renamed Encompass Church, remains affiliated with the ACC.⁵³

The Sunshine Coast Church

The Sunshine Coast Church is located in Queensland and was incorporated as an independent entity affiliated with the AOGA during the period examined in the *Australian Christian Churches* case study. At that time, the congregation size was approximately 170 to 200 people. Also at that time, the Sunshine Coast Church was governed by a board of directors, which included Dr Ian Lehmann as the chair, a treasurer and three other directors.⁵⁴

In addition to its main ministry, the Sunshine Coast Church had a children's ministry and a youth ministry.⁵⁵ The youth ministry included children from 13 or 14 years old to 18 years old.⁵⁶

Dr Lehmann was senior pastor of the Sunshine Coast Church from 2000 until 2006.⁵⁷ In the *Australian Christian Churches* case study, Dr Lehmann gave evidence that he was assisted in his duties by an assistant pastor, a youth pastor, a worship pastor, a volunteer business manager and several volunteers for the children's ministry. The youth pastor was primarily involved in the development of the youth ministry.⁵⁸ Dr Lehmann told us that he consulted with the board of directors on 'operational matters', including issues concerning child protection.⁵⁹

Hillsong Church

Hillsong Church was founded in 2001 by Pastor Brian Houston when two local affiliated churches – the Hills Christian Life Centre and Sydney Christian Life Centre – were formally renamed Hillsong Church and Hillsong's City Campus.⁶⁰

Sydney Christian Life Centre was established in 1977 by Mr Frank Houston, father of Pastor Brian Houston, and became affiliated with the AOGA in 1978 or 1979.⁶¹ Mr Frank Houston was the General Superintendent of the Assemblies of God in New Zealand before moving to Sydney in 1976.⁶² He served as senior pastor of Sydney Christian Life Centre from 1977 until 1999, with Pastor Brian Houston eventually serving as assistant pastor. After Mr Frank Houston's retirement in May 1999, Pastor Brian Houston became senior pastor.⁶³

The Hills Christian Life Centre was established in 1983 by Pastor Brian Houston and his wife Pastor Bobbie Houston and was also affiliated with the AOGA. From May 1999, for a period of 18 months, Pastor Brian Houston was the senior pastor of both churches. In 2001, the two churches were renamed Hillsong Church.⁶⁴

Hillsong Church's headquarters are located in Sydney. It conducts 78 services every weekend across Australia and Bali, Indonesia. Hillsong also has churches located in Europe, the United States, the United Kingdom, South America and South Africa. It claims a global attendance approaching 100,000 people each week.⁶⁵ In 2015, approximately 35,000 people attended weekend Hillsong church services in Australia, over 5,000 children attended weekly children's programs, and 2,300 young people aged 12 to 25 attended weekly youth programs.⁶⁶

Hillsong Church describes itself as ‘a global movement positioned at the intersection of Christianity and culture’, with Pastor Brian Houston as its global senior pastor.⁶⁷ Hillsong Church’s ‘mission statement’ describes its mission as being ‘to reach and influence the world by building a large Christ-centred, Bible-based church, changing mindsets and empowering people to lead and impact in every sphere of life’.⁶⁸

Hillsong Church is self-governing and a separate incorporated legal entity that is governed by a board of directors. Hillsong Church’s senior management is responsible for the pastoral and operational functions of the Church. Operational functions include finance, information technology and human resources. Senior management reports to the senior pastor, Pastor Brian Houston, who is responsible for overseeing the overall objectives of the church.⁶⁹

Hillsong Church is an affiliated church of the ACC.⁷⁰ In the *Australian Christian Churches* case study, Pastor Brian Houston said that:

[The ACC’s oversight is limited to] registration of Hillsong as an associated church, managing ordination applications, accreditation of its pastors and investigation of grievances against credentialed ministers. As an associated church Hillsong retains complete responsibility for local governance.⁷¹

As an affiliated church, Hillsong is now required to adopt appropriate child protection policies and practice guidelines consistent with the minimum standards set by the ACC.⁷²

16.2 Private sessions about Pentecostal churches

As of 31 May 2017, of the 4,029 survivors who told us during private sessions about child sexual abuse in religious institutions, 37 survivors told us about child sexual abuse in Pentecostal institutions. The information set out below has been gathered from private sessions held with all survivors who told us about child sexual abuse in Pentecostal institutions, regardless of their affiliation.

As discussed in Chapter 6, ‘The extent of child sexual abuse in religious institutions’, information gathered during private sessions may not represent the demographic profile or experiences of all victims of child sexual abuse in Pentecostal institutions. Survivors attending private sessions did so of their own accord, and in this respect they were a ‘self-selected’ sample. Further, as discussed in Volume 4, *Identifying and disclosing child sexual abuse*, delays in reporting are common, and some people never disclose that they were abused. Consequently, private sessions information almost certainly under-represents the total number of victims of child sexual abuse and likely under-represents victims of more recent abuse.

The relative size of Pentecostal churches in Australia, including the extent to which they have provided services to children, may have affected the number of allegations of child sexual abuse made in relation to Pentecostal institutions. It has not been possible for us to quantify the extent to which Pentecostal institutions have provided services to children over time or the number of children who have had contact with Pentecostal institutions. In the absence of this information, it is not possible to estimate the incidence or prevalence of child sexual abuse within Pentecostal institutions or within certain movements, such as the ACC.

Of the 37 survivors who told us during private sessions about child sexual abuse in Pentecostal institutions, 25 survivors (67.6 per cent) were female and 12 (32.4 per cent) were male. Of those who provided information about the age of the victim at the time of first abuse, the average age was 10.6 years.

Of the 28 survivors who told us during private sessions about child sexual abuse in Pentecostal institutions and who provided information about the age of the person who sexually abused them, the vast majority told us about abuse by an adult and most of those said they were abused by a male adult.

Of the 37 survivors who told us during private sessions about child sexual abuse in Pentecostal institutions, 29.7 per cent told us about perpetrators who were people in religious ministry, such as pastors, and 27.0 per cent told us about perpetrators who were volunteers. We also heard about perpetrators who were residential care workers, foster carers or teachers.

Most survivors who told us in private sessions about child sexual abuse in Pentecostal institutions told us about abuse connected with places of worship or during religious activities (32 survivors, or 86.5 per cent). We also heard about child sexual abuse in schools managed by or affiliated with Pentecostal churches.

Part C, 'Nature and extent of child sexual abuse in religious institutions', discusses what we heard from people in private sessions about child sexual abuse in religious institutions. It also discusses, at a high level, the quantitative information we gathered from private sessions in relation to child sexual abuse in all religious institutions.

16.3 The ACC and affiliated Pentecostal churches' responses to child sexual abuse

In this section we outline the policies and procedures that applied to the response to allegations of child sexual abuse in each church and consider the response of each church to specific allegations.

16.3.1 Policies and procedures for responding to allegations of child sexual abuse

Here we set out the policies and procedures that were in operation within each institution at the time the complaint of child sexual abuse was made to the institution and at the time of the *Australian Christian Churches* case study. Consideration is also given to the development of policies and procedures since the case study.

Australian Christian Churches

According to the *United Constitution*, one of the purposes of the ACC is to ‘establish a code of conduct, policies and standards of behaviour’ for affiliated churches and credentialed ministers. This includes policies in respect of child protection. During the *Australian Christian Churches* case study, we received evidence that the ACC National Executive provided policy guidance to its affiliated churches and that the state executives were involved in ratifying and sending out policies to individual churches.⁷³

Pastor Alcorn told us that, at the time of the *Australian Christian Churches* case study, the National Executive ‘strongly recommends that the relevant State Policy is implemented as a minimum’. However, we were told that, due to the autonomous nature of affiliated churches, it was up to each church to determine whether it adopted a particular policy.⁷⁴ It is clear that the ACC recommended but did not require that its affiliated churches adopt and adhere to child protection policies, and it did not require its pastors to adhere to those policies.⁷⁵

As noted above, during the *Institutional review of Australian Christian Churches* hearing, we heard that affiliated churches and ACC credentialed pastors are now required to adopt and adhere to child protection policy and practice guidelines set by the National Conference, in order to remain affiliated with the ACC.⁷⁶ However, we also heard that there was no formal audit process in place to check whether churches and pastors were compliant with this requirement.⁷⁷

The AOGA has had child protection policies in place since June 1994, when the National Executive adopted a *Statement on the protection of children from sexual abuse*.⁷⁸ This statement noted that it was ‘vital’ that the AOGA ‘adopt a policy that will help us protect our children against abuse’ and then listed 15 points which it recommended ‘be adhered to at all times’. Among these were that all ‘children’s workers’ must have references from people within the assembly ‘testifying to their trustworthiness to work with children’. It directed ‘workers’ not to visit children alone at home, not to give children gifts and not to engage in ‘unauthorised activities’. It also instructed ‘workers’ to contact senior ministers immediately if they suspected that a leader or ‘children’s worker’ was sexually abusing a child. It said that such allegations were to be kept confidential ‘to protect the child and his or her family’ and that it was the senior minister’s responsibility to report the allegation to the child’s parents ‘as soon as reasonably

practicable'. Senior ministers and elders were advised to 'handle' the process of reporting allegations to 'appropriate authorities'. It also called for any 'leader or children's worker' suspected of child abuse to be relieved of their position until 'any investigation by the senior minister and the elders has been completed, or, in the event where an appropriate authority has been notified, the completion of its investigation'.⁷⁹

In May 1999, the National Conference of the AOGA adopted a document titled *A program for the restoration and reinstatement of disciplined ministers: Administration manual* (the *Administration manual*). It was revised in April 2010 and was in operation at the time of the *Australian Christian Churches* public hearing.⁸⁰ The *Administration manual* was repealed by the National Conference in 2015.⁸¹ On 1 December 2015, the ACC implemented the Safer Churches strategy, which includes the ACC National Child Protection Policy and the ACC Child Protection Practice Guidelines.⁸²

According to the *Administration manual*, when a minister 'violates scriptural principles in his/her behaviour, it is the responsibility of the Australian Christian Churches Movement to take appropriate disciplinary action and to attempt to bring about restoration in the minister's life'. It described the disciplinary process for AOGA/ACC ministers who violated 'scriptural principles', including 'any moral failure involving sexual misconduct'. It stated that, while state executives generally exercised correction and/or discipline at their discretion and the *Administration manual* was thus seen as a guide for all cases of discipline, it was 'mandatory for those cases relating to serious sexual misconduct'.⁸³

In cases of 'serious sexual misconduct' the *Administration manual* provided that a person could be excluded from membership in an AOGA/ACC church and that a minister could be dismissed from ministry or in some cases admitted to a program of rehabilitation to ministry.⁸⁴

The *Administration manual* classified sexual misconduct as 'serious' if it involved sexual intercourse and activities approaching or similar to intercourse or perverse activities, or any act determined by the state executive to be 'serious'.⁸⁵ Paedophilia was listed as a 'perverse activity' and as such was defined as a 'serious' sexual misconduct.⁸⁶

The *Administration manual* included a complaints procedure for the state executives to follow, which included a requirement that complaints be submitted in writing, a process for interviewing both the complainant and the accused minister and steps that should be taken if a minister denied an allegation, including placing the minister on leave. Where the allegation was denied, the *Administration manual* recommended that the state executive establish an investigating committee. If the allegations were of a sexual nature, this investigating committee should consist of, at a minimum, three specialists from the following professions: social worker, psychologist and psychiatrist. The *Administration manual* provided that this investigating committee should prepare a full report, with recommendations, for the appropriate state executive, which would then make a recommendation to the National Executive for determination. Finally, if a complaint was found to be false and malicious, disciplinary action could be taken against the complainant by the state executive or a local church.⁸⁷

When the *Administration manual* was updated in 2010, the above complaints procedure was retitled 'Grievance Procedure'. This set out 10 steps that could be applied by the state or national executive to a person issued with a credential and alleged to have engaged in improper conduct. It still required, as a first step, that the complaint be put in writing. In the *Australian Christian Churches* case study, Pastor Alcorn and Pastor John McMartin, State President of the New South Wales Australian Christian Churches, told us that complaints and the names of 'the accused' are put in writing to deter people from making false accusations against ministers. Pastor Alcorn said that 'Our pastors live a very public life and people can make all sorts of accusations ... there does need to be some protection whereby eventually somebody's prepared to make a complaint in writing'.⁸⁸

In the *Australian Christian Churches* case study we found that the ACC Grievance Procedure emphasised protecting ministers and pastors from false accusation. We found that, in requiring complaints to be made in writing to indicate the seriousness of the accusation, the Grievance Procedure gave priority to the protection of pastors over the safety of children.⁸⁹ The Grievance Procedure was again updated in November 2015 and now forms part of the Safer Churches strategy. The updated Grievance Procedure still requires that complaints be made in writing.⁹⁰

The *Administration manual* stated that the Grievance Procedure was a guide only, and it advised that 'the State or National Executive may decide not to follow the Procedure, or apply a truncated version of the procedure, where they consider it necessary'.⁹¹ During the *Australian Christian Churches* case study, Pastor Alcorn told us that the 'ACC has no formal role in investigation of allegations of child sexual abuse by members or volunteers of affiliated churches, because of the autonomy of local churches'.⁹² He also told us that the ACC is not involved in disciplining members of ACC affiliated churches and relies on the local church to take appropriate disciplinary action.⁹³

While the focus of the *Administration manual* was on receiving and investigating complaints with a view to the disciplining of ministers, the ACC also had in place policies and procedures for the protection of children and responding to victims. A draft child protection policy was tabled at a meeting of the National Executive in November 2003.⁹⁴ On 28 April 2004 the then AOGA National Secretary, Pastor Keith Ainge, wrote to all state secretaries noting that he had been asked to explain 'the urgency of implementing our Child Protection Policy' and requested a report on its implementation.⁹⁵ The ACC noted that in November 2005, all state presidents reported that their executives had implemented or were implementing this policy.⁹⁶

As noted above, during the *Institutional review of Australian Christian Churches* hearing, Pastor Alcorn reiterated that the ACC movement operates as a group of independent churches in voluntary cooperation, with each church being self-governing.⁹⁷ However, the ACC now requires all affiliated churches to comply with certain policies and procedures. Pastor Sean Stanton, ACC National Secretary and Treasurer, told us that, as part of the regular renewal of ACC registration required of affiliated churches, churches must now meet the minimum standards of the ACC's child protection policy.⁹⁸ Developments in the ACC's policies and protocols since the *Australian Christian Churches* case study are further discussed in Part E, 'Creating child safe religious institutions'.

Northside Christian Centre and Northside Christian College

Pastor Denis Smith, senior pastor at Northside Christian Centre and chair of the Northside Christian College Council from 1981 to 1998, told us that, when teachers were recruited by the college, they were given copies of a code of conduct and staff handbooks.⁹⁹ Pastor Smith told us that the code of conduct focused on general Christian principles and was not specific to conduct towards children.¹⁰⁰

Ms Margaret Furlong, who was a teacher at the college from 1987, told us that she could not recall any policies or procedures at the college 'in relation to the detection, investigation, reporting and response to complaints of child sexual abuse', during the period 1987 to 1989 when she received complaints of sexual abuse from students.¹⁰¹

The Northside Christian Centre produced a document dated 29 April 1997, titled *Northside Christian Centre Inc. children's ministries policy statement relating to the statement on the protection of children from sexual abuse*. The document stated that it resulted from a discussion paper issued by the AOGA National Executive and reproduced the AOGA *Statement on the protection of children from sexual abuse* described above.¹⁰²

Sunshine Coast Church

Dr Ian Lehmann was senior pastor of the Sunshine Coast Church in the period 2000 to 2006.¹⁰³ As discussed above, at that time there were AOGA child protection policies at the national, state and local level. Nonetheless, we found that the Sunshine Coast Church did not have any written child protection policies in place between 2000 and 2006.¹⁰⁴ Indeed, Dr Lehmann advised us that he was unaware of child safety policies issued by the Queensland State Executive and the AOGA National Executive, but he understood that copies of such policies 'would have probably been in my pastoral assistant's office'.¹⁰⁵

During the *Australian Christian Churches* case study, Dr Lehmann stated that he had informal processes in place for responding to allegations of child sexual abuse or misconduct. We heard no evidence that these were documented or otherwise available to staff.¹⁰⁶ Dr Lehmann told us that:

If people had concerns, they would have either gone to the pastoral assistant, she was a female at that stage, or they would have come to me personally or they would have gone to one of the other leaders in the church.¹⁰⁷

If it was an event, if the issue was with the church, I with a witness or another team member or another spiritual leader would have sat down with the person and confronted them.¹⁰⁸

Dr Lehmann also gave evidence that he conveyed some unwritten child protection safeguards to one youth pastor. These included keeping the youth pastor's office door open and having a woman present when the youth pastor was counselling a female. We did not receive any evidence to demonstrate that the unwritten safeguards communicated by Dr Lehmann to the youth pastor were made known to the staff at Sunshine Coast Church or its members.¹⁰⁹

We heard that, following Dr Lehmann's replacement by Pastor Christian Peterson in June 2006, the Sunshine Coast Church adopted a written child protection policy entitled *Child abuse*. This policy was not provided to the Queensland State Executive of the AOGA for advice or approval. Both Pastor John Hunt, the Queensland State President, and Pastor Alcorn, the National President of the ACC, told us at the public hearing that the policy 'fell way short of the standards' recommended by the ACC.¹¹⁰ We found that the Sunshine Coast Church had not implemented any of the child protection policies recommended by the ACC during the period 2000 to 2012 and that Dr Lehmann and his successor, Pastor Peterson, had little familiarity with ACC child protection policies.¹¹¹

Hillsong Church

As discussed below, AHA told us that he was sexually abused by Mr Frank Houston on a number of occasions in 1970.¹¹² AHA's mother disclosed the sexual abuse to a pastor from another AOGA affiliated church in 1998.¹¹³ At that time, Hillsong Church was not yet in existence. The focus of our inquiry in the *Australian Christian Churches* case study was on the response of the AOGA National Executive and New South Wales State Executive to the allegation of AHA's sexual abuse. Pastor Brian Houston, who is Mr Frank Houston's son, was the National President of the AOGA as well as the senior pastor at Hills Christian Life Centre at the time that AHA disclosed the sexual abuse.¹¹⁴

At the *Australian Christian Churches* and the *Institutional review of Australian Christian Churches* hearings, Hillsong Church submitted numerous policies and procedures that it has implemented since 2005. Aspects of these are discussed in Part E.

16.3.2 The ACC and affiliated Pentecostal churches' responses to allegations of child sexual abuse

Our examination of the responses of the AOGA (or ACC), Northside Christian Centre and Northside Christian College, and the Sunshine Coast Church to allegations of child sexual abuse focused on a relatively small number of cases. The discussion below sets out many of the specific findings made in our report on the *Australian Christian Churches*.

Northside Christian Centre and Northside Christian College

In the *Australian Christian Churches* case study we inquired into the institutional responses to allegations of child sexual abuse against Kenneth Sandilands, a teacher at Northside Christian College in Bundoora, Victoria, from 1983 to 1992.¹¹⁵

In 2000, Sandilands was convicted of 12 counts of indecent assault against eight students at the college and was sentenced to two years' imprisonment. He was later convicted of a further seven counts of indecent assault during his time as a teacher at St Paul's Anglican Primary School in Frankston, Victoria, between 1970 and 1974, and was sentenced to 26 months' imprisonment.¹¹⁶

We heard evidence that at some point between 1986 and 1992 the college principals, Mr Ken Ellery and Mr Neil Rookes, and teachers at the school, Assistant Pastor Keith Ingram and senior pastor, Pastor Denis Smith, were aware of at least 10 allegations of Sandilands engaging in inappropriate sexual behaviour with children at the college.¹¹⁷ Pastor Smith served as senior pastor of the Northside Christian Centre and, as such, carried out pastoral duties at the college. During this time Pastor Smith also served as chairman of the board of directors for the college and chairman of the college council.¹¹⁸

We found that Pastor Smith had sufficient knowledge that Sandilands posed an unacceptable risk to children at the college from the late 1980s and failed to act to ensure their protection. We found that Pastor Smith should have but did not consider each new allegation against the background of previous allegations. We also found that he should have but did not take into account the multiple breaches of established behavioural guidelines imposed on Sandilands in April 1987, and he failed to disclose the complaints to the church board.¹¹⁹ Pastor Smith never apologised to Sandilands's victims.¹²⁰

Allegations about Sandilands

Suspensions about Sandilands's behaviour were first documented in December 1986, when then principal, Mr Ellery, sent a memorandum to Pastor Smith.¹²¹ The memorandum referred to an incident that Mr Ellery had observed. In a statement made to the police in 2000, Mr Ellery recalled the incident:

I saw the children close around him as he sat at a desk ... The children seemed to be being overly friendly with him and this seemed to be a habitual form of behaviour, as though it had been encouraged or condoned in the past. I raised my concern with him and he was strong in his denial of anything even hinting at impropriety. I was worried about the possibility of sexual overtones to the touching but also just couldn't believe that he could be doing that.¹²²

The memorandum to Pastor Smith mentioned previous concerns raised regarding Sandilands's conduct and gave consideration to defending him should it be required. It stated:

at the moment the situation is one of no case or at least no case proven ... However, in the context of past ripples ... whilst it would be our desire and hope to defend him to the hilt, any appearances of imprudent relationships would be difficult to defend him to the extent we would like. Such would be an untenable situation for us ... ¹²³

Pastor Smith told us that at the time he received the memorandum he understood that Mr Ellery intended to warn Sandilands about his behaviour with students. Pastor Smith also told us that he did not interpret the allegations against Sandilands to be sexual in nature. We did not accept this evidence and found that the memorandum clearly contemplated behaviour of a sexual nature.¹²⁴

Allegations about Sandilands next arose in March 1987, when Mr Rookes, college principal from January 1987 until December 1996,¹²⁵ wrote a memorandum to Pastor Smith advising him that three students in grades 5 and 6 had reported having seen Sandilands with one of his female students seated on his knee while he touched her 'on the lower stomach area and on her legs'.¹²⁶

In this memorandum, Mr Rookes acknowledged that Sandilands had been 'specifically instructed not to touch the children' and referred to the allegations as 'a long-standing situation with which I am only recently acquainted'. Mr Rookes expressed concern over the potential damage to the college's reputation if the alleged incidents continued, saying that 'If any future such incidents were able to be proved undeniably then I would have no hesitation at all to recommend instant suspension and dismissal [of Sandilands]'.¹²⁷

In response, Pastor Smith instructed Mr Rookes and Assistant Pastor Keith Ingram to conduct an internal investigation of the allegations.¹²⁸ During that investigation, Pastor Ingram spoke with Sandilands and reported that he had checked with him about the previous warning he had received from the former principal, Mr Ellery. Pastor Ingram questioned whether Sandilands followed the caution provided to him by Mr Ellery in December 1986. He assessed that that warning was 'rather nebulous and not specific' and that Sandilands had not been told 'not to have children on his knee'.¹²⁹

Pastor Ingram provided Pastor Smith with a report on his findings. He recommended that Sandilands be given more specific guidelines to avoid any misinterpretation with regard to children. Pastor Ingram determined that there was 'no case' against Sandilands and recommended that no disciplinary action be taken against him.¹³⁰

In his report following the investigation, Pastor Ingram said that the three students had 'largely embellished' the incident, and he suggested that the allegations were 'constructed more on their imaginations than fact'. As a result, he gave the three students 'a firm lecture as to the dangers and implications of their stories'. He also recommended that a meeting be organised 'to put the facts to the parents so that they know what actually transpired.' There is no evidence that a meeting with the parents occurred.¹³¹

Pastor Smith told us that he was not concerned that the three students from grades 5 and 6 had been interviewed by up to four adults or that the interviews were held without the presence of the children's parents.¹³²

The recommended behavioural guidelines were set with Sandilands at a meeting in April 1987 attended by him, Mr Rookes and Pastor Smith. Pastor Smith told us that it was Mr Rookes's responsibility to 'impose' the guidelines.¹³³ These guidelines were:

1. 'Do not touch any child apart from a pat on the back, handshake.
2. Do not pick up a child.
3. Do not place, instruct or allow any child to sit on your knee.
4. Do not remain in any room with a child on his/her own.
5. Re discipline. Refer to the principal or deputy principal for usual discipline procedure.
6. If any female child seeks attention about a sore knee, pain in the stomach, a problem with clothing etc. [r]efer them to a female teacher.
7. Do not use sick room as a teaching area.'¹³⁴

In responding to the allegation made by three students, we found that Pastor Smith selected Pastor Ingram to conduct the investigation and accepted Pastor Ingram's report and recommendations about Sandilands, knowing that Pastor Ingram did not have any qualifications in education.¹³⁵ Moreover, Pastor Smith did not provide a reasonable explanation to us as to why he failed to advise the college council at its May 1987 meeting of the two allegations raised against Sandilands by two separate principals of the college or the guidelines imposed on Sandilands.¹³⁶

Further allegations were made against Sandilands later in 1987.¹³⁷ Ms Emma Fretton was a student of Sandilands from grade 1 in 1986 to grade 3 in 1988. In 2000, Sandilands was convicted of 12 counts of indecent assault against eight students at the college. This included three counts of indecent assault against Ms Fretton and nine counts of indecent assault against seven other students at the college. He was sentenced to two years' imprisonment, with a non-parole period of 12 months.¹³⁸ Sometime in 1987, Ms Fretton first disclosed the sexual abuse to a teacher, Mrs Brown. According to Ms Fretton, in response to her disclosure Mrs Brown said words to the effect that 'Mr Sandilands should be fired for what he is doing' and '[t]he school knows what he is like and are looking into it'. Mrs Brown told her not to say anything to anyone else.¹³⁹

Ms Fretton confirmed that in 1987, when she was in grade 2, she and another student, AGB, were called out of class to attend a meeting with several church and college staff, including Pastor Smith, Mr Rookes and Mrs Brown.¹⁴⁰ Ms Fretton told us:

I recall at the meeting I was told not to tell anyone about what Mr Sandilands had done and someone said 'we will deal with it'. I recall also asking if I could change to another teacher. I was told 'no'. I told them I didn't want to be in Mr Sandilands' class the following year.¹⁴¹

Ms Fretton told us that she made further reports to Mrs Brown and Mr Rookes during grade 2 and grade 3. She said that '[t]he school didn't respond to my requests for Mr Sandilands not to be my teacher. He remained my teacher in Grades 1, 2 and 3, and the abuse continued throughout that time'.¹⁴²

According to Mr Rookes's notes titled 'Chronological summary of allegations concerning behaviour of Ken Sandilands' and dated 13 December 1993 (the Rookes Chronology), in October 1987 he and Pastor Ingram confronted Sandilands. Sandilands admitted to breaching the guidelines by having children on his knee and kissing Ms Fretton 'as a reward for work'. He said that he did so regularly.¹⁴³ Pastor Smith told us that Sandilands was given a 'severe reprimand'. However, Pastor Smith did not seek to dismiss Sandilands. He told us that this was because 'there was no recommendation [to Pastor Smith] that was serious enough for him to be fired'.¹⁴⁴

We found that, by October 1987, Pastor Smith had sufficient information to understand that Sandilands posed a risk to children at the college.¹⁴⁵

In 1988, Ms Fretton told another teacher, Ms Furlong, that Sandilands had touched her. Ms Furlong gave evidence that she reported the matter to Mr Rookes, who gave no response. When she asked if Ms Fretton could be transferred to her class, Mr Rookes told her this was not possible.¹⁴⁶

We found that the college and Pastor Smith failed to inform Ms Fretton's parents of the alleged sexual abuse or of the meeting held with their child to discuss it.¹⁴⁷ In her statement, Ms Fretton told us that:

During the meetings that I had about what was happening I recall being told 'You're [sic] Mum has been contacted but she can't make it.' ... It wasn't until later when I was making my statement with police that I found out that my mother had not been told by the school about my complaints.¹⁴⁸

Ms Furlong gave evidence that between 1987 and 1989, in addition to Ms Fretton, three further students, AGV, AGB and AGW, disclosed Sandilands's inappropriate behaviour towards them to her. In each instance she reported the disclosure to Mr Rookes. With respect to the third incident, she told Mr Rookes that it involved touching which she believed to be sexual. However, we have no information to suggest that Mr Rookes responded to these allegations.¹⁴⁹ Ms Furlong told us that 'No one in authority ever spoke to me about what I should do or what was happening in relation to the reports I had made. I was never asked to write anything down'.¹⁵⁰ We were satisfied that Ms Furlong reported these allegations to Mr Rookes. He did not record them in the Rookes Chronology and we received no evidence that he investigated them.¹⁵¹

In August 1991, the mother of another Northside student, AGT, reported to a pastor of a separate AOGA affiliated church that Sandilands had invited four female students to embrace him and touch his genital area. This allegation was then reported on to Pastor Smith. The principal, Mr Rookes, asked Ms Kerry Lovell, a counsellor and part-time teacher at the college, to interview the students concerned. Ms Lovell told us that she was not provided with any material that informed her about the past allegations and guidelines set for Sandilands until after she had completed her investigation. According to Ms Lovell, she told Mr Rookes that Sandilands should not be in the classroom. She also provided Mr Rookes with a written report, which she understood would be passed on to Pastor Smith. The Rookes Chronology records that Ms Lovell saw no reason to doubt Sandilands's integrity, although 'the cuddling of children was a cause for concern'.¹⁵²

On 3 September 1991, a meeting was held between Pastor Smith, Pastor Ingram, Mr Rookes and the new deputy principal, Mr Simon Murray, to discuss Sandilands's conduct. The Rookes Chronology records that a decision was made that Sandilands's employment at the college beyond the end of 1991 would be subject to a 'significant and measureable change of behaviour'. Pastor Smith interviewed Sandilands the same day, reprimanded him for his behaviour and told him to change his approach to teaching. Pastor Smith conceded in his evidence that by 1991 the guidelines set for Sandilands had completely broken down. However, he took no action to protect the children concerned and continued to rely upon the principal's supervision and assessment of Sandilands's compliance with the guidelines, despite knowing Sandilands had failed to follow them.¹⁵³

We heard that in April 1992 the parents of another student, AGS, had a meeting with Pastor Smith, during which they reported that Sandilands had shown AGS's Grade 2 class 'rude' pictures of naked men and women.¹⁵⁴ AGS had also disclosed to her parents that Sandilands had told her class 'about growing up and what men and women do'. According to a police statement made by AGS's mother, Pastor Smith responded with 'children can make up things'. Pastor Smith gave evidence that the discussion with AGS's mother was about Sandilands engaging in sex education with children.¹⁵⁵

Sandilands is placed on indefinite sick leave

The Rookes Chronology lists two meetings held with Sandilands in June 1992. Eleven areas of his teaching were identified as causing concern, including that he 'breached guidelines by administering corporal punishment to female students' and that his eyesight was deteriorating faster than expected. Ms Furlong told us that a teacher's aide was placed in his classroom because of the problem with his eyesight. Pastor Smith raised the issue of Sandilands's eyesight with the church board and the principal. However, he did not mention any concerns about Sandilands's conduct towards children between 1987 and 1992.¹⁵⁶

On 8 December 1992, Sandilands stopped teaching at the college and went on indefinite sick leave due to his failing eyesight. He did not teach at the college again and formally resigned on 17 February 1998.¹⁵⁷

After his departure from the college in December 1992, three further students alleged that Sandilands had inappropriately touched them. According to the Rookes Chronology, some of these allegations were investigated by Ms Lovell. While Pastor Smith said that he was not aware of the details, a record created by him refers to the fact that he had drafted a letter to Sandilands outlining the allegations, which he did not ultimately send but which he discussed with Sandilands at a meeting. In addition, the same document records that he 'explained the 3 allegations' to Sandilands, who denied them. The document proposed a recommendation to the church board that, depending on Sandilands's response, parents of children at the college be informed that the church had 'done all we can possibly do to ascertain the truth in this matter'. Two days later, Sandilands responded to Pastor Smith in writing, stating that he 'did not touch any child indecently'.¹⁵⁸

In a report to the church board in January 1994, Pastor Smith told the board that he had looked into the matter and spoken with the 'person concerned', who denied all allegations. Pastor Smith stated he did not believe there was anything further he could do.¹⁵⁹

We found that Pastor Smith had sufficient knowledge that Sandilands posed an unacceptable risk to children at the college from the late 1980s and failed to act to ensure their protection. We also found that his conduct showed scant regard for Sandilands's victims.¹⁶⁰

Civil proceedings against Sandilands

In 2000, Ms Fretton and five other former students commenced civil proceedings against the Northside Christian Centre, Pastor Smith and another teacher at the college. A seventh former student commenced proceedings against the college in 2002. On 24 and 25 September 2001, a joint mediation was conducted for the six victims. Board member Pastor John Spinella, other members of the Northside Christian Centre Board and the then principal of the Northside Christian College, Mr Ken Greenwood, attended. The civil proceedings resulted in a total sum of \$597,500 being paid to the seven former students. Of this, the Northside Christian Centre contributed \$160,000, Sandilands contributed \$245,000 and Northside Christian Centre's insurer paid \$192,500.¹⁶¹

Pastor Spinella told us that the church board wanted to attempt to settle the claims for the following reasons:¹⁶²

- a. the realisation that the College and Church failed in their duty of care to victims
- b. the need to provide some kind of compensation to the victims for those failures
- c. the undesirability of forcing victims to pursue claims of such a personal and sensitive nature through to judgement, given those failures
- d. the knowledge that if claims were pursued ... the Church and College could face financial ruin.

According to Pastor Spinella, there was no interaction between the victims and the college during the proceedings. He told us that a verbal apology was offered:

During the mediation there was an opportunity to speak to the victims and their parents. When that opportunity came our way, we said yes, we'd like to do that. We know at that time there was a lot of anger, and so, only a few came; none of the victims, but to the best of my recollection parents came and we expressed our heartfelt sorrow for what had happened to them and their children.¹⁶³

Pastor Spinella provided a report on the mediation to the church board in November 2001. In it, he criticised Pastor Smith's handling of the child sexual abuse allegations and concluded that the situation with Sandilands was 'completely bungled by the past leadership and in particular by Denis Smith' and 'duty of care had not been given'. In December 2001, Pastor Smith resigned without farewell or a financial package.¹⁶⁴

Apology to victims

Pastor Smith told us that he never apologised to any of Sandilands's victims because he 'did not know of any victims'.¹⁶⁵ During the *Australian Christian Churches* public hearing Pastor Spinella apologised to the victims, saying:

What happened at the College was something which is an enduring regret, and to Emma, to many of the other students, I apologise. I apologise on behalf of our church, the failures of Northside Christian College. I just say sorry and it should never have happened, it should never have been allowed to continue. I apologise to the victims, and we will do everything in our power, both in the College, in the Church, to ensure as much as possible that this will never happen again. It should never happen to little children, they're precious.¹⁶⁶

Sunshine Coast Church

In the *Australian Christian Churches* case study, we also inquired into the response to allegations of child sexual abuse of ALA by Jonathan Baldwin at the Sunshine Coast Church in Queensland between 2004 and 2006. Baldwin was the youth pastor at Sunshine Coast Church from January 2004 until 2006.¹⁶⁷

In 2009, Baldwin was convicted of 10 sexual offences against ALA, which included eight offences that occurred while he was the youth pastor of the Sunshine Coast Church.¹⁶⁸ He was sentenced to a total of eight years imprisonment, with a four-year non-parole period.¹⁶⁹

We heard evidence that between 2004 and 2005 members of the pastoral team and several senior leaders in the church raised concerns with Dr Lehmann, the senior pastor of the Sunshine Coast Church between January 2000 and June 2006, over the amount of time Baldwin spent with ALA and of the 'connection' between them.¹⁷⁰

We made a number of findings in relation to the response of the Sunshine Coast Church to allegations of child sexual abuse. First, we found that there was a clear conflict of interest in Dr Lehmann being responsible for taking appropriate action over allegations against Baldwin, who dated and later married Dr Lehmann's daughter.¹⁷¹ We found that the Sunshine Coast Church had not implemented any of the child protection policies recommended by the ACC during 2000 to 2012.¹⁷² We also found that the Sunshine Coast Church and ACC failed to follow the process for removing the 'credential' of Baldwin, despite him having been charged with child sexual abuse.¹⁷³

Appointment of Baldwin and sexual abuse of ALA

ALA and his family joined the Sunshine Coast Church in about 2000.¹⁷⁴ In January 2004, Dr Lehmann appointed Baldwin as the youth pastor, despite not checking whether he held the required Working With Children Check documentation.¹⁷⁵ The AOGA national database shows that at the time Baldwin did not hold an AOGA credential. It was not until July 2005 that he received a provisional minister's credential.¹⁷⁶

Baldwin began sexually abusing ALA shortly after his arrival at the Sunshine Coast Church, when ALA was 13 years old. Baldwin continued to sexually abuse ALA until October 2006.¹⁷⁷ As discussed below, ALA did not disclose the sexual abuse to anyone until April 2007.¹⁷⁸

Response to concerns about Baldwin

Ms Melissa Maynes, a former volunteer in the Sunshine Coast Church office and personal assistant to Baldwin, gave evidence that she reported concerns about the relationship between Baldwin and ALA to Dr Lehmann on three separate occasions. This included concerns about 'the touching and the locking of doors' and primarily that there was a 'segregation of [ALA] from the other kids'.¹⁷⁹ On the first occasion, Ms Mayne reported that Dr Lehmann 'didn't respond or give me any answer. I didn't feel that it was taken seriously. I felt he thought I was just whinging'.¹⁸⁰ Ms Mayne told us that she received a similar reaction from Dr Lehmann when she raised concerns for a second time.¹⁸¹ Ms Mayne said that she did not remember the specific details of her final conversation with Dr Lehmann on the matter. However, she recalled that 'it again dealt with my concerns about the relationship between Mr Baldwin and ALA'.¹⁸²

We heard that Dr Lehmann spoke with Baldwin about his relationship with ALA on three separate occasions. The first two conversations were each prompted by a member of the pastoral team raising a concern. However, Dr Lehmann could not remember who raised the concern that led to his third conversation with Baldwin.¹⁸³

Dr Lehmann said that he told Baldwin to broaden his attention to youth group members beyond ALA and to 'modify your approach and behaviour'. Each time, Baldwin responded that he was mentoring and encouraging ALA and that 'there was nothing deviant'.¹⁸⁴

During the third conversation between Dr Lehmann and Baldwin, Dr Lehmann said that Baldwin told him that he was training ALA in taking ‘devotions’ and ALA was heavily involved in setting up the auditorium.¹⁸⁵

Dr Lehmann said that the concerns about Baldwin did not lead him to supervise Baldwin’s work. He said he simply trusted Baldwin to take the advice. At the time, Baldwin was dating Dr Lehmann’s daughter.¹⁸⁶

Dr Lehmann did not take any steps to report the concerns raised by others to ALA’s parents or the AOGA.¹⁸⁷ He also did not seek advice from the Department of Child Protection in Queensland about the relationship between Baldwin and ALA.¹⁸⁸

By June 2006, Dr Lehmann was aware that the relationship between ALA and Baldwin was ‘intense’; Baldwin was only mentoring ALA and not others; members of the Sunshine Coast Church had raised concerns about the relationship between Baldwin and ALA; Baldwin had been alone with ALA in his car; Baldwin proposed to give ALA drumsticks worth \$60 to \$100; and Baldwin wanted to give ALA a number of awards. We found that Dr Lehmann had sufficient information between 2004 and 2006 to indicate that Baldwin may be a risk to ALA.¹⁸⁹

Conflict of interest

We found that Dr Lehmann had a conflict of interest in addressing the concerns raised about the relationship between Baldwin and ALA, because of his personal and family relationship with Baldwin. The conflict of interest for Dr Lehmann unfolded over time and started when Baldwin resided at his house, dated his daughter and subsequently became his son-in-law. This conflict contributed to Dr Lehmann’s inability to take appropriate action to protect ALA, despite being repeatedly advised of concerning observations and accounts of Baldwin’s behaviour towards ALA.¹⁹⁰

During the *Australian Christian Churches* case study Dr Lehmann told us that he still struggled to accept that Baldwin is guilty of sexually abusing ALA. He stated:

I’m not saying he didn’t make errors of judgment, but I have two grandsons by him, a third one about to be born; if I believe he is a paedophile, then I’ve got to face the reality that our three grandsons are at great risk.¹⁹¹

Response to victim’s disclosures of child sexual abuse

ALA left the Sunshine Coast Church in 2006 and started attending another church at Kawana Waters, Queensland. On 4 April 2007, ALA approached the senior pastor of his new church, Pastor John Pearce, and disclosed that he had been sexually abused by a youth leader from his previous church. Pastor Pearce made arrangements for ALA to receive counselling and encouraged him to provide further details about the sexual abuse. In May 2007, ALA told Pastor Pearce the name of the person who sexually abused him and together they then reported the matter to ALA’s parents and to the police. Baldwin was arrested on 27 May 2007.¹⁹²

The ACC response to charges against Baldwin

Dr Lehmann left the Sunshine Coast Church in June 2006 and was replaced by Pastor Christian Peterson. Pastor Peterson told us that he first heard about the charges against Baldwin in May 2007. He said that he notified the district superintendent of the Queensland ACC within the first week of learning about the charges.¹⁹³

Pastor Peterson told us that Baldwin's charges were not communicated to the ACC Queensland State Executive at the time.¹⁹⁴ He told us of the difficulties for local pastors communicating with the state executive, saying:

It's sometimes very difficult for one of the rank and file pastors to connect with the State President. The process is, go to the district, the district looks after it, pushes it through, and if the state thinks it's responsible, they take it to the national executive between conferences, which is our final authority.¹⁹⁵

Pastor Gary Swenson, who was then the Vice President of ACC's Queensland State Executive, said he heard about the charges in December 2007. The Queensland State Executive then met, and notes of that meeting record that Baldwin's credential was automatically suspended.¹⁹⁶ The national database shows that Baldwin's credential was handed in on 10 December 2007, pending the criminal proceedings.¹⁹⁷ ALA's father gave evidence that the Queensland State Executive did not contact ALA or his family to let them know that Baldwin's credential was to be suspended.¹⁹⁸

Neither the ACC *Administration manual* nor the ACC *United constitution* had a process in place to inform ALA or his family that Baldwin's credentials were suspended. Pastor Swenson told us that it was the 'local church[s] responsibility' and that the Queensland State Executive had no 'jurisdiction, no right or access' to local church members. This is a direct result of the principle of autonomy within Pentecostal churches.¹⁹⁹

While Baldwin was convicted and sentenced in March 2009, the Queensland State Executive did not learn of this until October 2011. In a report, Pastor Swenson identified the removal of Baldwin's matter from the Queensland State Executive agenda in early June 2008 as a key failure that led them to lose track of his trial. We concluded that the ACC did not have in place any process to respond to ALA and his family in the event that Baldwin was convicted.²⁰⁰

ALA brought a civil claim against the Sunshine Coast Church, which was settled at mediation on 20 April 2012 for \$550,000. The insurance claim and its circumstances did not reach the ACC.²⁰¹ On 11 October 2011, before the claim was settled, ALA's father sent an email to a number of ACC offices asking for help for his son:

I am praying that somewhere from within the [Assemblies of God in Australia], perhaps helped by folks such as yourself, we could see a corporate change of heart towards our son and perhaps other innocent victims. Perhaps you could help me get my cry through to the

right ears, that the [sic] His church could see and act upon some way to bring about true justice and healing for [ALA] (and others). Is there somebody you can talk to? Can this matter become an agenda item for action and correction?²⁰²

Having received no response, in March 2012, ALA's mother wrote to Pastor Alcorn. The ACC responded by asking for basic details about the matter, and Pastor Alcorn wrote to ALA's mother promising 'there would be an enquiry as to what is happening in your case'.²⁰³

On 19 August 2012, Pastor Swenson met with the family and offered an apology for the manner in which the ACC had handled their case. ALA's mother told us that '[t]his was the only time [Australian] Christian Churches responded. I appreciated this, but it was far too little, far too late'.²⁰⁴

Pastor Swenson then prepared a report for the ACC, noting that there had been a 'simple but serious failure to monitor the legal processes, the court case and its outcomes' and 'consequently a subsequent failure to provide appropriate care and support for the victim and his family'.²⁰⁵

Assemblies of God in Australia

In the *Australian Christian Churches* case study we also inquired into an allegation of child sexual abuse of AHA by Mr Frank Houston in 1970. The focus of our inquiry was on the response of the AOGA leadership, including its National President, Pastor Brian Houston, between 1998 and 2000 to AHA's disclosure of sexual abuse. At the time, Pastor Brian Houston was also the senior pastor of the Hills Christian Life Centre, affiliated with the AOGA. Until May 1999, Mr Frank Houston was the senior pastor of another AOGA affiliated church, the Sydney Christian Life Centre. From May 1999 and for a period of 18 months, Pastor Brian Houston was the senior pastor of both churches, and in 2001 they joined and were renamed Hillsong Church.²⁰⁶

Our inquiry did not consider the response of Hillsong Church to the allegations of child sexual abuse. This was because the allegations of child sexual abuse that we examined, and the response to those allegations, predate Hillsong Church's establishment.

We found that the National President of the AOGA, Pastor Brian Houston, had a conflict of interest when he assumed responsibility for handling allegations against his father, Mr Frank Houston.²⁰⁷ Further, we found that, in responding to the allegations of child sexual abuse, the AOGA did not follow their own procedures in handling a complaint against a minister.²⁰⁸ We heard evidence that the New South Wales State Executive could not take any action to investigate the complaint, as it had not been put in writing.²⁰⁹ While the National Executive of the AOGA took disciplinary action against Mr Frank Houston, we concluded that they did not follow the procedures set out in the *Administration manual* and failed to recognise and respond to Pastor Brian Houston's conflict of interest.²¹⁰ Neither Pastor Brian Houston nor the National

Executive referred the allegations of child sexual abuse against Mr Frank Houston to the police,²¹¹ and the disciplinary proceedings against Mr Frank Houston were not communicated to the New South Wales Commissioner for Children and Young People as required by legislation.²¹² AHA received a total of \$12,000 from Mr Frank Houston. AHA did not receive an apology, support or counselling from the AOGA.²¹³

Response of the AOGA to Mr Frank Houston

AHA told us that he first disclosed the sexual abuse by Mr Frank Houston to his mother in 1978, when he was 16. His mother did not report the sexual abuse to anyone at the time, and AHA said that he did not take it further, as he 'did not want to cause any trouble'.²¹⁴

In 1998, AHA's mother disclosed the sexual abuse to Pastor Barbara Taylor, the senior pastor of another AOGA affiliated church in New South Wales. She also told a visiting evangelist minister, Mr Kevin Mudford.²¹⁵

On 4 November 1998, Pastor Taylor met with Mr Mudford and Pastor McMartin, who was then a member of the New South Wales State Executive of the AOGA. Pastor McMartin was told that allegations of child sexual abuse had been made against a senior pastor, without naming the victim or the alleged perpetrator. Pastor McMartin suggested that the allegations should be reported to Pastor Brian Houston because he was the National President at the time. Pastor Taylor told us that she did not report the allegations to Pastor Brian Houston at the time because the allegations concerned his father.²¹⁶

Pastor Taylor told us that on 19 May 1999 she wrote a letter to Pastor McMartin. The letter did not disclose the identity of AHA or of Mr Frank Houston, but it confirmed there had been contact between the victim and the alleged perpetrator and that the matter was put on hold, as the victim was too upset. Pastor Taylor spoke again with Pastor McMartin about the matter on 16 September 1999. She then wrote him a letter, naming Mr Frank Houston as the alleged perpetrator and AHA as the victim.²¹⁷

Pastor McMartin gave evidence that, when he learned the identity of the alleged perpetrator, he told Pastor Taylor to tell the victim that the complaints process could not begin until a written complaint was made, in accordance with the *Administration manual*. Pastor McMartin also told us that he contacted Pastor Alcorn, who was then a member of the National Executive, for advice. Pastor Alcorn and Pastor McMartin spoke to Pastor Brian Houston about the allegations about two weeks later, in approximately November 1999.²¹⁸

Pastor McMartin said that after he reported the matter to Pastor Brian Houston it was his understanding that the National Executive would undertake its own investigations. Despite the seriousness of the allegations, no steps were taken by the AOGA New South Wales State Executive to follow the complaints process in the *Administration manual* because the complaint had not been made in writing.²¹⁹

In mid-November 1999, Pastor Brian Houston confronted his father regarding the allegation. Pastor Brian Houston told us that Mr Frank Houston made a partial confession and admitted to having paid AHA some money. He told us that Mr Frank Houston was ‘stood down instantly’ and that Mr Frank Houston ‘never, ever preached again anywhere after I confronted him in my office in mid to late November 1999’. However, Pastor Brian Houston admitted that he failed to formalise Mr Frank Houston’s suspension in writing.²²⁰

On 22 December 1999, the AOGA National Executive held a Special Executive Meeting, called by Pastor Brian Houston for the purpose of considering the child sexual abuse allegations against his father. National vice-president, Pastor John Lewis, was in attendance, along with Pastor Alcorn, Pastor Keith Ainge, who was then the national secretary of the AOGA, and several others. Pastor Brian Houston told the executive members that his father had confessed to a single act of child sexual abuse and that the victim did not want to make a formal complaint. He did not disclose AHA’s identity in this meeting.²²¹

Pastor Brian Houston told us that at the meeting it was suggested that he step down as chair because of his personal relationship with Mr Frank Houston and his emotional state. Pastor Brian Houston remained in the room for the entirety of the meeting while the National Executive discussed the allegations against his father.²²²

The decisions of the National Executive in handling the complaint against Mr Frank Houston were recorded in the minutes of the Special Executive Meeting, being that:²²³

- Mr Frank Houston’s credential would be withdrawn ‘forthwith’
- Mr Frank Houston would be placed under the supervision of the New South Wales Superintendent, Mr Ian Woods
- Mr Frank Houston would refrain from public ministry for 12 months and would not receive his credential until the New South Wales Superintendent recommended restoration, which could occur only after two years
- Pastor Brian Houston would convey the decisions of the National Executive to Mr Frank Houston
- Pastor Brian Houston would meet with the complainant to explain the discipline and restoration processes, offer counselling and tell the complainant that his identity had been kept confidential
- the AOGA movement would not be notified of the disciplinary action, in the interests of the complainant and in line with the restoration policy.

The minutes also record that Mr Frank Houston would be invited to enter the AOGA restoration program.²²⁴

Pastor Ainge accepted that the procedures set out in the *Administration manual* were not followed. He accepted that it was in breach of the *Administration manual* to invite Mr Frank Houston to enter the AOGA restoration program.²²⁵ Section 2 of the *Administration manual* stated that ‘no rehabilitation should be considered in the case of a minister who offends in the area of ... (2) paedophilia’.²²⁶

Pastor Ainge also accepted that no independent person was appointed to contact AHA, as it was decided that Pastor Brian Houston would meet with AHA to explain the discipline and restoration processes and offer counselling. He accepted that neither the State Executive nor the National Executive interviewed Mr Frank Houston and the complainant, as per the requirements of the complaint handling procedure.²²⁷

We found that, in handling AHA’s allegation of child sexual abuse against Mr Frank Houston, the AOGA New South Wales State Executive and, separately, the National Executive did not follow the AOGA complaints procedures as set out in its *Administration manual* by failing to appoint a contact person for the complainant; interview the complainant to determine the precise nature of the allegations; have the state executive or National Executive interview the alleged perpetrator; and record any of the steps it took.²²⁸

Pastor Ainge told us that prior to the Special Executive Meeting the National Executive took legal advice about its obligations to report the allegations to the police. He said that the advice was that the National Executive was not legally required to report the incident to the police, as the complainant was of age and did not want the matter reported.²²⁹

Pastor Brian Houston told us that, while he ‘knew, for the five years my father was still alive, there was every possibility that he would be charged’, he did not report his father to the police because AHA was 35 or 36 years of age and had indicated that he did not want to go public about the sexual abuse or approach the police.²³⁰

We found that, in 1999 and 2000, neither Pastor Brian Houston nor the National Executive of the AOGA referred the allegations of child sexual abuse against Mr Frank Houston to the police.²³¹

During the period examined in the case study, the *Commission for Children and Young People Act 1998* (NSW) dealt with employment screening for child-related employment, which was administered by the New South Wales Commission for Children and Young People and other agencies. Under section 39(1) of the *Commission for Children and Young People Act 1998* (NSW), an employer had a duty to notify the New South Wales Commission for Children and Young People of the name and details of any employee against whom relevant disciplinary proceedings (including proceedings involving child abuse and sexual misconduct) have been completed by the employer. The duty applied to all disciplinary proceedings, including those completed in the five years before the commencement of the Act in 2000.²³²

We heard that neither Hillsong Church nor its predecessors reported any disciplinary proceedings against Mr Frank Houston to the New South Wales Commission for Children and Young People, as required by section 39(1) of the *Commission for Children and Young People Act 1998* (NSW).²³³

Response to the victim

Pastor Taylor told us that Mr Frank Houston contacted AHA several times by telephone in 1999 to apologise but said that AHA did not consider the apology to be genuine. According to AHA, financial compensation was initially raised by Mr Frank Houston because ‘he was very frightened with what he’d been doing to myself and to other children, and he didn’t want to die and go with this in front of God to answer for it’.²³⁴

In the same year, Mr Frank Houston arranged for a payment of \$2,000 to AHA.²³⁵

In 2000, AHA met with Mr Frank Houston at a McDonald’s restaurant in Sydney. A friend of Frank Houston’s and an elder of Hillsong Church were also present. AHA told us that he was offered a dirty napkin to sign in exchange for \$10,000 and that Mr Frank Houston told him that if there was any problem he should contact Pastor Brian Houston. AHA did later contact Pastor Brian Houston, following which he received a cheque for \$10,000 in the mail.²³⁶

We did not receive any evidence to show that AHA received a formal apology from AOGA/ACC or Pastor Brian Houston.

In his statement, AHA said:

I felt very isolated when my story first started to come out and the church community made me feel like I was the problem. Nobody believed my story and others put pressure on me to keep my mouth shut. I felt that the church’s response was completely inadequate and I have received absolutely no support, counselling, apology or acknowledgement of the abuse. I believe that Brian Houston and the other elders of Hillsong church kept Pastor Frank’s history as quiet as they could, and they have not been held accountable for how they have handled my allegation.²³⁷

Conflict of interest

As set out above, at the time that allegations of Mr Frank Houston’s sexual abuse of AHA emerged, his son, Pastor Brian Houston, was the senior pastor of Hillsong Church and National President of the AOGA. In responding to AHA’s allegations against Mr Frank Houston, we found that a conflict of interest first arose when Pastor Brian Houston decided to respond to the allegations by confronting his father while simultaneously maintaining his roles as National President and senior pastor. The conflict became even more apparent when Pastor Brian Houston called the Special Executive Meeting in his capacity as National President and remained in the room throughout that meeting.²³⁸

When the National Executive agreed that Pastor Brian Houston would communicate their decisions to Mr Frank Houston and AHA, it was unclear in what capacity he was meant to undertake these tasks. However, this meant that Pastor Brian Houston was the National Executive's only line of communication to both the alleged perpetrator and the victim.²³⁹

The conflict of interest became even more apparent when Mr Frank Houston met with AHA and told him to contact Pastor Brian Houston if there were any problems. Pastor Brian Houston said that he facilitated the payment when later called by AHA. He said he did not inform the Special Executive Meeting about the payment because '[t]his payment was between Frank and [AHA]'.²⁴⁰

In short, a conflict of interest existed because Pastor Brian Houston was both National President of the Assemblies of God in Australia and Mr Frank Houston's son.²⁴¹

We found that in 1999 members of the National Executive who attended the Special Executive meeting did not follow their own policy, the *Administration manual*, and failed to recognise and respond to Pastor Brian Houston's conflict of interest.²⁴²

16.4 Contributing factors in the ACC and affiliated Pentecostal churches

During our inquiry we considered the factors that may have contributed to the occurrence of child sexual abuse in religious institutions or to inadequate institutional responses to such abuse.

Our inquiry has shown that some specific factors contributed to inadequate institutional responses by churches affiliated with the ACC to allegations of child sexual abuse: concern for reputation and avoidance of scandal; the autonomous nature of Pentecostal churches; the role of pastors in Pentecostal churches; and the existence of conflicts of interest in Pentecostal churches.

16.4.1 Concern for institutional reputation

In many of our case studies in relation to religious institutions, concern about institutional reputation has affected institutional responses to allegations of child sexual abuse.

Concern for the preservation of reputation appears to have affected the institutional response to allegations against Mr Frank Houston, who was allowed to retire during his period of suspension and was provided with a retirement package, including financial support. Despite having knowledge that Mr Frank Houston admitted to sexually abusing AHA, the National Executive allowed him to publicly resign, without damage to his reputation or the reputation of the church.²⁴³

Similarly, concern for reputation and avoidance of scandal also appeared to have affected the institutional response by staff of the Northside Christian College to allegations against Sandilands. The ‘potential damage to the school’s reputation’ was noted by the school principal in March 1987.²⁴⁴ Furthermore, the reason given for Sandilands’s departure from the college in 1992 was his failing eyesight, rather than the numerous allegations about his inappropriate behaviour towards children.²⁴⁵

16.4.2 The autonomous nature of Pentecostal churches

As discussed above, a distinguishing feature of the structure and governance of Pentecostal churches is that they are self-governing and independent. Unlike other Christian denominations with a more hierarchical structure, Pentecostal churches recognise the autonomy of local churches.²⁴⁶ This means that Pentecostal churches have flat power structures that allow for the senior pastor to control the management of their church.

In the *Australian Christian Churches* case study, Pastor Alcorn told us that the ‘principle of autonomy’ meant that the National Executive of the ACC had limited oversight over its affiliated churches. Its oversight primarily related to the registration of affiliated churches and accreditation of pastors.²⁴⁷ Consequently, the management and operation of affiliated churches, including in relation to child protection matters, was effectively under the control of the senior pastor. We heard that the ACC had no process in place to ensure that senior pastors of affiliated churches implemented child protection measures in the management of their local church.²⁴⁸

The principle of autonomy allowed the senior pastor of an affiliated church to control the management of their local church in a number of ways – for example, by exercising discretion as to whether local churches adopted child protection policies developed by the National Executive; by determining whether credential and certificate holders attended training on child protection; and by determining the arrangements for the supervision of staff or the discipline of staff engaged in improper conduct.

The effect of the principle of autonomy was particularly evident in the Sunshine Coast Church. This autonomy enabled the senior pastor, Dr Lehmann, to keep concerns surrounding Baldwin’s conduct from ALA’s parents and the board of the Sunshine Coast Church.²⁴⁹ Further, the lack of oversight by the National Executive or the Queensland State Executive led to Dr Lehmann not implementing ACC approved child protection policies.²⁵⁰

Discretion to adopt child protection policies

In the *Australian Christian Churches* case study, Pastors Alcorn and McMartin told us that a feature of the principle of autonomy was that, in the management of their local church, senior pastors had the discretion to determine whether to adopt policies, including child protection

policies, provided by the ACC.²⁵¹ If senior pastors have such discretion, there is a risk that some local churches will either not adopt the policies recommended by the National Executive or implement inadequate policies.

This was particularly evident in our examination of the Sunshine Coast Church, where we found that, despite a child protection policy being recommended by the National Executive, no written child protection policy had been adopted by the senior pastor and the recommended policy was not followed.²⁵²

Non-compulsory child protection training for ministers

An objective of the ACC is to ‘train ... and send out ministers ... for the work of God’. We heard that, in achieving this objective, the ACC offered training to its ministers (that is, credential and certificate holders) on governance, workplace health and safety and child protection. The state executives also offered training, including in the areas of risk and the implementation of policies, and voluntary one-day seminars on current legislation.²⁵³

The *United constitution* dated April 2013 set out the qualifications and requirements of all credential and certificate holders of ACC affiliated churches. It did not set out any requirements that its credential and certificate holders must attend training on child protection.²⁵⁴ We heard evidence that, while the ACC provided opportunities for training programs, including on child protection, it was up to the affiliated church to take the opportunities offered. We concluded that the ACC recommends, but does not require that its pastors attend training programs offered on child protection policies.²⁵⁵

The ACC has recognised that it is important that institutional staff receive training on the nature and indicators of child sexual abuse and that they are supported and equipped to develop skills in protecting children and responding to disclosures of sexual abuse. Since 2016, credential and certificate holders are required to attend regular child protection training as a condition of renewal.²⁵⁶ This development is discussed in further detail in Chapter 20, ‘Making religious institutions child safe’.

Supervision and discipline of staff

In the *Australian Christian Churches* case study we received evidence that the principle of autonomy also has consequences for the management of human resources in local churches, including the discipline of ministers.²⁵⁷

Our inquiry into the Sunshine Coast Church and the Northside Christian College revealed a lack of appropriate governance arrangements and, in particular, a lack of adequate supervision of staff. In both cases, despite concerns raised about the behaviour and conduct of the

perpetrators to the senior pastors of each institution, supervisory arrangements were either not put in place²⁵⁸ or were ineffective in preventing further child sexual abuse from occurring.²⁵⁹ Allowing affiliated churches to determine locally the arrangements for the supervision of staff increases the risk that some churches will either not adequately supervise staff or introduce arrangements that are not adequate to prevent child sexual abuse from occurring or to respond to allegations of child sexual abuse.

We also heard that, as a result of the principle of autonomy, the ACC is not involved in the discipline of members of affiliated churches and that reliance is placed on the local church to take appropriate disciplinary action.²⁶⁰

16.4.3 Role of pastors in Pentecostal churches

As noted above, Pentecostal churches emphasise a charismatic form of leadership. Pastors can have significant influence on the members of their congregation. The trust placed in pastors can contribute to their access to children and to the nature of the institutional response to allegations of child sexual abuse.

For example, in the case of Baldwin, his role as a youth pastor provided him access to ALA and affected the response to concerns raised by senior members of the Sunshine Coast Church, as he was ‘trusted’ by Dr Lehmann.²⁶¹ Pastor Alcorn told us that:

[Members of the congregation] have every right to assume that, when they send their children to a youth program or any activity in the life of our church, that those children and young people will be cared for by properly trained, recognised leaders ...²⁶²

Pastor Alcorn told us that people can function in the role of pastor without necessarily having credentials. He said that the title of pastor is often used in churches and within the ACC – the term ‘pastor’ simply means to ‘shepherd people’.²⁶³

Article 11 of the *United constitution* lists four credentials recognised by the ACC: Ordained Minister’s Credential, Provisional Minister’s Credential, Specialised Ministry Certificate and Overseas Associate Minister’s Certificate. The *United constitution* also outlines the qualifications and requirements of all credential and certificate holders.²⁶⁴ However, there is no prohibition in the *United constitution* or the by-laws of the ACC on a person holding themselves out to be a ‘pastor’ without receiving any of the aforementioned credentials.²⁶⁵

We found that the lack of control over who is able to represent themselves as a pastor of the ACC is a weakness in the necessary safety controls that the ACC should have in place to protect children.²⁶⁶

In the *Institutional review of Australian Christian Churches* hearing, the ACC acknowledged that the misuse of the term ‘pastor’ was a key learning from the *Australian Christian Churches* case study. We heard that the ACC has taken active steps to ensure the term is not misused. This includes discouraging people from calling themselves a ‘pastor’ without the proper credentials through articles written by the National President and speeches given at state conferences and regional events.²⁶⁷

Pastor Stanton, National Secretary and Treasurer of the ACC, said that the ACC understands that in their community ‘there are assumptions made that are linked to a title’. While he could not ‘guarantee 100 per cent’ that only people with, at a minimum, a Provisional Minister’s Credential are called pastor, the issue had been addressed and they had seen ‘incredible progress’. He told us that he was confident it is ‘not a significant issue within the ACC’.²⁶⁸

16.4.4 Conflicts of interest

It is common for those in senior positions in ACC affiliated churches to have personal or familial connections with other members of the church or other members who hold a leadership role.²⁶⁹

In the *Australian Christian Churches* case study, our inquiries into the allegations against Mr Frank Houston and against Baldwin revealed personal and familial relationships between them and senior members of the relevant churches. We heard that these senior members were involved in the institutional responses to the allegations made against Mr Frank Houston and Baldwin.²⁷⁰

In the *Australian Christian Churches* case study, we heard that, while the ACC had a conflicts of interest policy, the primary focus of the policy was in respect of financial matters.²⁷¹

Our inquiry demonstrated the consequences of the inadequate management of conflicts of interest. In the case of Mr Frank Houston, Pastor Ainge told us that the National Executive felt ‘pressure’ arising from ‘the fact that Frank Houston was a well-known, respected and appreciated member’ of the ACC and that he was a founding member of the Sydney Christian Life Centre, a very popular church.²⁷² This is likely to have contributed to the inadequate response to allegations made against him, particularly to the National Executive’s departure from the governing policies and procedures. We also found that a conflict of interest contributed to Dr Lehmann’s failure to act protectively towards ALA in response to complaints against Baldwin.²⁷³

In the *Institutional review of Australian Christian Churches* hearing, we heard that the ACC and Hillsong Church have recognised the importance of ‘avoiding any actual, apparent or potential conflicts between personal interests and pastoral responsibilities’.²⁷⁴ Both the ACC and Hillsong Church have amended their policies and procedures to identify and appropriately manage conflicts of interest.²⁷⁵ The steps taken by the ACC and Hillsong Church to mitigate and deal with conflicts of interest are set out in further detail in Part E.

In Chapter 20 we recommend that each religious institution should have a policy relating to the management of actual or perceived conflicts of interest that may arise in relation to allegations of child sexual abuse. The policy should cover all individuals who have a role in responding to complaints of child sexual abuse (Recommendation 16.39).

16.4.5 Changes to ACC policy

In the *Institutional review of Australian Christian Churches* hearing, the ACC noted that it had come to recognise the need to exercise greater coordination and control over affiliated churches. It now requires (rather than recommends) that affiliated churches adopt child protection policies and guidelines.²⁷⁶ However, as noted above, the ACC does not have a formal audit process in place to check whether churches and pastors were compliant with these policies and guidelines.²⁷⁷ These changes are discussed further in Chapter 20.

16.5 Conclusions about the ACC and affiliated Pentecostal churches

In our inquiry we considered responses to allegations of child sexual abuse in three Pentecostal churches. The circumstances of these allegations were quite distinct, each case revealing different institutional responses.

We found that the senior pastor of the Northside Christian Centre had sufficient knowledge that Sandilands posed an unacceptable risk to children at the college from the late 1980s and failed to act to ensure the protection of children at the college. Sandilands was not placed on leave until 1992, when he was placed on indefinite sick leave due to his failing eyesight. The leadership of the Northside Christian Centre subsequently acknowledged that the ‘situation’ regarding Sandilands had been ‘completely bungled by the past leadership’. The victims of child sexual abuse did not receive any apology until our case study.

In our consideration of the responses of the Sunshine Coast Church to allegations against youth pastor Baldwin, we found that the senior pastor who responded to complaints had a clear conflict of interest because of his personal and family relationship with Baldwin. The Sunshine Coast Church also failed to follow the ACC process to remove Baldwin’s ‘credential’ or ministry certificate despite him having been charged with child sexual abuse. The ACC ultimately apologised to the victim and his family for their failure to provide appropriate care and support.

In our consideration of the responses of the Assemblies of God in Australia to allegations against Mr Frank Houston, we found that the National President of the AOGA, Pastor Brian Houston, had a conflict of interest when he assumed responsibility for handling allegations against his father. The National Executive of the AOGA failed to recognise and respond to this conflict of interest and did not report the allegations to police or the disciplinary proceedings to state authorities as required by legislation.

We considered a number of factors that contributed to the occurrence of child sexual abuse in religious institutions or to inadequate institutional responses to this abuse. It is apparent that a concern for institutional reputation affected responses to allegations of child sexual abuse by the ACC and its affiliated churches. The role of pastors in ACC affiliated churches is also a contributing factor. The trust placed in pastors can contribute to their access to children; and the lack of control over who is able to represent themselves as a pastor of the ACC is a weakness in the necessary safety controls that the ACC should have in place to protect children. In these institutions, the inadequate management of conflicts of interest was a further feature of the organisation's poor institutional responses to child sexual abuse.

Perhaps the most significant factor that affected institutional responses to allegations of child sexual abuse was the autonomous nature of Pentecostal churches, which meant that senior pastors had discretion about whether to adopt child protection policies, including in relation to the training, supervision and discipline of staff.

In Part E we make recommendations that should be considered by all religious organisations in Australia, including the ACC and its affiliated Pentecostal churches. We recommend that religious organisations adopt the Royal Commission's 10 Child Safe Standards as nationally mandated standards for each of their affiliated institutions and drive a consistent approach to the implementation of those standards. The Child Safe Standards articulate the essential elements of a child safe institution and set benchmarks against which institutions can assess their child safe capacity and set performance targets.

We also recommend that religious organisations work closely with relevant state and territory oversight bodies for the Child Safe Standards to support the implementation of and compliance with the standards in each of their affiliated institutions. As part of this approach, we encourage the ACC to implement a process of measuring compliance with the Child Safe Standards in their affiliated institutions, and to make public the results of that process for the purposes of transparency and accountability.

Endnotes

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17 Yeshiva Bondi and Yeshivah Melbourne

In February 2015, the Royal Commission held a public hearing inquiring into the responses of two Jewish institutions in the Chabad-Lubavitch movement to allegations of child sexual abuse. We specifically considered the responses of:

- the Yeshiva Centre and Yeshiva College in Bondi, Sydney, New South Wales (Yeshiva Bondi)
- the Yeshivah Centre and Yeshivah College in Melbourne, Victoria (Yeshivah Melbourne).

Our findings in relation to this public hearing are set out in our report on *Case Study No 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions (Yeshiva Bondi and Yeshivah Melbourne)*, which was published in October 2016.¹

In March 2017, we held a further public hearing in relation to Yeshiva Bondi and Yeshivah Melbourne in *Case Study 53: Institutional review of Yeshivah Melbourne and Yeshiva Bondi (Institutional review of Yeshiva/h)*. This public hearing provided an opportunity for the senior members of the Yeshiva Bondi and Yeshivah Melbourne institutions to inform us of their current policies and procedures in relation to child protection and child safe standards, including responding to allegations of child sexual abuse. During the *Institutional review of Yeshiva/h* we also heard from the representatives of the Executive Council of Australian Jewry, the Rabbinical Councils of Victoria and New South Wales, the Jewish Community Council of Victoria and the New South Wales Board of Deputies Task Force on Child Protection.

This chapter concentrates solely on our examination of Yeshiva Bondi and Yeshivah Melbourne. In other parts of this volume we discuss issues of relevance to the broader Jewish community in Australia.

In this chapter, where we refer to the policies and procedures of Yeshiva Bondi and Yeshivah Melbourne, they are those available to us at the time of the *Yeshiva Bondi and Yeshivah Melbourne* case study.

17.1 Structure and governance of Yeshiva Bondi and Yeshivah Melbourne

17.1.1 History of the Chabad-Lubavitch movement

In Australia there are three principal denominations of Judaism: orthodox, progressive and reconstructionist.² The Chabad-Lubavitch movement is a sect of orthodox Judaism within the general class of Jewish movements known as Hasidism. Members of the Chabad-Lubavitch movement are sometimes, but not uniformly, referred to as ‘ultra’ orthodox Jews. Yeshiva Bondi and Yeshivah Melbourne are both part of the Chabad-Lubavitch movement.³

The Chabad-Lubavitch movement was founded in Eastern Europe in the late 18th century by Rabbi Schneur Zalman of Liadi.⁴ Throughout its history, it has had seven spiritual leaders or ‘rebbe’.⁵ Members of Chabad-Lubavitch communities consider that rebbe have ‘special spiritual merit and the ability to act as intermediaries between man and God’.⁶ In 1951, Rabbi Menachem Mendel Schneerson became the seventh and final rebbe of the movement.⁷ Rabbi Schneerson was widely revered by members of the movement⁸ – so much so that many members came to believe that he was the Messiah.⁹ He is referred to by members of the Chabad-Lubavitch movement simply as ‘the Rebbe’ or ‘the Lubavitcher Rebbe’.¹⁰

Under the Rebbe’s leadership, the Chabad-Lubavitch movement expanded significantly around the world. It was the Rebbe’s mission to establish a worldwide outreach movement to encourage Jews to adhere to the precepts of orthodox Judaism. He set about achieving this mission by despatching emissaries (*schluchim*) to establish and lead Chabad centres around the world, including in Australia.¹¹

Emissaries were given the authority of the Rebbe and were answerable only to him. Once an emissary was appointed to a territory, he was given the authority to manage, control and lead the Chabad-Lubavitch activities within that territory. Each emissary was responsible for his own fundraising, legal entities, staffing management and control.¹² In this way, the Chabad movement operated like a franchise, with the franchisee for a territory – the emissary – having the right to appoint sub-franchisees within that territory.¹³

The headquarters of the Chabad-Lubavitch movement is in New York in the United States.¹⁴ According to the movement’s website, in June 2017 there were 4,000 full-time emissary families who ‘apply 250 year-old principles and philosophy to direct more than 3,300 institutions ... dedicated to the welfare of the Jewish people worldwide’.¹⁵

17.1.2 The Chabad-Lubavitch movement in Australia

The Chabad-Lubavitch movement’s presence in Australia can be traced back to 1912 and the arrival of a small number of Jewish families from Europe, led by Moshe Zalman Feiglin, who settled in Shepparton in Victoria.¹⁶ According to Rabbi Elisha Greenbaum in *New Under the Sun: Jewish Australians on Religion, Politics and Culture*, the Feiglin family became the founders, administrators and benefactors of a wide variety of orthodox Jewish community religious, educational and charitable organisations. The expansion of Chabad in Australia received further impetus in 1948, when Mr Feiglin, on the recommendation of Rabbi Schneerson, sponsored the immigration of six Russian Chabad-Lubavitch families from post-Holocaust Europe.¹⁷

Rabbi Greenbaum estimated that ‘at any one time there have probably never been more than 400 families in Australia who would consider themselves to be fully committed Chabad Hassidim’.¹⁸ Despite their relatively small number, commentators observe that the Chabad-Lubavitch movement has succeeded in assuming unrivalled religious leadership of the Orthodox

Australian Jewish community.¹⁹ Not only has the movement established its own synagogues in Melbourne, Sydney and Perth but also Chabad rabbis lead many of the well-established, mainstream orthodox synagogues.²⁰

Yeshiva Centre Bondi

The Yeshiva Centre was established in Bondi, New South Wales in 1956 as a synagogue and centre of learning for the Sydney Jewish community.²¹ The Yeshiva Centre has a number of facilities, including a synagogue, a ritual bathhouse (the *mikveh*) and a segregated boys and girls school.²² The Yeshiva Centre in Bondi also operates the following activities involving children:

- services at the synagogue, including services for children²³
- activities at the ritual bathhouse²⁴
- Chabad Youth – a youth outreach program that runs camps and activities for children under the age of 18.²⁵

Head rabbi

In 1968, Rabbi Pinchus Feldman was appointed emissary of the Chabad-Lubavitch movement in New South Wales and became the dean and spiritual leader of the Yeshiva Centre in Bondi.²⁶

Under the leadership of Rabbi Pinchus Feldman, Yeshiva Bondi established two schools: the Yeshiva College Bondi – a segregated boys' and girls' day school – and the Yeshiva Gedolah Rabbinical College – a tertiary vocational school providing rabbinical education and training for young men, generally between 20 and 22 years of age.²⁷

The Yeshiva College Bondi

Prior to 2003, the day schools were operated by two entities: Yeshiva College Ltd and Yeshiva Jewish Day School Ltd. In 2003, Yeshiva College Ltd went into administration, and ownership of Yeshiva College Ltd was transferred to a group of parents, who changed its name to Kesser Torah College Ltd and relocated the schools to Dover Heights. The Kesser Torah College is no longer associated with, or run by, the Yeshiva Centre in Bondi and was not one of the institutions examined in the *Yeshiva Bondi and Yeshivah Melbourne* case study.²⁸

In 2004, the Yeshiva Centre in Bondi commenced unofficial schooling arrangements, described to us as 'home schooling', at the Yeshiva Centre. By 2007, an application for registration of the home schooling arrangement was made with the New South Wales Board of Studies (now known as the Board of Studies Teaching and Educational Standards NSW). In 2008 a new entity, Yeshiva College Bondi Ltd, was established. This entity ran the new Yeshiva College Bondi.²⁹

At the time relevant to the *Yeshiva Bondi and Yeshivah Melbourne* case study, Rabbi Pinchus Feldman was a director of Yeshiva College Bondi Ltd and dean and spiritual leader of the Yeshiva College Bondi.³⁰

In 2012, Yeshiva College Bondi Ltd faced the prospect of going into administration for a second time. As a result, the board of Yeshiva College Bondi Ltd resigned, and a new board was appointed to run Yeshiva College Bondi.³¹

In the *Institutional review of Yeshiva/h* hearing, we heard that in 2017 there were 67 students enrolled at Yeshiva College Bondi.³² The principal of Yeshiva College Bondi is Ms Shaina Feldman, the wife of Rabbi Yosef Feldman, who is Rabbi Pinchus Feldman's son.³³

The Yeshiva Gedolah Rabbinical College

The Yeshiva Gedolah Rabbinical College provides education and training to young men seeking ordination as rabbis. Students of the Yeshiva Gedolah Rabbinical College are trained and housed at the Yeshiva Centre Bondi and Yeshiva College Bondi site.³⁴

Rabbi Yosef Feldman was supervisor of students and subsequently rabbinical administrator of the Yeshiva Gedolah Rabbinical College from 1993 to 2008.³⁵

In the *Institutional review of Yeshiva/h* hearing, Rabbi Pinchus Feldman told us that the Yeshiva Gedolah Rabbinical College had been 'suspended' due to a 'lack of funds'.³⁶

Yeshivah Melbourne

The Yeshivah Centre in Melbourne was established in 1949 to assist post-war migrant Jews arriving in Australia.³⁷ The centre has a number of facilities, including four synagogues, the ritual bathhouse and a number of day schools.³⁸ The day school for boys, the Yeshivah College Melbourne, was established in 1954. The day school for girls, the Beth Rivkah Ladies College, was established in 1959. Both are located in St Kilda East and are near to the centre's synagogue and ritual bathhouse.³⁹

At the time of the *Institutional review of Yeshiva/h* hearing, we heard that there were approximately 1,000 members of the Yeshivah Melbourne community⁴⁰ and approximately 1,300 students attending Yeshivah Melbourne schools.⁴¹ As with the Yeshiva Centre Bondi, the Yeshivah Centre in Melbourne operates the following activities involving children:

- services at the synagogue, including services for children⁴²
- activities at the ritual bathhouse⁴³
- Chabad Youth – a youth outreach program that runs activities for children under the age of 18.⁴⁴

Incorporated associations at Yeshivah Melbourne

At the time of the *Yeshiva Bondi and Yeshivah Melbourne* case study, the following three incorporated associations were responsible for overseeing and operating the activities of Yeshivah Melbourne:⁴⁵

- Yeshivah-Beth Rivkah Colleges Inc (which operated the day schools Yeshivah College Melbourne and Beth Rivkah Ladies College)
- Chabad Institutions of Australia Inc (which operated the religious activity in the educational colleges and institutions and managed the youth organisation Chabad Youth)
- Chabad Properties Inc (which owned the real property of Yeshivah Melbourne).

In the *Institutional review of Yeshiva/h* hearing we heard that Yeshivah Melbourne's governance structure had been reformed and three new entities have been established. These are:⁴⁶

- Yeshivah-Beth Rivkah Schools Ltd (YBRSL) (which governs the educational activities of Yeshivah Melbourne)
- Chabad Institutions of Victoria Ltd (CIVL) (which governs the non-educational activities of Yeshivah Melbourne)
- Yeshivah Centre Ltd (YCL) (a 'roof board' which oversees the services and finances of YBRSL and CIVL).

The Committee of Management

In the *Yeshiva Bondi and Yeshivah Melbourne* case study, we heard that a Committee of Management, which included nine members from each of the incorporated associations, was responsible for managing Yeshivah Melbourne.⁴⁷ Its responsibilities included managing the legal affairs and obligations of each of the incorporated associations and overseeing the associations' key employees.⁴⁸

We found that members of the incorporated associations and the Committee of Management were often connected through personal friendships and familial ties. Similarly, key employees of Yeshivah Melbourne and members of the Committee of Management were closely connected by family, longstanding friendships and/or relationships of marriage.⁴⁹

The head rabbi

The most senior spiritual leader at Yeshivah Melbourne is the head rabbi.

We heard that Rabbi Yitzchok Dovid Groner was head rabbi of Yeshivah Melbourne from 1959 until 2007. He was head rabbi at the time of the child sexual abuse examined in the *Yeshiva Bondi and Yeshivah Melbourne* case study and at the time when the child sexual abuse at

Yeshivah Melbourne was reported. Rabbi Groner was an influential member of the Yeshivah Melbourne community. As head rabbi, he was responsible for instructing the community in the application of Jewish law to the devout practice of the faith. Rabbi Groner died in 2008.⁵⁰

In 2007, Rabbi Zvi Hersh Telsner succeeded Rabbi Groner, his father-in-law, as head rabbi of Yeshivah Melbourne.⁵¹ Rabbi Telsner gave evidence at the public hearing in the *Yeshiva Bondi and Yeshivah Melbourne* case study. During the *Institutional review of Yeshiva/h* hearing, we heard that Rabbi Telsner had resigned from his position in September or October 2015 due to concerns that 'his conduct in regards to some of the victims and families of the sexual abuse problem was not appropriate'⁵² and that as a result there was no head rabbi at Yeshivah Melbourne.⁵³

Relationship between the Committee of Management and Rabbi Groner

In the *Yeshiva Bondi and Yeshivah Melbourne* case study, we heard that the leadership and governance of Yeshivah Melbourne revolved around the head rabbi and a Committee of Management. Mr Don Wolf, who was chairman of the Committee of Management from 1998 to 2014, accepted that the Committee of Management had a legal responsibility to oversee the activities of Rabbi Groner.⁵⁴

Despite these formal governance arrangements, we heard that in practice the Committee of Management did not oversee Rabbi Groner. Mr Wolf told us that Rabbi Groner oversaw the day-to-day affairs of all the Yeshivah Melbourne entities. He said that Rabbi Groner was the rabbi, chief executive officer and decision-maker and that, while he may have discussed matters with the Committee of Management or asked for its input from time to time as he saw fit, he was definitely in absolute control.⁵⁵

We found that the relationship between the head rabbi and the Committee of Management was one of deference to the rabbi rather than oversight and control.⁵⁶

Relationship between Yeshiva Bondi and Yeshivah Melbourne

Yeshiva Bondi and Yeshivah Melbourne are both part of the Chabad-Lubavitch movement, but they operate independently.⁵⁷ In the *Institutional review of Yeshiva/h* hearing, Rabbi Chaim Tsvi Groner, a rabbi at Yeshivah Centre Melbourne and the son of the late Rabbi Yitzchok Dovid Groner, told us that, while it was possible that staff could move between the two institutions, there was no official policy of sharing employees.⁵⁸

We also heard that while Yeshiva Bondi and Yeshivah Melbourne share a spiritual relationship with the Chabad-Lubavitch headquarters in New York, there is no formal relationship between the institutions.⁵⁹

Authority of overarching Jewish bodies

During the course of the public hearings in *Yeshiva Bondi and Yeshivah Melbourne* and the *Institutional review of Yeshiva/h*, we heard from representatives of various overarching Jewish bodies, including:

- the Executive Council of Australian Jewry (the elected representative body of the Australian Jewish community)
- the Rabbinical Councils of Victoria and New South Wales
- the Jewish Community Council of Victoria
- the New South Wales Jewish Board of Deputies Task Force on Child Protection.

They told us that, among other things, they are responsible for developing model policies and procedures in relation to child protection and advocating for the adoption of those policies by Jewish organisations.⁶⁰ We heard that they do not have any binding authority to require affiliated Jewish organisations, including Yeshiva Bondi and Yeshivah Melbourne, to adopt policies or procedures.⁶¹

17.1.3 Cultural beliefs and practices of the Chabad-Lubavitch movement

Chabad-Lubavitch communities are defined by their strict adherence to Jewish law and to the obligations of the practice of the orthodox Jewish faith. Those obligations include:⁶²

- the requirement of modesty and gender segregation
- daily prayer
- dedication to Jewish study
- ‘outreach’ (from the Hebrew word *kiruv*, which means ‘bringing close’) to encourage non-orthodox Jews to believe in God, engage in Torah study and live according to orthodox Jewish law.

Some particular features of Chabad-Lubavitch communities contributed to how Yeshiva Bondi and Yeshivah Melbourne responded to allegations of child sexual abuse. These contributing factors are considered in more detail below.

The role of the rabbi

The life of Chabad-Lubavitch communities typically revolves around the synagogue (the *schule*).⁶³ The religious leader of the synagogue is the ‘rabbi’, which means ‘teacher’ in Hebrew.⁶⁴ The rabbi plays a fundamental role in guiding and leading their community – particularly in the application of Jewish law (*halocho*) to daily life.⁶⁵

Members of Chabad-Lubavitch communities look to their rabbi for authoritative guidance and leadership. We heard that this is even more the case if the rabbi is also an emissary of the Rebbe.⁶⁶

It is not unusual for community members to seek guidance from a rabbi when they are making life decisions (such as whether to apply for a job or return to study) and on occasion the rabbi will actually make the decision for the member.⁶⁷

In the *Yeshiva Bondi and Yeshivah Melbourne* case study, we heard that rabbis had significant influence upon the thinking and conduct of members of the Yeshiva Bondi and Yeshivah Melbourne communities (particularly the responses of those communities to the issue of child sexual abuse).⁶⁸

Jewish Law

Haloch is the Hebrew term used to refer to the collective body of Jewish religious laws. Within Chabad-Lubavitch communities there is a strong individual and community focus on whether or not a particular act is ‘halachically’ permitted.⁶⁹ Members rely heavily on the rabbis for guidance on these issues.⁷⁰

In the *Yeshiva Bondi and Yeshivah Melbourne* case study, we heard that the following *halachic* principles, which arose in response to historical discrimination against Jews by secular authorities,⁷¹ were relevant to the reporting of, and institutional response to, allegations of child sexual abuse:⁷²

- *arka’ot*: a requirement to resolve disputes between Jews by applying Jewish law rather than civil law
- *mesirah*: a prohibition upon a Jew informing upon, or handing over, another Jew to a civil authority (particularly where criminal conduct is alleged)
- *moser*: a term of contempt applied to a Jew who has committed *mesirah* (the definition of the term approximates the term ‘informer’ but with additional – and very negative – connotations)
- *loshon horo*: the act of gossiping (or speaking negatively) about another Jew or a Jewish institution or place – *loshon horo* is discouraged under Jewish law, even if what is said about a person, institution or place is objectively true.

In 2010, the Rabbinical Council of Victoria (RCV) determined that authoritative leadership on the application of Jewish law to the issue of child sexual abuse was required. The RCV issued an advisory resolution (the 2010 RCV Resolution) that stated that the prohibition of *mesirah* and *arka'ot* did not apply to information about child sexual abuse and that it was an obligation of Jewish law (a *halachic* obligation) to report child sexual abuse to civil authorities.⁷³

Despite the clear guidance set out in the 2010 RCV Resolution, we heard that senior members of the Yeshivah Melbourne and Yeshiva Bondi communities continued to give the impression that the prohibition of *mesirah*, *loshon horo* and *arka'ot* did apply to cases involving child sexual abuse. This is discussed further below.

Instruction and discussion of sex

In my experience, matters of a sexual nature are taboo within the Yeshivah community and the broader Chabad movement.⁷⁴

Survivor, Mr Manny Waks

Chabad-Lubavitch communities do not condone sexual behaviour outside of the union of marriage between a man and woman. In the *Yeshiva Bondi and Yeshivah Melbourne* case study, we heard that sex education in Chabad-Lubavitch schools was limited or non-existent and that it was not uncommon for sex education to be given only at the time of marriage.⁷⁵

One witness told us that, outside of marriage, the word 'sex' is never uttered. That same witness gave evidence that the silence on the subject of sexual behaviour in his community made it very difficult for him to disclose or discuss the sexual abuse he experienced within the community.⁷⁶

Limited engagement with the secular world

Members of Chabad-Lubavitch communities have limited engagement with the secular world and have been described as 'insular'. In the *Yeshiva Bondi and Yeshivah Melbourne* case study, we heard that some ultra-orthodox parents restricted their children's exposure to television, newspapers and other media deemed to contain material incompatible with the practice of the ultra-orthodox Jewish faith.⁷⁷ One witness told us:

I don't really recall engaging with any non-Jew. The only ones I can think of really are probably the people involved in the Yeshivah Centre institute, the people who used to do the cleaning and staff members there.⁷⁸

Standing in the community

Members of the Chabad-Lubavitch community rely heavily on standing and connections inside their community for marriage, employment, education of children and social support.⁷⁹

There is an expectation that members of the community will marry other members of the community. Opportunities for marriage are predominantly influenced by the standing of an individual and their family – known as pedigree (which is described by the Yiddish word *yichus*).⁸⁰ The prospect of losing standing inside Chabad-Lubavitch communities is a fearsome driver for compliance by members with the principles of Jewish law as interpreted by the rabbi.⁸¹

In the *Yeshiva Bondi and Yeshivah Melbourne* case study, one witness (the father of survivors of child sexual abuse) observed that ‘disapproval of a family by the community would have dire consequences for the marriage prospects of the children’.⁸² Another witness observed that, to her understanding, ‘precious *yichus*’ was a prevalent concern for ‘almost all’ of the members of the community that she had encountered and was in her experience deemed to be far more important than doing what she described as ‘what [was] right’ (particularly in the context of the issue of child sexual abuse).⁸³

The practice of shunning

Members of Chabad-Lubavitch communities who are found to have committed a sin in breach of Jewish law can be the subject of official and unofficial community punishment, including religious, social and economic exclusion known as ‘shunning’.⁸⁴

During our *Yeshiva Bondi and Yeshivah Melbourne* case study public hearing, the following exchange between Counsel Assisting and Mr Manny Waks’ father, Mr Zephaniah Waks, occurred:

Q. If a community came to view someone was a *moser*, was your understanding that that would lead to community ostracisation?

A. Yes.

Q. An inability or difficulty in getting your children married?

A. Everything.

Q. Affecting your work?

A. Everything.

Q. Affecting your relationships with other people within the community?

A. Everything.⁸⁵

We heard that, in some cases, victims and their families experienced such severe ostracism and shunning that they felt unable to remain in the community.⁸⁶

Shunning and its effect on survivors of child sexual abuse is discussed further below.

17.2 Private sessions about Yeshiva Bondi and Yeshivah Melbourne

As of 31 May 2017, of the 4,029 survivors who told us during private sessions about child sexual abuse in religious institutions, 25 survivors told us about abuse in Jewish institutions. Of those, 15 survivors told us about child sexual abuse in connection with Yeshiva Bondi or Yeshivah Melbourne. The information set out below has been gathered from private sessions with those 15 survivors.

As discussed in Chapter 6, ‘The extent of child sexual abuse in religious institutions’, information gathered during private sessions may not represent the demographic profile or experiences of all victims of child sexual abuse in either Yeshiva Bondi or Yeshivah Melbourne. Survivors attending private sessions did so of their own accord, and in this respect they were a ‘self-selected’ sample. Further, as discussed in Volume 4, *Identifying and disclosing child sexual abuse*, delays in reporting are common and some people never disclose that they were abused. Consequently, private sessions information almost certainly under-represents the total number of victims of child sexual abuse and likely under-represents victims of more recent abuse.

The relative size of Yeshiva Bondi and Yeshivah Melbourne, including the extent to which the institutions have provided services to children, may have affected the number of allegations of child sexual abuse made in relation to Yeshiva Bondi and Yeshivah Melbourne. It has not been possible for us to quantify the extent to which Yeshiva Bondi and Yeshivah Melbourne have provided services to children over time or the number of children who have had contact with the institutions. In the absence of this information, it is not possible to estimate the incidence or prevalence of child sexual abuse in connection with either Yeshiva Bondi or Yeshivah Melbourne.

Of those who told us in private sessions about child sexual abuse in connection with Yeshiva Bondi or Yeshivah Melbourne, all of the victims were male. Of those who provided information about the age of the victim at the time of first abuse, the average age was 11.3 years. Most survivors told us about sexual abuse by an adult, and all survivors told us about sexual abuse by males. Most of the perpetrators we heard about were teachers. We also heard about perpetrators who were people in religious ministry (rabbis), ancillary staff at the institutions or volunteers.

Part C, ‘Nature and extent of child sexual abuse in religious institutions’, discusses what we heard from people in private sessions about child sexual abuse in religious institutions including Jewish institutions. It also discusses the quantitative information we gathered from private sessions in relation to child sexual abuse in all religious institutions.

17.3 Yeshiva Bondi and Yeshivah Melbourne responses to child sexual abuse

17.3.1 Policies and procedures for responding to allegations of child sexual abuse

Yeshiva Bondi

Current policies and procedures in relation to responding to allegations of child sexual abuse at Yeshiva Bondi were provided to us during the *Institutional review of Yeshiva/h* hearing. Aspects of these are discussed in Chapter 20, ‘Making religious institutions child safe’. Here we set out the policies and procedures in place at the time relevant to our *Yeshiva Bondi and Yeshivah Melbourne* case study.

In the *Yeshiva Bondi and Yeshivah Melbourne* case study, we heard that, at the time complaints were received about Daniel Hayman (discussed below), neither Yeshiva College Bondi nor the Yeshiva Gedolah Rabbinical College had any ‘formal manuals or procedures’ for responding to allegations of child sexual abuse.⁸⁷

Rabbi Pinchus Feldman told us that there was no formal written policy at the time that set out what was to occur if a complaint about child sexual abuse reached him (as dean of Yeshiva College or the dean of the Yeshiva Gedolah Rabbinical College).⁸⁸

We also heard that leaders at Yeshiva Bondi had limited or no understanding of child sexual abuse. At the time of the public hearing in *Yeshiva Bondi and Yeshivah Melbourne*, Rabbi Yosef Feldman had not undertaken any training on how to recognise child sexual abuse, ‘besides what’s in Jewish law’. He accepted that he would benefit from further education and training. Rabbi Yosef Feldman freely admitted to a lack of technical knowledge about child sexual abuse but expressed the belief that his ignorance was unimportant, partly because he believed child sexual abuse to be uncommon.⁸⁹

Despite his role as a director of Yeshiva College and the Dean of Yeshiva Gedolah Rabbinical College, we found that Rabbi Yosef Feldman was either ignorant of or ill-informed about:⁹⁰

- conduct amounting to child sexual abuse
- the criminal nature of child sexual abuse
- the obligations in New South Wales to report complaints of child sexual abuse to external authorities, including the New South Wales Ombudsman.

At the time of the *Yeshiva Bondi and Yeshivah Melbourne* public hearing, we heard that students at the Yeshiva Gedolah Rabbinical College did not undertake training in recognising and responding to child sexual abuse as part of their studies. While the Yeshiva Gedolah Rabbinical College students who worked with children were required to obtain a Working With Children Check, we found that this check provided limited protection given that many of the students at the college came from interstate or overseas.⁹¹

As noted above, in the *Institutional review of Yeshiva/h* hearing, Rabbi Pinchus Feldman told us that the Yeshiva Gedolah Rabbinical College has been ‘suspended’ due to a ‘lack of funds’.⁹²

On 1 November 2014, the Yeshiva College Bondi published its *Staff handbook* for full-time employees. The Yeshiva College Bondi also published an abridged version that was provided to all non-permanent staff undertaking supervision of children.⁹³

The *Staff handbook* outlined the school’s formal child protection policies and the procedures for staff to report serious incidents.⁹⁴ The *Staff handbook* also covered topics such as the nature of child sexual abuse, indicators of child sexual abuse, child protection training requirements and obligations concerning mandatory reporting to child protection authorities.⁹⁵

During the *Yeshiva Bondi and Yeshivah Melbourne* public hearing, Rabbi Pinchus Feldman said that, while guidelines set by the New South Wales Department of Education and Communities call for biennial ‘in service’ staff training on the topic of child sexual abuse, the Yeshiva College Bondi has opted to undertake annual training.⁹⁶ Despite this, Rabbi Pinchus Feldman and Rabbi Yosef Feldman each told us that they had not undertaken any formal training in respect of child sexual abuse. Rabbi Pinchus Feldman acknowledged that it would be helpful for all rabbis to undertake formal training in recognising and responding to complaints of child sexual abuse.⁹⁷

In the *Institutional review of Yeshiva/h* hearing, we heard from Mrs Gavriella Aber, educational policy officer at Yeshiva College Bondi, on developments made by Yeshiva College Bondi to its child protection policies. She told us that an external expert was engaged to develop its ‘Protecting Our Children: A three-tiered approach to schools-based child protection education and preventing child sexual assault’ and to conduct training for children, teachers and parents on child safety and protection.⁹⁸

Yeshivah Melbourne

During the *Institutional review of Yeshiva/h* hearing, we heard that Yeshivah Melbourne had undertaken a governance review to address issues raised in the *Yeshiva Bondi and Yeshivah Melbourne* case study public hearing.⁹⁹ The result of this review and aspects of its revised policies and procedures are discussed in Chapter 20. Here we set out the policies and procedures in place at the time relevant to our *Yeshiva Bondi and Yeshivah Melbourne* case study.

In the *Yeshiva Bondi and Yeshivah Melbourne* case study, we heard that the Yeshivah College Melbourne did not introduce a formal policy for recording or responding to allegations of child sexual abuse until 2007. Rabbi Abraham Glick was the principal of Yeshivah College Melbourne from 1986 to 2007. He told us that it was ‘Rabbi Groner’s way to deal with things personally and he was not in the practice of preparing or adopting formal written policies’.¹⁰⁰

We found that, for the period from 1984 to 2007, the Yeshivah College Melbourne did not have adequate policies, processes and practices for responding to complaints of child sexual abuse.¹⁰¹

We heard that, since 2010, Yeshivah-Beth Rivkah Colleges’ child protection policy has been set out in a document titled *Policy – Child First – Child Protection*.¹⁰² Rabbi Yehoshua Smukler, who is the Principal of the Yeshivah-Beth Rivkah Colleges, gave evidence that the policy is reviewed annually. We also heard that a child protection staff code of conduct forms part of all contracts of employment for Yeshivah-Beth Rivkah Colleges.¹⁰³

Rabbi Smukler told us about the range of child protection measures implemented at Yeshivah–Beth Rivkah Colleges. These included:

- compliance with Working With Children Checks¹⁰⁴
- regular staff training seminars in child protection matters, including in the detection of child sexual abuse and support of victims and family members
- seminars for parents to educate them on child protection matters
- annual workshops with students to train them in protective behaviours
- close working relationships with law enforcement and the Victorian Department of Human Services.¹⁰⁵

We heard that, in or about 2007, Chabad Youth introduced a policy document entitled *Chabad Youth Safeguarding Children and Young People Policy and Practice and Behaviour Guidelines*. In a written statement, Rabbi Moshe Kahn of Chabad Youth explained that the policy was prepared in consultation with leading authorities, including the Jewish Taskforce Against Family Violence. Rabbi Kahn said as ‘part of the process of implementing the policies in 2007, [the] Jewish Taskforce came out to do the training for our staff in this area’.¹⁰⁶

Rabbi Kahn said the Chabad Youth policies and procedures were reviewed every year, and Chabad Youth holds biennial staff training and internal presentations to staff addressing the application of those policies and procedures. At the time, the current policy was entitled *Chabad Youth – Policies and Procedures 2015*.¹⁰⁷

Rabbi Kahn stated that Chabad Youth had sought and obtained external recognition of its policy from the Australian Childhood Foundation (an independent body described as being dedicated to child protection) following an audit process spanning approximately two years. Rabbi Kahn stated that, to his understanding, Chabad Youth was the first and only Jewish youth organisation to receive such accreditation. He said Chabad Youth also provided leadership on child protection to other Jewish organisations by conducting external presentations and providing copies of its policy documents.¹⁰⁸

17.3.2 Yeshiva Bondi and Yeshivah Melbourne responses to allegations of child sexual abuse

In the *Yeshiva Bondi and Yeshivah Melbourne* case study, we examined the responses of persons in positions of authority at Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse against six individuals who were employed by or otherwise associated with the institutions:

- David Cyprys (a security guard, locksmith, caretaker, volunteer at Camp Gan Israel and martial arts instructor at Yeshivah Melbourne)
- Rabbi David Kramer (a primary school teacher at Yeshivah College Melbourne)
- Mr Aron Ezriel Kestecher (a volunteer at Chabad Youth at Yeshivah Melbourne)
- AVP (the adult son of a senior Yeshivah Melbourne rabbi)
- Daniel Hayman (an active member of the Yeshiva Bondi community)
- AVL (a rabbinical student of the Yeshiva Gedolah Rabbinical College in Bondi).

In addition to hearing evidence concerning the immediate responses of persons in positions of authority to both the victims and the alleged perpetrators of child sexual abuse, we also heard considerable evidence about how leaders and members of the Yeshiva Bondi and Yeshivah Melbourne communities reacted when the allegations were later reported to police or became matters of public knowledge and discussion.

We received evidence from four survivors of child sexual abuse within the Yeshiva Bondi and Yeshivah Melbourne communities:

- Mr Manny Waks, who told us that he was sexually abused by AVP in 1998 and by Cyprys from around 1988 to 1990¹⁰⁹
- AVA, who told us that he was sexually abused by Cyprys between 1986 and 1989¹¹⁰
- AVB, who told us that he was sexually abused by Cyprys in around 1984–1985 and by Hayman in around 1987–1988¹¹¹
- AVR, who told us that he was sexually abused by Cyprys in 1991.¹¹²

In addition, Mr Zephaniah Waks, Manny Waks' father, told us about the response of Yeshivah Melbourne to the sexual abuse of Mr Manny Waks by AVP and Cyprys, and one of his younger sons by Kramer in 1992.¹¹³ We also received redacted police statements from a male survivor and a female survivor, each of whom described being sexually abused by Hayman in 1985 or 1986 and 1989 respectively.¹¹⁴

Immediate responses to allegations

In the cases we examined, when children or their parents made contemporaneous disclosures of child sexual abuse to persons in positions of authority in Yeshiva Bondi and Yeshivah Melbourne, the responses to those disclosures were similar. Children were disbelieved or ignored, the police were not informed, and alleged perpetrators were either left in positions with continued access to children or were quietly removed.

Despite receiving multiple complaints from the mid-1980s to 2000 that Cyprys and Hayman had sexually abused children, Yeshivah Melbourne and Yeshiva Bondi took no action. As a result, Cyprys and Hayman continued to sexually abuse children at Yeshivah Melbourne and Yeshiva Bondi. Following receipt of complaints against Kramer and AVL, in the early 1990s and early 2000s respectively, these alleged perpetrators were allowed to travel overseas. Kramer was later convicted of child sexual offences committed overseas. In one case we examined, that of Mr Kestecher, action was taken in 2008 and 2011 in accordance with policies on child protection.

Yeshivah Melbourne's response to allegations of child sexual abuse against David Cyprys

Cyprys fulfilled a number of roles at Yeshivah Melbourne from the early 1970s to 2011, including student, caretaker, security guard, locksmith and martial arts instructor. He also volunteered at Camp Gan Israel youth camps until sometime in the 'early 1990s'.¹¹⁵

The earliest complaint to then head rabbi of Yeshivah Melbourne, Rabbi Groner, concerning sexual abuse of a child by Cyprys, about which we received evidence, was in 1984. Following receipt of this complaint, Rabbi Groner did not remove Cyprys from the Yeshivah Centre Melbourne. We found that there was no evidence that Rabbi Groner took any steps in response to the allegations against Cyprys at the time. Cyprys was convicted in August 2013 on a charge of gross indecency upon the boy whose father had made the 1984 complaint.¹¹⁶

AVA gave evidence that he was sexually abused by Cyprys over a period of three years beginning in 1986, when Cyprys was his martial arts instructor. The sexual abuse occurred mostly at night, on the premises of the Yeshivah Centre Melbourne, including in the ritual bathhouse (*mikveh*). In 1986, AVA disclosed the sexual abuse by Cyprys to his brother who told their mother, AVQ.¹¹⁷ In a written statement to us, AVQ said she telephoned Rabbi Groner and told him that 'Cyprys has done something sexual towards my son'. According to AVQ, Rabbi Groner said words to the effect of, 'Oh no, I thought we had cured him'. Rabbi Groner's response led AVQ to believe that Cyprys had done something similar in the past. She told us that Rabbi Groner then said words to the effect of 'Don't worry about it, I will take care of it, it will be fine'. AVQ told us that as a result she believed that Rabbi Groner would do something about Cyprys and that no further action was required on her part.¹¹⁸

AVA told us that the following Monday he was sent by the principal of Yeshivah College Melbourne, Rabbi Glick, to see Rabbi Groner. Rabbi Groner assured him that he would 'look after' the situation with Cyprys. He did not offer AVA any counselling or other assistance. Cyprys was not removed from the school and he continued to sexually abuse AVA for another two years.¹¹⁹ We found that there was no evidence that Rabbi Groner took any steps in response to the allegations by AVA against Cyprys in 1986.¹²⁰

Another survivor, AVR, told us of his repeated sexual abuse by Cyprys at Yeshivah Melbourne, beginning around 1991 when he was a student at the Yeshivah College Melbourne. After AVR told his mother about the sexual abuse in 1991, she travelled to Melbourne, contacted Rabbi Groner about it, and went with AVR to report it to Rabbi Glick. AVR told us that Rabbi Glick then said that his scholarship to the college had been cancelled.¹²¹ Rabbi Glick told us he had no recollection of such a complaint and that he did not deal with financial matters and scholarships.¹²² We found that there was no evidence that Yeshivah Centre Melbourne took any steps in response to the allegations by AVR against Cyprys in 1991.¹²³ AVR told us that, as a result of his disclosure of child sexual abuse by Cyprys, he and his mother were ostracised by the Yeshivah Melbourne community.¹²⁴

Around the same time, AVR reported the matter to Victoria Police but felt unable at that time to fully disclose the extent of the sexual abuse. On 8 September 1992, Cyprys pleaded guilty to a charge of indecently assaulting AVR in August 1991. No conviction was recorded and Cyprys was placed on a good behaviour bond for three years.¹²⁵ It is not clear whether Rabbi Groner and Yeshivah Melbourne were aware of the 1992 court proceedings or the fact Cyprys pleaded guilty to indecent assault.¹²⁶ Regardless, Cyprys continued to have access to the Yeshivah Centre.¹²⁷ Cyprys was convicted in 2013 of five counts of rape of AVR in 1990-1991 and pleaded guilty to a further 12 charges unrelated to AVR.¹²⁸

We found that Rabbi Groner's response to reported incidents of child sexual abuse, including those involving Cyprys, was wholly inadequate. We also found that the nature and frequency of reports to Rabbi Groner strongly suggested a pattern of total inaction.¹²⁹

When he was a boy, Mr Manny Waks was also sexually abused by Cyprys over a period of two years, ending in 1990.¹³⁰ The sexual abuse took place during martial arts classes taught by Cyprys in the Yeshivah Centre and in the backyard of Elwood Synagogue. Mr Waks was also sexually abused by Cyprys in the ritual bathhouse at the Yeshivah Centre Melbourne.¹³¹ Mr Waks did not disclose the sexual abuse by Cyprys to anyone until 1996.¹³²

Mr Waks told us he did not recall telling anyone about the abuse by Cyprys at the time it was occurring, because of an earlier experience when he had disclosed that he had been abused by AVP.¹³³ Mr Waks told us that in or about 1988 he was sexually abused by AVP in the synagogue of Yeshivah Melbourne and in the nearby bathrooms. He described AVP as the adult son of a senior Yeshivah Melbourne rabbi. Around the time of the abuse, he confided in another school student about what had happened and was then the subject of widespread taunting and bullying about it. Mr Waks told us that some of this taunting and bullying occurred in the presence of Yeshivah College Melbourne teachers (or other authority figures of Yeshivah Melbourne), but there was no intervention to stop it.¹³⁴ We discuss the institutional response to his 1996 disclosure of sexual abuse by Cyprys below.

Yeshiva Bondi's response to allegations of child sexual abuse against Daniel Hayman

In the mid-1980s, Hayman was a volunteer at the Yeshiva Gedolah Rabbinical College in Bondi.¹³⁵

We received a redacted statement made to NSW Police that claimed that in 1985 or 1986 Hayman sexually abused the male author who was 16 or 17 years old at the time.¹³⁶ The alleged sexual abuse took place at Hayman's sister's house following a religious festival. The author stated that he later learned that several of his peers had also been sexually abused by Hayman. Together, they went to see Rabbi Boruch Dov Lesches, who was the senior rabbi at the Yeshiva Gedolah Rabbinical College where Hayman was a volunteer. According to the statement, when the boys reported the sexual abuse by Hayman, Rabbi Lesches responded, 'Oh, we have a problem with him [and] I will deal with it'. He did not suggest that the boys seek counselling or contact the police.¹³⁷

In a written statement to us, Rabbi Lesches said that he did not recollect the meeting but accepted that it took place. He denied that the subject matter of the meeting could have been any act of child sexual abuse perpetrated by Hayman, as he thought he would not have forgotten such a discussion.¹³⁸

Rabbi Moshe Gutnick, a senior judge of the Sydney Beth Din (rabbinical court), told us that in 1987 he received an anonymous telephone call from a boy who complained of having been sexually abused by Hayman. While at the time Rabbi Gutnick considered the call likely to have been a prank, he contacted the Yeshiva Centre about it. He told us that, to the best of his recollection, he spoke to Rabbi Lesches, who he knew to be in charge of senior students and close to Hayman. Rabbi Gutnick heard no more about the matter from Rabbi Lesches. In August 2011, a man well known to Rabbi Gutnick contacted him and sought a meeting. At the meeting the man told Rabbi Gutnick that he had been the boy who had telephoned him in the 1980s and made the complaint against Hayman.¹³⁹ In his written statement, he told us that he encouraged the man to go to police and subsequently reported his conversation with the man to police.¹⁴⁰

We received another redacted statement to NSW Police which described the author's experiences with Hayman when she was a 12-year-old student at Yeshiva Ladies College, Bondi, in 1989. The author was boarding at the home of Hayman and his wife and she recalled that, when his wife was not home, Hayman used to exhibit himself naked to her. On one evening, Hayman entered her room naked while she slept, and he tried to remove the quilt she was sleeping under. She stated that she reported her experience to Rabbi Lesches, who had been given responsibility for her care in Sydney by her father. She recalled that Rabbi Lesches responded, 'I do not believe you. Why would you invent such a story?'. She said he told her to, 'Go to school. Get over it'.¹⁴¹

The author did not return alone to Hayman's home. In a written statement, Rabbi Lesches confirmed that he had received the complaint about Hayman but denied that the girl told him Hayman was naked. Rabbi Lesches accepted that he might have expressed doubt about the veracity of the author's account when he spoke to her father about the complaint.¹⁴²

One other victim of sexual abuse by Hayman, AVB, did not report the abuse to Yeshiva Bondi until 20 years after it occurred. The response he received at that time is discussed below. AVB told us that in the summer holidays of 1987-1988, when he was 14 years of age and a student of Yeshiva College Bondi, he participated in a youth camp organised by Yeshiva Bondi held at Stanwell Tops in New South Wales. Hayman attended the camp as a chaperone or house parent.¹⁴³ During the camp, Hayman took AVB to an isolated location and forcibly sexually assaulted him. AVB said, 'He was very forceful and aggressive. I remember thinking at the time about the cliff that was nearby and that I wanted to die'.¹⁴⁴

AVB told us:

I did not tell anyone what had happened at the time or for another 20 years.
I did not think anyone would believe me. I thought I would be belittled because people would think 'surely Hayman could not do that'.¹⁴⁵

In 2014, Hayman was convicted for his assault of AVB.¹⁴⁶

Yeshivah Melbourne's response to allegations of child sexual abuse against Rabbi David Kramer

Rabbi David Kramer came to Australia in late 1989 and was employed as a school teacher at the Yeshivah College Melbourne primary school.¹⁴⁷

In 1992, parents of students at the Yeshivah College in Melbourne made a complaint to Rabbi Groner, Rabbi Glick and Rabbi Pinchus Ash (then principal of the primary school) that Kramer was sexually abusing students. One of those students was the son of Mr Zephaniah Waks and brother of Mr Manny Waks. Mr Zephaniah Waks told us that a group of parents had proposed to meet to discuss whether to involve Victoria Police. They intended to tell the leaders of Yeshivah Melbourne that they would go to the police if Kramer's employment was not terminated.¹⁴⁸

Rabbi Groner, Rabbi Glick, Rabbi Ash and Mr Hersh Cooper, then chair of the Committee of Management, met and discussed the allegations. Mr Zephaniah Waks told us that Mr Cooper later called him and told him Kramer's employment had been terminated. He also recalled that Rabbi Glick had told him separately that Kramer had partly admitted to what had happened.¹⁴⁹

After being informed of the termination of his employment, Kramer told Mr Cooper that he would challenge the 'unfair dismissal'. Mr Cooper offered an alternative: immediate departure to Israel on an airline ticket paid for by the Yeshivah College Melbourne. Kramer left a day or two later.¹⁵⁰

When a school in northern Israel subsequently contacted Mr Cooper about an application for employment by Kramer, Mr Cooper was less than frank in his explanation as to why Kramer should not be employed. He advised only that 'he had left Melbourne under a cloud'.¹⁵¹

Kramer later moved to the United States, where he was convicted of serious child sexual offences and sentenced to seven years' imprisonment. In December 2011, Victoria Police charged Kramer with offences of child sexual abuse against children at Yeshivah Melbourne and he was extradited to Australia, where he was convicted.¹⁵²

Yeshiva Bondi's response to allegations of child sexual abuse against AVL

We received evidence of a complaint of child sexual abuse made against AVL in July 2002 by a boy who attended a youth camp run by the South Head Synagogue.¹⁵³ AVL was a rabbinical student at the Yeshiva Gedolah Rabbinical College at the time. On 23 July 2002, the boy's mother reported the matter to Mr William Conway, who was then principal of the primary school at Yeshiva College. Mr Conway informed Rabbi Zev Simons, the head of Jewish studies at Yeshiva College. Mr Conway and Rabbi Simons then met with the boy and his mother.¹⁵⁴

On 24 July 2002, Mr Conway made a note that he had informed Rabbi Pinchus Feldman, head rabbi at Yeshiva Centre Bondi, of the complaint. Mr Conway's notes record that Rabbi Pinchus Feldman instructed him to tell AVL not to return to work until further notice. Later the same day, Mr Conway and Rabbi Simons met with AVL and told him there would be an investigation. The notes record a response, attributed to AVL, that he 'said he thought he knew what it might be about, but that he felt it wasn't serious'.¹⁵⁵ AVL denied any wrongdoing during the meeting.¹⁵⁶

In his statement to us, Mr Conway recorded that he immediately took steps to report the allegations against AVL to what he regarded as the appropriate external authorities. He said, 'I wanted to do this immediately because I felt that I may be discouraged from reporting the matter externally or denied permission to do so'. He told us that he had attempted to make a telephone report of the complaint on 24 July 2002 to the then Department of Community Services (DOCS) but disengaged after waiting 20 minutes. He did manage to record details of the complaint on the DOCS automated system. On the same day, he also consulted Dr Geoff Newcombe from the Association of Independent Schools, who informed him that the complaint was subject to the requirements of mandatory reporting.¹⁵⁷

Rabbi Pinchus Feldman and Rabbi Yosef Feldman also met with AVL on the afternoon of 24 July 2002. Neither of them made notes of that meeting, and they both had limited recollection of its content. Rabbi Yosef Feldman did recall that AVL denied any wrongdoing. He also recalled that AVL spoke of leaving Australia and returning to the United States.¹⁵⁸

Following this meeting, Rabbi Yosef Feldman met privately with AVL. During their discussion, AVL admitted that he had lain with and massaged a child.¹⁵⁹

Rabbi Pinchus Feldman told us that he 'did not believe that [he] had that obligation' to report to police that a complaint had been made concerning AVL and that he believed AVL might leave the country.¹⁶⁰ Similarly, Rabbi Yosef Feldman said that, while he thought the behaviour both highly inappropriate and suggestive of being sexual in nature, he did not recognise that AVL's conduct was a crime or that it was possible that AVL would be charged with a criminal offence.¹⁶¹

Neither Rabbi Pinchus Feldman nor Rabbi Yosef Feldman took any steps to inform anyone that AVL was contemplating leaving Australia. AVL left Australia soon afterwards and travelled to New York.¹⁶²

Response of Yeshivah Melbourne to allegations against Mr Aron Ezriel Kestecher

We heard evidence that in 2008 and 2011, when Yeshivah Melbourne received allegations concerning inappropriate behaviour or possible child sexual abuse by Mr Aron Ezriel Kestecher, persons in positions of authority at that time did utilise and adhere to its policies on child protection and made reports to the police.

Mr Kestecher was described as volunteering at Chabad Youth, including at the summer camps run by Chabad Youth, from 2005 until 2008. In 2008, during a summer camp, the head of Chabad Youth, Rabbi Kahn, received a report that Mr Kestecher had fallen asleep on the bed of a teenage boy.¹⁶³ While there was no suggestion that anything inappropriate had occurred, Mr Kestecher had breached Chabad Youth's child protection policies, so Rabbi Kahn asked him to leave the camp.¹⁶⁴

In 2011, Mr Kestecher conducted a co-curricular choir with students at the Yeshivah College in Melbourne. In June 2011, Rabbi Smukler, the principal of the college, was informed that a report of child sexual abuse involving Mr Kestecher had been made and that the matter had been reported to the police. Rabbi Smukler told us that he immediately cancelled the choir. Rabbi Smukler told us that he subsequently learned that another student had reported inappropriate touching by Mr Kestecher (outside of school hours) to Rabbi Glick.¹⁶⁵

Together with Rabbi Glick, Rabbi Smukler reported the allegation to Victoria Police and the Department of Human Services. Rabbi Smukler told us Rabbi Glick had encouraged the family to go to the police and press charges, but the family had decided that they would not. On 1 July 2011, Rabbi Telsner, then head rabbi of Yeshivah Melbourne, sent a letter to Mr Kestecher prohibiting him from contact with the Yeshivah-Beth Rivkah Colleges and Yeshivah Melbourne.¹⁶⁶

Responses to survivors when they were adults

The community's response to their awakening to the child sexual abuse riddling the community is to turn on the victim and make them the subject of suspicion. Under the guise of moral opprobrium, the community is coming apart at the seams ... Surely people will stand up for the truth, recognise slander as false and ultimately care for those children – now men, they had failed. I mistakenly believed that those heroes you read about in books, those teachers and leaders who taught you to always support the truth, care for the vulnerable and seek justice, would step up and speak out. But they are just humans, weak, frail and so terribly concerned with themselves.¹⁶⁷

Wife of survivor, AVC

We obviously need to be able to support survivors and need to change attitudes, for people to understand they're not pariahs or people who have stepped out to make reports; they're actually brave people who are protecting so many others at their own difficulty of going through a case, et cetera. They need to be supported, but, even more so, recognised for their bravery in what they've done in order to help so many others.¹⁶⁸

Rabbi Mendel Kastel, Chief Executive Officer, Jewish House

As noted above, some victims of child sexual abuse at Yeshiva Bondi and Yeshivah Melbourne did not report the sexual abuse to persons in positions of authority in these institutions until they were adults. We heard significant evidence about the responses of Yeshiva/h leaders to those survivors, as well as about how their communities reacted to their public disclosure of child sexual abuse. We heard that action was taken to silence survivors and that they were shunned. We also heard about limited efforts made by Yeshiva Bondi and Yeshivah Melbourne to provide redress to survivors of child sexual abuse and that survivors did not receive direct, personal apologies from the relevant institutions.

Yeshivah Melbourne's response to allegations of child sexual abuse against David Cyprys

In 1996, when he was 20 years old, Mr Manny Waks disclosed to his father that he had been sexually abused as a boy by Cyprys. Mr Manny Waks and his father reported the sexual abuse by Cyprys to the Victoria Police and around the same time to Rabbi Groner, head rabbi of Yeshivah Melbourne. According to Mr Manny Waks, Rabbi Groner responded by instructing him to 'do nothing', as Cyprys was being 'dealt with'.¹⁶⁹

He said that Yeshivah was dealing with Cyprys and that I should not do anything of my own accord. I recalled feeling that he just wanted that conversation to end.¹⁷⁰

We found that there was no evidence that Rabbi Groner took any steps in response to Mr Manny Waks' report in 1996.¹⁷¹ Mr Waks told us that when nothing was done he lost faith in the religion he was brought up in, and its leaders, and that his sense of powerlessness was reinforced.¹⁷²

Mr Manny Waks left Australia following these disclosures, but when he returned in the early 2000s he was concerned that Cyprys was still present at Yeshivah Melbourne and continued to have access to children. He told us that he raised these concerns with Rabbi Groner, who again told him to 'do nothing', as he was dealing with it personally and that Cyprys was getting professional help and improving. Mr Manny Waks gave evidence that he sought an assurance from Rabbi Groner that Cyprys would not offend again, to which Rabbi Groner responded that he was unable to give that assurance.¹⁷³ We found that there was no evidence that Rabbi Groner took any steps in response to Mr Manny Waks' report in 2000.¹⁷⁴ Cyprys continued to perform guarding and security patrol activities for Yeshivah Melbourne until at least 2003 and continued to attend Yeshivah Melbourne premises up until 2011.¹⁷⁵

As noted above, in 2013, Cyprys was convicted on five counts of rape against AVR for offences committed in 1990–1991. Following this conviction, Cyprys pleaded guilty to a further 12 offences of child sexual abuse.¹⁷⁶ Two of those offences related to the sexual abuse of AVA.¹⁷⁷ Three offences related to the sexual abuse of Mr Manny Waks.¹⁷⁸ Cyprys was sentenced to a total effective sentence of eight years' imprisonment with a non-parole period of five years and six months.¹⁷⁹

Yeshiva Bondi's response to allegations of child sexual abuse against Daniel Hayman

AVB also did not report being sexually abused by Hayman at the time that it occurred, as he did not think he would be believed. In May 2011, he provided a written account of the sexual abuse to Victoria Police.¹⁸⁰ AVB told us that he also telephoned Hayman in 2011 to confront him about the abuse. AVB recalled that during the conversation Hayman told him that 'both Rabbi Lesches and Rabbi Feldman' had spoken to him about his conduct with boys and more particularly about the abuse of a student at Yeshiva College Bondi, and that Hayman should keep away from that student. AVB told us that he believed that, when Hayman mentioned 'Rabbi Feldman', he was referring to Rabbi Pinchus Feldman.¹⁸¹

In April 2012, AVB telephoned Rabbi Lesches, who was in the United States, to confront him about his knowledge of child sexual abuse perpetrated on him by Hayman. AVB provided a detailed account to us of their conversation in which he said that Rabbi Lesches admitted to speaking to Hayman and telling him that he had to 'stop what he was doing'.¹⁸²

AVB told us that he asked Rabbi Lesches for advice as to what was 'the right thing to do in regard to the situation'. AVB recalled that Rabbi Lesches said:

If you are asking me, it is really up to you kind of, I don't have to tell you in America in a lot of places they will say that you have to go to the police and make sure that it will not happen again and so on, maybe yeah maybe not. I cannot tell you exactly, but when you are speaking about a person in your age in your stage, and [Hayman] in his age and his stage, when people already have children and they have to marry children and so on, you have the expression in Australia, 'it is not a big thing to open up a can of worms'. If so just to open up things like this and so on, sometimes could not be productive not to anybody and so on, especially when things like this are done between people basically the same age.¹⁸³

In his written statement, Rabbi Lesches accepted that he had received a call from AVB about Hayman but did not accept AVB's recollection that he had admitted having told Hayman to keep away from a student that he had sexually abused. Rather, Rabbi Lesches denied any knowledge of reports of Hayman engaging in child sexual abuse.¹⁸⁴ Rabbi Lesches accepted that he had said the words that AVB attributed to him about reporting to police but that they 'had nothing to do with [his] attitude toward the protection of children who are or might be being abused'. Rather, Rabbi Lesches said:

I was referring to the fact that the events that AVB had revealed to me occurred nearly 30 years earlier. The view I expressed was that it was entirely up to AVB to decide whether or not he wished to take his complaint against Hayman to police at that stage of his life, but I was concerned about the secondary impact on AVB and his family that this could have. I respect both his right and his decision to do so. My remarks also had regard to the impact on Hayman and his family so many years after the events complained of. I have reflected on those remarks and recognise that they may be seen as implying that the impact on Hayman himself of reporting the matter to police so many years after the fact ought figure in AVB's thinking. In that respect I was wrong and I apologise.¹⁸⁵

We also received an extract from Hayman's 2013 interview with NSW Police, during which Hayman told the police that he had a vague recollection that Rabbi Pinchus Feldman had spoken to him about his conduct with boys. Rabbi Pinchus Feldman denied any recollection of such a conversation or of Rabbi Lesches informing him of any allegations against Hayman.¹⁸⁶

In November 2013, Hayman was charged in relation to child sexual assaults committed against underage teenage boys from Yeshiva Bondi.¹⁸⁷ On 10 June 2014, he received a suspended sentence for his assault of AVB.¹⁸⁸

Silencing survivors

I was hesitant to assist because of the insular nature of the Jewish community and also because of the prohibition of 'mesirah'. The prohibition of mesirah is a prohibition against informing on Jews to civil authorities. The punishment for mesirah is spiritual death and ostracisation. I believed that if I assisted the police I would be excommunicated from my community and lose my identity.¹⁸⁹

Survivor, AVB

In early June 2011, Victoria Police issued a notice titled 'Public Assistance Requested', which advised former students of the Yeshivah College Melbourne of an investigation of sexual assaults at the college between 1989 and 1993.¹⁹⁰

On 17 June 2011, out of concern that Victoria Police required further assistance in its investigations, AVB sent an email to all of his friends and contacts within the Yeshivah Melbourne community, including Rabbi Telsner, head rabbi of Yeshivah Melbourne. He urged them to cooperate with the police and noted that the 2010 RCV Resolution (discussed above) made plain that those in possession of information had a *halachic* obligation to come forward.¹⁹¹

The following day Rabbi Telsner delivered a sermon in the synagogue of Yeshivah Melbourne. The subject matter of the sermon was a comparison of the gravity of the sin of sending emails containing gossip or slander (*loshon horo*) with the tragic Torah reading of the story of the spies (which led to the Jews wandering the desert for 40 years before entering Israel). AVB was not present at the sermon but said that he was later told of its content and of the apparent connection between the sermon and his email of 17 June 2011.¹⁹²

AVB said that he immediately complained about the sermon to Rabbi Yaakov Glasman, the then president of the RCV. AVB said that Rabbi Glasman told him later that many members of the community believed the sermon to have been directed at AVB and his email of 17 June 2011.¹⁹³

AVB told us about a conversation that he had with Rabbi Glasman in which Rabbi Glasman recounted a conversation with Rabbi Telsner about the sermon. Rabbi Glasman said to AVB that he had asked Rabbi Telsner whether the sermon of 18 June 2011 was directed at AVB and his 17 June 2011 email. He said Rabbi Telsner had responded that it was directed at those sending emails and making trouble and that, 'If that's what [AVB] understood that it was in relation to him, then it was in relation to him'.¹⁹⁴

Rabbi Telsner told us that the sermon was not directed at AVB or at AVB's 17 June 2011 email. Rabbi Telsner gave evidence that the issue of 'emails, blogging, websites which are slanderous, attacking people anonymously' had been the topic of more than one sermon. Rabbi Telsner accepted that he knew there was a perception in the Yeshivah Melbourne community that the sermon had been directed at AVB. Rabbi Telsner did not take steps to counter that perception and he did not seek to contact AVB about the sermon. He told us that '[he] did not see at the moment there were so many people who thought [he] meant [AVB] and it was causing agitation'.¹⁹⁵

Rabbi Telsner accepted that he did not correct misconceptions about his sermon, and that was a failure in his leadership to adhere to the obligations stated in the 2010 RCV Resolution – to provide pastoral leadership, support, direction and affirmation for child sexual abuse survivors, their families and advocates.¹⁹⁶

We found that the timing of the sermon and the understanding that it was directed at AVB (comparing AVB's conduct to the 'sin of the spies') was likely to have had the effect of dissuading some members of the Yeshivah Melbourne community from communicating with the civil authorities about child sexual abuse.¹⁹⁷

In or about July 2011, Mr Manny Waks heard that Victoria Police were looking at historical cases of child sexual abuse at Yeshivah Melbourne. Mr Waks decided to publicise his experience of child sexual abuse.¹⁹⁸ He said, 'I believed that if someone spoke up publicly many other victims would go to the police; and, after decades of silence, I no longer wanted to hide behind the veil of shame and guilt'.¹⁹⁹

He spoke to a journalist from *The Age* newspaper. On 8 July 2011, *The Age* published an article about Mr Manny Waks entitled 'Jewish Community leader tells of sex abuse'. The article contained Mr Waks' allegations of child sexual abuse and allegations concerning Yeshivah Melbourne.²⁰⁰

The publication of the article in *The Age* gave rise to great controversy amongst some members of the Yeshivah Melbourne community. Questions arose as to whether Jewish law permitted such allegations to be made publicly. We found that that view appeared in part to be due to public statements made at that time by Rabbi Telsner of Yeshivah Melbourne on the topic of *loshon horo*.²⁰¹

On 16 July 2011, soon after the article in *The Age* was published, Rabbi Telsner delivered a sermon in response to widespread press coverage of the issue of child sexual abuse. In the sermon, Rabbi Telsner addressed a rhetorical question to the congregants, asking: 'Who gave you permission to talk to anyone? Which Rabbi gave you permission?' We found these rhetorical questions could only have added to the impression in the community that discussing child sexual abuse was in breach of *loshon horo* and therefore a sin.²⁰²

On that date Mr Zephaniah Waks, the father of Mr Manny Waks, was at synagogue with his wife, Haya. Together they heard the sermon. Mr Zephaniah Waks said that he and his wife immediately thought that the sermon was a reference to their son speaking to *The Age* newspaper. They walked out of the synagogue together with several women, who left in support of his wife.²⁰³

Mr Zephaniah Waks believed the sermon to have been an attempt to obstruct justice. He reported it to Victoria Police. He also complained to Yeshivah Melbourne about the sermon.²⁰⁴

Rabbi Telsner denied that the sermon was directed at Mr Manny Waks. He told us:

[The sermon] wasn't against Manny Waks personally. It was against ... a few members of the community who were sending out all these anonymous emails and Facebooks [sic] degrading the Yeshivah at the present time ...²⁰⁵

Rabbi Telsner gave evidence that he was aware that some community members had been upset by his sermon, that Mr Zephaniah Waks had complained about it and that Mr Manny Waks believed the sermon to have been directed at him. Despite his knowledge about those matters, Rabbi Telsner did not speak publicly to counter community misconceptions and explain that the sermon was not directed at Mr Manny Waks. Rabbi Telsner agreed that his failure to come out and correct the misconceptions he was aware of was a failure in his leadership to adhere to the obligations stated in the 2010 RCV Resolution.²⁰⁶

On 21 July 2011, Rabbi Yosef Feldman, then the president of the Rabbinical Council of New South Wales, wrote an email addressed to rabbis and others questioning the need to report to civil authorities ‘something of serious *loshon horo* is heard about someone of even child molestation’. An exchange of emails then ensued.²⁰⁷

Rabbi Yosef Feldman argued that the rabbinate should adopt a position that was consistent with his understanding of the view of Agudah Yisroel of America (a Haredi Jewish umbrella organisation) that all complaints of sexual abuse should first be made to a rabbi, who should then determine whether to involve the civil authorities. In doing so, Rabbi Yosef Feldman questioned the Organisation of Rabbis Australasia’s (ORA) position that all allegations should be reported to the police immediately.²⁰⁸

Rabbi Moshe Gutnick rejected Rabbi Yosef Feldman’s position. He observed that rabbis lacked the capacity to conduct a proper investigation of allegations of child sexual abuse and argued for the immediate reporting of allegations to police.²⁰⁹

Rabbi Yosef Feldman said that he was motivated to send his emails because of what was going on in the community, which had caused him hurt and upset. He said that the purpose of his emails was to encourage the Jewish community to address its problem internally and not just leave it to others to address. He conceded that some of the views that he expressed in the emails were halachically wrong (something about which he had been ignorant at the time) and that he no longer adhered to the views he had expressed.²¹⁰

Rabbi Yosef Feldman told us that sometime on either 25 or 26 July 2011 some of the email exchange between the rabbis was leaked to the press, resulting in public discussion and criticism.²¹¹

We received a statement that Rabbi Yosef Feldman made to the *Australian Jewish News* on 26 July 2011 in response to the leaked emails. Rabbi Yosef Feldman said:

Over the past few days there has been an internal Halachic debate amongst the Rabbinate of Australia relating to the serious and reprehensible issues of child abuse and the appropriate response.

Notwithstanding the complex Halachic nuances and varied opinions, the Rabbinate of NSW under my Presidency has unanimously endorsed the attached the resolution from 2010 on this matter.

I would like to unequivocally publicise my support and encouragement of the adoption of that resolution within the NSW Rabbinate and the wider Jewish community.²¹²

Rabbi Yosef Feldman’s statement to the *Australian Jewish News* included a copy of the 2010 RCV Resolution. Rabbi Yosef Feldman asked the *Australian Jewish News* to print his statement in full.²¹³

Rabbi Yosef Feldman sought to rely on that statement as evidence of his actual views on responding to child sexual abuse as at 26 July 2011. He told us that the statement ‘was a genuine position’ but ‘obviously it’s a [public relations] thing also. It’s going public’. He said that he wanted the community to know that he unequivocally supported the adoption of the 2010 RCV Resolution by the rabbinate and the broader Jewish community.²¹⁴ While Rabbi Yosef Feldman stated unequivocal support for the Resolution, he said:

I did have issues with [the halachic obligation to report allegations of abuse even if the abuse had occurred a long time ago], as it can be seen. But I ultimately accepted that’s the right way to go, notwithstanding my expressed views of issues with regard to that. It has always bothered me, but the right thing was nonetheless to be able to go to the police.²¹⁵

There was further evidence that called into question Rabbi Yosef Feldman’s position on the reporting of child sexual abuse. On 27 July 2011, the day after his statement was published in the *Australian Jewish News*, he emailed Rabbi Moshe Gutnick and other rabbis.²¹⁶

We found that Rabbi Yosef Feldman expressed similar views in the 21-25 July 2011 emails and the emails of 27 July 2011. These views included that:²¹⁷

- the prohibition of *mesirah* was relevant when considering whether to report allegations of child sexual abuse made against a Jewish person to authorities
- allegations of child sexual abuse should in the first instance be reported to a rabbi, who should investigate and determine whether to report to the authorities
- a relevant consideration for a rabbi in deciding whether to report an allegation was when the child sexual abuse was committed and whether the perpetrator had repented or changed.

At the time Rabbi Yosef Feldman expressed these views, he was not an ordinary member of the community. He held the positions of president of the Rabbinical Council of New South Wales and rabbinical administrator at the Yeshiva Gedolah Rabbinical College. The views he was expressing in these emails were not private – they were views he was expressing to other leaders in the community. These views were in part motivated by his friendship with Cyprys, who at the time was being investigated for historical allegations of child sexual abuse.²¹⁸

We were satisfied that Rabbi Yosef Feldman’s statement published in the *Australian Jewish News* on 26 July 2011 was not a true statement of his beliefs but an exercise in public relations to seek to mitigate damage to his reputation following the public dissemination of the 21-25 July 2011 emails and the controversial views he expressed in these emails about child sexual abuse. We found that the views expressed in the emails of 27 July 2011 are not consistent with the views of a person who unequivocally accepted the 2010 RCV Resolution.²¹⁹

AVB told us that, after he emailed members of the Yeshivah Melbourne community in 2011 notifying them of a police investigation into allegations of child sexual abuse at Yeshivah College, he was the subject of public criticism by Rabbi Telsner. AVB said that after he attended court for the hearing of Cyprys' bail application, he was the subject of virulent criticism in online blogs and was labelled a *moser*.²²⁰

We found that the application of Jewish law to communications about and reporting of allegations of child sexual abuse to civil authorities – in particular, police – caused significant concern, controversy and confusion amongst members of the Chabad-Lubavitch communities.²²¹

We also found that, because of the way those concepts were applied, some members of those communities were discouraged from reporting child sexual abuse.²²²

Shunning survivors and their families

The effect of my disclosure on my family, in particular my parents, has been very painful for me to see ... I understand from them that, since I went public, they have been shunned by the Yeshivah community around which they based their life.²²³

Survivor, Mr Manny Waks

We heard evidence that some members of the community believed that those who were understood to have communicated to civil authorities about child sexual abuse were acting outside the bounds of acceptable *halachic* conduct (that is, they were sinning). Communication about child sexual abuse was widely perceived to be in contravention of the prohibition of *loshon horo*, while communicating with police about child sexual abuse was widely perceived to be an act of *mesirah* (and a contravention of the concept of *arka'ot*).²²⁴

As discussed above, Chabad-Lubavitch communities believe that an ultra-orthodox Jew found to have committed a sin (or a grave sin) should be the subject of official and unofficial community punishment, including religious, social and economic exclusion known as 'shunning'.²²⁵

In the *Yeshiva Bondi and Yeshivah Melbourne* case study, some survivors told us that they and their families experienced such severe ostracism and shunning that they felt unable to remain in the community.²²⁶

AVB and Mr Manny Waks each described being ostracised, criticised and bullied by members of the Chabad-Lubavitch community following their disclosures of child sexual abuse. As noted above, AVR also told us that he and his mother were ostracised by the Yeshivah Melbourne community in the early 1990s after they reported the sexual abuse by Cyprys.²²⁷

AVB told us that when it became known throughout the Yeshivah Melbourne community that he had attended court to hear Cyprys' bail application, he was labelled a *moser* and that as a result he was ostracised and bullied. He told us that his car was vandalised, signs he placed on the community noticeboard were torn down and he was pushed and jostled. He also said that he was denied the religious rite of being called to the Torah (described below).²²⁸ AVB gave evidence that he believed that Rabbi Telsner's sermon of 18 June 2011 contributed to his ostracism or at the least that the sermon condoned such behaviour.²²⁹

Mr Manny Waks told us that the publication of an article in *The Age* in which he was critical of Yeshivah Melbourne's response to allegations of child sexual abuse, and the perception amongst the Yeshivah Melbourne community that such criticism was sinful, led to him and his family being ostracised.²³⁰

We also heard evidence regarding the effect of public condemnation and ostracism on the families of survivors.

AVC is the wife of AVB and mother of their four children. In a written statement, AVC described the pain and suffering that the family endured as a result of the adverse response to AVB's participation in a police investigation and the response of rabbis at Yeshivah Melbourne to the issue of child sexual abuse.²³¹

AVC described witnessing the community turning on survivors of sexual abuse and making them the subject of suspicion. She described how she and AVB were falsely accused of being responsible for allegations of child sexual abuse against Rabbi Glick.²³²

Following AVB's calls for accountability, AVC experienced the loss of friends and invitations, smart quips, clips on the shoulder and vicious accusations shouted out in the synagogue. AVC spoke of the horror of realising the 'cruelty of people and the power of an act of abuse to ripple out and affect the lives of so many'.²³³

AVC told us that she had waited in vain for people to stand up for the truth and to speak out for those who had been sexually abused and who had been failed. AVC said she came to understand that self-preservation, one's standing in the community and one's pedigree ('precious *yichus*') were the main concerns of many.²³⁴

AVC described the vicious gossip, anonymous posts on the internet and approaches made to her husband's employer seeking to have his employment terminated.²³⁵

AVC said that, beyond the horrible acts of the perpetrators, she felt that she and AVB were abused a second time by the callous response of the community. As the spouse of a survivor, AVC said she felt hated and isolated in her own community and had lost faith in the leadership of the Jewish community.²³⁶

The experience that AVC described was not unique. Mr Zephaniah Waks told us that he and his wife lost most of their friends in 2011 and in the years that followed as a result of their son's public statements about the sexual abuse. In particular, Mr Zephaniah Waks said that Rabbi Telsner's sermon of 16 July 2011 caused some in the community to ostracise him and his family.²³⁷

I was excluded from Chabad customs, refused spiritual blessings by senior Yeshivah leaders, physically assaulted in the synagogue by a member of the Yeshivah community and I lost many people that I considered to be good friends. I detected a change in behaviour towards me by Yeshivah community members.²³⁸

In our *Yeshiva Bondi and Yeshivah Melbourne* report, we concluded that there appeared to have been a perception, at least amongst some in the community, that those calling for the leaders of Yeshivah Melbourne to answer for inaction or those calling for change were doing no more than attacking or trying to 'bring down' Yeshivah Melbourne.²³⁹

Mr Zephaniah Waks said that, to his observation, support in the community was age related: many of the younger members of the community were very supportive of Mr Manny Waks speaking of his experience of child sexual abuse, but many older members were not.²⁴⁰

AVB and Mr Zephaniah Waks both described being denied religious honours (*aliyah* – being called to the Torah) in the synagogue. Rabbi Moshe Gutnick gave evidence about the practice of refusing religious honours in the ultra-orthodox community. He said that it was rare and used as a way to express frank disapproval.²⁴¹ In a community where standing and reputation were very important, such an act could not have been expected to escape attention.²⁴²

Rabbi Telsner gave evidence that Mr Zephaniah Waks was refused *aliyah* because he had exhibited disrespect toward Rabbi Telsner by walking out during sermons and by sending emails critical of Yeshivah Melbourne's inaction following allegations of child sexual abuse from 2011 onward.²⁴³

In our *Yeshiva Bondi and Yeshivah Melbourne* report, we concluded that, in any event, those reasons indirectly related to Mr Manny Waks' public disclosure of his experience of child sexual abuse.²⁴⁴ We also found that members of Mr Manny Waks' family were secondary victims of the child sexual abuse that he experienced.²⁴⁵

Redress

In the *Yeshiva Bondi and Yeshivah Melbourne* case study, we found that there was no evidence Yeshivah Melbourne ever considered creating a formal redress policy in relation to victims of child sexual abuse.²⁴⁶

AVA told us that, in order to prompt change, he believed that institutions needed to be motivated by fear of the consequences (such as the financial consequences) of failing to act:

At the end of the day, an institution needs to be responsible for what it did or didn't do to protect children.²⁴⁷

In the *Institutional review of Yeshiva/h* hearing, Rabbi Chaim Tsvi Groner, a rabbi at Yeshivah Centre Melbourne and the son of the late Rabbi Yitzchok Dovid Groner, told us that towards the end of 2015 Yeshivah Melbourne had introduced a redress scheme. We heard that the scheme remained open for a period of only 13 months.²⁴⁸ He told us that during this time approximately 10 victims came forward and were provided with redress.²⁴⁹

When questioned as to the reason the scheme had remained open for only 13 months, Rabbi Groner told us that it was following the Royal Commission's recommendation on a redress scheme. It was not clear what Rabbi Groner meant by this statement. At the hearing, Rabbi Groner, who spoke on behalf of Yeshivah Melbourne, undertook to reconsider the length of the scheme.²⁵⁰

In the *Yeshiva Bondi and Yeshivah Melbourne* case study, we received no evidence that Yeshiva Bondi had considered developing a policy on redress for victims of child sexual abuse. During the public hearing, Rabbi Pinchus Feldman told us that, if victims wished to approach the institution to receive some form of apology or redress directly from the institution, 'they certainly may' do so.²⁵¹

In the *Institutional review of Yeshiva/h* hearing, Rabbi Pinchus Feldman told us that Yeshiva Bondi had still not developed and was not considering developing a financial redress scheme. He told us that Yeshiva Bondi does not have legal liability for child sexual abuse occurring at colleges prior to 2003 because the 'new directors took over responsibility for whatever had occurred in the past'.²⁵² Rabbi Pinchus Feldman later also told us that Yeshiva Bondi does not have the financial means to provide redress.²⁵³

During the *Institutional review of Yeshiva/h* hearing Emeritus Professor Bettina Cass, Chair of the Social Justice Committee of the NSW Jewish Board of Deputies and Chair of the New South Wales Jewish Board of Deputies Task Force on Child Protection, recommended that all institutions should adopt and confirm proper support and redress for the survivors of child sexual abuse. She stated that this redress should be run along the lines of the recommendations made by the Royal Commission.²⁵⁴ This was supported by Rabbi Mendel Kastel, Chief Executive Officer of Jewish House and member of the Child Protection Taskforce of the NSW Jewish Board of Deputies; Rabbi Eli Cohen, immediate past president of the Rabbinical Council of New South Wales; Rabbi Benjamin Elton, Chief Minister and Rabbi of The Great Synagogue, Sydney; Mr Anton Block, President of the Executive Council of Australian Jewry; Rabbi Moshe Gutnick; and Ms Jennifer Huppert, President of the Jewish Community Council of Victoria.²⁵⁵ Both Yeshiva Bondi and Yeshivah Melbourne were similarly supportive of the proposed national redress scheme.²⁵⁶

Apologies

Neither Yeshivah Melbourne nor the Yeshiva Bondi have ever apologised to me or offered any support or compensation for the child sexual abuse perpetrated against me by David Cyprys.²⁵⁷

Survivor, AVB

And everybody had some sort of excuse, with the apology perfectly timed only a few days before the Royal Commission in order to maximise the PR effect and how did that make victims feel? They knew it was empty, they knew it wasn't real ... The enablers came up in their own minds with all sorts of excuses, but it has nothing to do with their religious beliefs because there was a common denominator, to protect their institution or to protect their own power ... The single similar denominator is power and trying to protect your institution and not for the sake of God, but for the sake of, again, maintaining that power ... ²⁵⁸

Rabbi Moshe Gutnick, senior judge, Sydney Beth Din

In the *Yeshiva Bondi and Yeshivah Melbourne* case study, we heard that on 20 August 2012 Rabbi Telsner (on behalf of the synagogue), Rabbi Smukler (on behalf of Yeshivah College Melbourne) and Mr Wolf (on behalf of the Committee of Management) wrote to the Yeshivah Melbourne community and apologised for 'any historical wrongs that may have occurred':²⁵⁹

If mistakes were made in the past, they must be dealt with and we must ensure, to the extent possible, that mistakes are not made, or do not continue to be made, in the way in which allegations of abuse are dealt with ... We understand and appreciate that there are victims who feel aggrieved and we sincerely and unreservedly apologise for any historical wrongs that may have occurred.²⁶⁰

Mr Manny Waks told us that, while he publicly welcomed the apology as a positive step at the time, the letter was so qualified in its terms that he found it to be insulting.²⁶¹ He also said, 'To me, the focus of the letter was more to reassure the community that everything was fine than to apologise to me and other victims'.²⁶²

Mr Waks said that he had never received a direct apology of any kind from the Yeshivah Centre or college and no one had contacted him on behalf of the centre or college to offer any form of support or assistance.²⁶³ He told us the apology needed to be direct and personal from the people that count.²⁶⁴ There was no evidence that it has been a practice of Yeshivah Melbourne to directly apologise to survivors of child sexual abuse.²⁶⁵

AVB told us that he had never received an apology from Yeshiva Bondi in respect of his assault by Hayman at a camp that was run and organised by it.²⁶⁶

At the *Yeshiva Bondi and Yeshivah Melbourne* public hearing, Rabbi Pinchus Feldman expressed a general apology to all of those whom the Yeshiva Bondi had failed to protect.²⁶⁷

As head of Chabad in New South Wales and on behalf of the entire movement I would like to say to the victims: we are sorry that you suffered; it breaks my heart personally and it breaks all of our hearts. We are sorry that you continue to suffer from the ramifications of how those experiences have affected your life, and we give you our solemn commitment that absolutely everything in our power is being done and will continue to be done to ensure that others don't ever go through the same suffering.²⁶⁸

17.4 Contributing factors in Yeshiva Bondi and Yeshivah Melbourne

During our inquiry we considered the factors that may have contributed to the occurrence of child sexual abuse in religious institutions or to inadequate institutional responses to such abuse.

Our analysis of the evidence in the *Yeshiva Bondi and Yeshivah Melbourne* case study led us to identify two central factors that we consider contributed to the inadequate institutional response of the Yeshiva Bondi and Yeshivah Melbourne communities to child sexual abuse. The first of these relates to the governance, structure and leadership of Yeshiva Bondi and Yeshivah Melbourne. It includes the inadequacy of child sexual abuse policies and the absence of support for survivors of child sexual abuse from the institutional leadership. It also includes failure to deal with conflicts of interest and the concentration of power and absolute authority in the rabbis and, ultimately, the emissaries. The second factor relates to the beliefs and practices of insular Chabad-Lubavitch communities, including the absence of sex education or awareness about child sexual abuse, the importance of maintaining standing in the community, the application of Jewish law concepts such as *loshon horo* and *mesirah* to communication about and reporting of child sexual abuse, and the practice of shunning.

17.4.1 Governance, structure and leadership

Inadequate child sexual abuse policies

As discussed above, in the *Yeshiva Bondi and Yeshivah Melbourne* case study we found that, from 1984 to 2007, the Yeshivah College Melbourne did not have adequate policies, processes and practices for responding to complaints of child sexual abuse. We also heard there was no documented dispute resolution process at the Yeshivah Centre in Melbourne.²⁶⁹

Similarly, we heard evidence that at Yeshiva Bondi, neither Yeshiva College Bondi nor the Yeshiva Gedolah Rabbinical College had any ‘formal manuals or procedures’ for responding to allegations of child sexual abuse.²⁷⁰

We also heard evidence in the *Yeshiva Bondi and Yeshivah Melbourne* case study that some leaders had not undertaken formal training on how to recognise child abuse. Rabbi Glick gave evidence that, although he was the principal of the Yeshivah College Melbourne from 1986 to 2007, he did not undertake training about child sexual abuse until 2007, nor did teachers at the college.²⁷¹ At the time of the public hearing in February 2015, Rabbi Yosef Feldman also gave evidence of his belief that ‘all rabbis should receive training in how to identify, handle and report sexual abuse’. However, he has not undertaken any formal training. He said that there was no pressing requirement for him to undertake this training, as he viewed the required approach to the issue to be ‘common sense’.²⁷²

The absence of supportive leadership for survivors of child sexual abuse

The reality is that for genuine change to occur it must happen from within.²⁷³

Survivor, Mr Manny Waks

In the *Yeshiva Bondi and Yeshivah Melbourne* case study, we heard that within each individual community the head rabbi was considered to be the spiritual head of the community and as such endowed with great respect and the arbitrator in matters of spirituality and Jewish law.²⁷⁴ In this role, we heard that rabbis had significant influence upon the thinking and conduct of members of the Yeshiva Bondi and Yeshivah Melbourne communities.²⁷⁵

In addition to being in a position to arbitrate matters of spiritual and Jewish legal significance, we heard that the rabbis were not subject to any oversight body.²⁷⁶

During the *Institutional review of Yeshiva/h* hearing Rabbi Elton told us about the recent establishment of the Rabbinic Council of Australia and New Zealand which ‘has a complaints procedure’ so that matters can be ‘investigated by independent figures, giving assurances that they’re taken seriously and properly pursued’.²⁷⁷

We consider that a reverence for rabbinical leaders and lack of oversight contributed to a lack of scrutiny of the responses of the rabbis to allegations of child sexual abuse.

In the *Institutional review of Yeshiva/h* hearing we heard that a direct result of the *Yeshiva Bondi and Yeshivah Melbourne* case study was the establishment of the Rabbinic Council of Australia and New Zealand:²⁷⁸

[The council has a] complaints procedure which at every stage includes external figures, including judicial figures, people with senior judicial experience, so that even matters outside questions of criminality can be investigated by independent figures, giving assurances that they're taken seriously and properly pursued.²⁷⁹

As discussed above, in the *Yeshiva Bondi and Yeshivah Melbourne* case study we heard that, despite the clear guidance set out in the 2010 RCV Resolution, some rabbis at Yeshiva Bondi and Yeshivah Melbourne used their positions within the community to discourage the discussion or reporting of child sexual abuse.

We found a marked absence of supportive leadership for survivors of child sexual abuse and their families within Yeshivah Melbourne. We also found the leadership did not create an environment that was conducive to the communication of information about child sexual abuse. Their mixed messages regarding the application of Jewish law to child sexual abuse were likely to have produced inaction on the part of those seeking to discuss or report child sexual abuse.²⁸⁰

Conflict of interest

In my experience there are powerful relationships, family bonds and blind loyalties within the Yeshivah and broader Jewish community that create significant conflicts of interest that caused organisations and individuals to misuse their purported authority.²⁸¹

Survivor, AVB

In the *Yeshiva Bondi and Yeshivah Melbourne* case study we heard that the close-knit nature of the communities led to conflicts of interests on the part of those responding to allegations of child sexual abuse.

In relation to Yeshivah Melbourne, we heard that key employees of the Yeshivah Centre and the members of the Committee of Management were closely connected by family, longstanding friendships or relationships of marriage:²⁸²

I believe that in many, if not most, cases they inherited their positions from family members or have been installed due to their family connections.²⁸³

We found that the close-knit nature of the community in Melbourne required the leadership of Yeshivah Melbourne to be alive to, and deal transparently with, perceived or actual familial and personal conflicts of interest. Mr Wolf gave evidence that to his knowledge there is no documented dispute resolution process published by the Yeshivah Centre.²⁸⁴

We also found that the failure to recognise and deal transparently with perceived and actual conflicts of interest contributed to poor governance on the part of the Committee of Management at Yeshivah Melbourne.²⁸⁵

In relation to Yeshiva Bondi, we heard that Rabbi Yosef Feldman wrote to members of the community questioning whether allegations of child sexual abuse should be reported to police immediately and instead advocating that all complaints of child sexual abuse should first be made to a rabbi. We heard that Rabbi Yosef Feldman's actions were in part motivated by his friendship with Cyprys, who at the time was being investigated for historical allegations of child sexual abuse.²⁸⁶

In the *Institutional review of Yeshiva/h* hearing, we heard that since the conclusion of the *Yeshiva Bondi and Yeshivah Melbourne* case study the Yeshivah Centre in Melbourne and Yeshiva College in Bondi had implemented conflicts of interest policies.²⁸⁷ In contrast, Rabbi Pinchus Feldman told us that he did not feel that conflicts of interests were an issue in the Yeshiva Bondi community²⁸⁸ and that, as a result, no policies have been implemented to address actual and perceived conflicts of interest at the Yeshiva Centre in Bondi.²⁸⁹

In Chapter 20, we recommend that each religious institution should have a policy relating to the management of actual or perceived conflicts of interest that may arise in relation to allegations of child sexual abuse. The policy should cover all individuals who have a role in responding to complaints of child sexual abuse (Recommendation 16.39).

17.4.2 Cultural beliefs and practices of Chabad-Lubavitch communities

Absence of sex education

As discussed above, in the *Yeshiva Bondi and Yeshivah Melbourne* case study we heard that members of the Chabad-Lubavitch communities observe strict adherence to requirements of modesty and gender segregation²⁹⁰ and that sex education in Chabad-Lubavitch schools was limited or non-existent.²⁹¹

We found that, in some instances, there was limited knowledge about sex and limited sex education, which:²⁹²

- affected perceptions of child sexual abuse amongst members of the Chabad-Lubavitch communities
- adversely impacted upon survivors' comprehension of and response to events of child sexual abuse
- gave rise to difficulty in communicating on the subject and making reports.

In the *Institutional review of Yeshiva/h* hearing, representatives from Jewish associations told us that there was a place for sex education within the Jewish Community:

I think there has to be age-appropriate sex education. There are obviously concerns, because that can sometimes be in tension with a Jewish moral code around sexual, such as, for example, refraining from having sex until marriage, let's say.

However, there is no reason why sex education which is designed to protect safety and give people the information they need to be safe in all sorts of ways cannot be delivered alongside a moral curriculum which also places appropriate stress on the Jewish values around sex.²⁹³

During the hearing, we heard that Yeshiva College Bondi had an external expert develop its child protection and education framework.²⁹⁴ Yeshivah-Beth Rivkah College Melbourne now provides age-appropriate sex education to students²⁹⁵ which was developed with assistance with the Australian Childhood Foundation.²⁹⁶ Rabbi Chaim Tsvi Groner told us the Yeshivah Centre Melbourne was in the process of seeking accreditation by the foundation.²⁹⁷

In Chapter 20, we consider how to improve children's empowerment in religious institutions, including through age-appropriate education that aims to increase their knowledge of child sexual abuse and build practical skills to assist in strengthening self-protective skills and strategies. Increased prevention education can assist with disclosure of child sexual abuse.

The importance of maintaining standing in the community

In the *Yeshiva Bondi and Yeshivah Melbourne* case study, we heard that members of the Chabad-Lubavitch communities rely heavily on standing and connections inside their communities for marriage, employment, education of children and social support.²⁹⁸

We heard that in Chabad-Lubavitch communities there is an expectation members will marry within the community,²⁹⁹ and opportunities for marriage are predominantly influenced by the standing in the community of an individual and their family.³⁰⁰

Witnesses described to us how the need to maintain standing in the community might act as a barrier to the disclosure of child sexual abuse. Mr Zephaniah Waks observed that ‘disapproval of a family by the community would have dire consequences for the marriage prospects of the children’.³⁰¹ Mr Manny Waks said:

I knew that if I was going to raise these matters publicly that those who would suffer most of the consequences would probably be my immediate family, including my parents and siblings as well from a number of perspectives ... Potential marriage suitabilities, to have a victim, ‘damaged goods’ sibling; that’s an issue.³⁰²

The application of Jewish law concepts to child sexual abuse

In the *Yeshiva Bondi and Yeshivah Melbourne* case study, we heard that lawful (or *halachic*) conduct is of particular importance to members of the Chabad-Lubavitch community and there is significant individual and community focus upon whether an act (upon strict interpretation of Jewish law) is, or is not, halachically permitted.³⁰³

We heard that some members of the community believed that alleging that another Jewish person may have sexually abused a child was engaging in *loshon horo* (unlawful gossip). Similarly, there was considerable evidence that some members of the community believed that reporting a Jewish person to civil authorities such as police is considered to be engaging in conduct prohibited by either Jewish law or accepted principle (*mesirah*).³⁰⁴

We found that the application of Jewish law to communications about and reporting of allegations of child sexual abuse to civil authorities – in particular, police – caused significant concern, controversy and confusion amongst members of the Chabad-Lubavitch communities.³⁰⁵

As discussed above, senior leaders at both Yeshiva Bondi and Yeshivah Melbourne had the opportunity to dispel concern, controversy and confusion amongst the community over the application of these concepts to cases of child sexual abuse. Instead, we heard that their actions gave the impression that *loshon horo* and *mesirah* were applicable to communication about and reporting of child sexual abuse.³⁰⁶ We consider that the actions of these leaders probably had the effect of dissuading some members of the Yeshivah Melbourne community from communicating with the civil authorities about child sexual abuse.³⁰⁷

In the *Institutional review of Yeshiva/h* hearing, witnesses from Jewish representative bodies, and representatives from Yeshivah Melbourne and Yeshiva Bondi, unanimously confirmed that the concepts of *loshon horo* and *mesirah* have no application in the case of child sexual abuse.³⁰⁸

In the *Institutional review of Yeshiva/h* hearing, Professor Cass described the application of *mesirah* as follows:

The principle of *Mesirah* does not apply in any way to the reporting of allegations of child sexual abuse, and all staff, personnel, in Jewish schools, yeshivas and other organisations with responsibilities for children and young people are required to comply with mandatory reporting to the statutory authorities when they hear an allegation from a child, a young person, their family, or another person that there is an allegation of child sexual abuse. There is no role for the principle of *Mesirah* either in responsibilities under secular law or within Jewish principles.³⁰⁹

Rabbi Gutnick, a senior judge at the Beth Din in Sydney, went further to condemn those rabbis who had used the concept of *mesirah* to prevent the reporting of child sexual abuse:

There has never ever been a question of *Mesirah* or *Arka'ot*, or anything like that, when it comes to harming children or harming anybody, ever. It was created as a sort of excuse, but in reality every one of the rabbis knew that there was no *Mesirah* and there was no crime.³¹⁰

It is important that senior leaders within Chabad communities continue to ensure that members of the community are aware that the concepts of *loshon horo*, *arka'ot* and *mesirah* have no application in the case of child sexual abuse.

Recommendation 16.30

All Jewish institutions in Australia should ensure that their complaint handling policies explicitly state that the *halachic* concepts of *mesirah*, *moser* and *loshon horo* do not apply to the communication and reporting of allegations of child sexual abuse to police and other civil authorities.

Shunning

... in my view, to shun is to be complicit in the abuse that has been perpetrated on the victim and there is no place for that in our society whatsoever ... it is important that we reach out to those victims and seek to feel their pain and support them in that pain.³¹¹

Mr Anton Block, President of the Executive Council of Australian Jewry

As discussed above, Chabad-Lubavitch communities believe that an ultra-orthodox Jew found to have committed a sin (or a grave sin) should be the subject of official and unofficial community punishment, including religious, social and economic exclusion known as 'shunning'.³¹²

As described above, some survivors told us that they and their families experienced such severe ostracism and shunning that they felt unable to remain in the community.³¹³

In the *Yeshiva Bondi and Yeshivah Melbourne* case study, we heard that shunning was experienced by outspoken survivors and their families in the wake of their disclosures of child sexual abuse. Mr Manny Waks told us:

The effect of my disclosure on my family, in particular my parents, has been very painful for me to see. While I have left the Orthodox community, my parents remain within it. I understand from them that, since I went public, they have been shunned by the Yeshivah community around which they based their life. They have lost most of their friends and during 2011 decided to sell the family home opposite the Yeshivah Centre and move to Israel. They are still in the process of relocating.³¹⁴

We consider that the practice by some in Chabad-Lubavitch communities of shunning survivors of child sexual abuse and their family members was wrong and caused them great distress.³¹⁵

In the *Yeshiva Bondi and Yeshivah Melbourne* case study, Rabbi Pinchus Feldman accepted that victims of sexual abuse should always be able to speak out about the abuse and seek accountability of the perpetrator or others who may have failed to protect them without being subject to ostracism, shunning and bullying.³¹⁶

In the *Institutional review of Yeshiva/h* hearing, witnesses from Jewish representative bodies and representatives from Yeshivah Melbourne and Yeshiva Bondi unanimously rejected the idea that there were any circumstances in which shunning survivors or family members of survivors of child sexual abuse would be acceptable.³¹⁷

Rabbi Elton, the Chief Minister of The Great Synagogue of Sydney, stated:

I would say there's not only no justification for such action, but, in doing so, they're committing a grievous sin within the context of the Jewish faith which would mandate us not to shun, but, on the contrary, to support and to help in any way we can those who have suffered in such a way and those who have taken the very brave step of going to the authorities to make sure that others don't suffer and that the perpetrators are brought to justice.³¹⁸

We agree that all survivors of child sexual abuse are deserving of support and assistance from their communities, and even more so from those in positions of authority in the institutions where the sexual abuse occurred.

17.5 Conclusions about Yeshiva Bondi and Yeshivah Melbourne

The responses of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse showed some remarkable similarities. When children or their parents made contemporaneous disclosures of sexual abuse to persons in positions of authority, they were disbelieved or ignored, and alleged perpetrators were either left in positions with continued access to children or were quietly removed from the institution.

Until the 2000s, those in leadership positions did not report allegations of child sexual abuse to relevant police or other civil authorities. With respect to Cyprys and Hayman, the absence of any action by those in positions of authority after receiving allegations of child sexual abuse allowed these perpetrators to continue to sexually abuse children within the Yeshiva/h communities. This included the sexual abuse of Mr Manny Waks and AVA, for which Cyprys was convicted in 2013; the repeated rape of AVR, for which Cyprys was convicted in 2013; and the violent sexual assault of AVB, for which Hayman was convicted in 2014.

The general prohibition on reporting to civil authorities negated the need to individually discourage survivors from reporting to civil authorities. Mr Zephaniah Waks told us:

I thought, 'I want to report it to the police but I can't because it is mesirah.' This was the reason; mesirah and the whole community culture was the reason, not that I said, 'I'm going to report it to the police.' It didn't even get to that. Of course I knew that a crime had been committed here, but you just didn't get to that stage.³¹⁹

If action was taken in response to allegations of child sexual abuse, this occurred 'in-house'. In two cases, alleged perpetrators of child sexual abuse were allowed to leave Australia after allegations were made against them to persons in positions of authority at Yeshiva Bondi and Yeshivah Melbourne. One of these alleged perpetrators was subsequently convicted of further sexual offences against children that were committed overseas.

In the cases that we examined, the institutional responses to survivors of child sexual abuse who reported the abuse years after it occurred were dismal. Rather than supporting survivors or assisting them through the process of reporting allegations to police and during and after criminal proceedings, community leaders of Yeshiva Bondi and Yeshivah Melbourne made efforts to silence survivors and to condemn those who would not be silent. Members of the relevant communities shunned survivors and their families, which added to their suffering and may also have deterred other survivors from coming forward. Neither the Yeshiva Bondi nor the Yeshivah Melbourne community leaders provided direct, personal apologies to the survivors

who did come forward, either for the child sexual abuse which they suffered or for the manner in which the institutions handled their complaints. Moreover, at least until our *Institutional review of Yeshiva/h* hearing, efforts to provide redress to survivors were limited. Statements made during that hearing supportive of the provision of redress should be followed by concrete action in consultation with survivors.

We considered a number of factors that contributed to the occurrence of child sexual abuse in Yeshiva Bondi and Yeshivah Melbourne or to inadequate institutional responses to such abuse. We found that, at least until 2007, these institutions did not have adequate policies, procedures and practices for responding to complaints of child sexual abuse.

Within each community, the head rabbi was considered to be the spiritual head of the community. However, there was no overarching external rabbinical authority to which rabbis could be held accountable. We consider that a reverence for rabbinical leaders and lack of oversight contributed to an absence of scrutiny of responses of rabbis to allegations of child sexual abuse.

We also found that the failure to recognise and deal transparently with perceived and actual conflicts of interest contributed to poor governance on the part of the Committee of Management at Yeshivah Melbourne. We found a marked absence of supportive leadership for survivors of child sexual abuse and their families within Yeshivah Melbourne. We also found the leadership did not create an environment that was conducive to the communication of information about child sexual abuse.

Finally, we found that the manner in which some cultural beliefs and practices, including Jewish law concepts, were applied in Yeshiva Bondi and Yeshivah Melbourne contributed to their inadequate institutional responses to child sexual abuse. We note that during the *Institutional review of Yeshiva/h* hearing, witnesses from Jewish representative bodies, and representatives from Yeshivah Melbourne and Yeshiva Bondi, unanimously confirmed that the concepts of *loshon horo* and *mesirah* have no application in the case of child sexual abuse. We recommend that all Jewish institutions' complaint handling policies should explicitly state that these concepts do not apply to the communication and reporting of allegations of child sexual abuse to police and other civil authorities.

In Part E, 'Creating child safe religious institutions', we make recommendations that should be considered by all religious organisations in Australia, including Yeshiva Bondi and Yeshivah Melbourne. We recommend that religious organisations adopt the Royal Commission's 10 Child Safe Standards as mandated standards for each of their affiliated institutions and drive a consistent approach to the implementation of those standards. The Child Safe Standards articulate the essential elements of a child safe institution and set benchmarks against which institutions can assess their child safe capacity and set performance targets. We also make recommendations with respect to leadership, governance and training that are relevant to some of the contributing factors we identified in Yeshiva Bondi and Yeshivah Melbourne.

Endnotes

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304 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions*, Sydney, 2016, p 19.

305 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions*, Sydney, 2016, pp 16–7.

306 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions*, Sydney, 2016, pp 16–7.

- 307 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions*, Sydney, 2016, p 46.
- 308 Transcript of B Elton, B Cass, A Block, M Gutnick, J Huppert, E Cohen & M Kastel, Case Study 53, 23 March 2017 at 27220:35–27223:29; Transcript of P Feldman, C Groner, Y Smukler, D Slavin & G Aber, Case Study 53, 23 March 2017 at 27299:27–27301:32.
- 309 Transcript of B Cass, Case Study 53, 23 March 2017 at 27221:10–21.
- 310 Transcript of M Gutnick, Case Study 53, 23 March 2017 at 27246:27–32.
- 311 Transcript of A Block, Case Study 53, 23 March 2017 at 27224:30–37.
- 312 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions*, Sydney, 2016, p 16.
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- 314 Transcript of M Waks, Case Study 22, 2 February 2015 at 6039:11–19.
- 315 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions*, Sydney, 2016, p 20.
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- 317 Transcript of M Gutnick, B Elton, B Cass, A Block & J Huppert, Case Study 53, 23 March 2017 at 27223:5–27225:19; Transcript of C Groner, Y Smukler, D Slavin & P Feldman, Case Study 53, 23 March 2017 at 27301:34–27302:32.
- 318 Transcript of B Elton, Case Study 53, 23 March 2017 at 27223:36–44.
- 319 Transcript of Z Waks, Case Study 22, 3 February 2015 at 6082:33–39.

18 Responses of other key institutions to child sexual abuse in religious institutions

In some of our case studies examining incidents and allegations of child sexual abuse in religious institutions we also considered the responses of other types of institutions, such as state police and public prosecution agencies and child protection departments. In some cases we found deficiencies in the responses of these other institutions.¹

We conducted a detailed review of the operation of the criminal justice system in Australia with respect to institutional child sexual abuse and made a number of recommendations for changes to that system. This review has, in part, drawn upon accounts given to us by survivors of child sexual abuse in religious institutions about their experiences with the police, prosecution bodies and the courts. Our *Criminal justice* report sets out our findings and recommendations with respect to the criminal justice system.²

As noted in our *Criminal justice* report, we heard from a number of survivors of child sexual abuse, including those abused within a religious institution, that they were satisfied with some or all aspects of the response they received when they reported the child sexual abuse to the police or when they otherwise interacted with the criminal justice system. Others described the responses they received as flawed, disappointing and/or traumatising.

In addition, we gathered evidence and information about how state child protection departments responded in the past to reports of child sexual abuse in children's residential institutions, some of which were run by religious organisations. Volume 11, *Historical residential institutions*, and Volume 12, *Contemporary out-of-home care*, note the roles and responsibilities of child protection departments to ensure the safety of children in state care, including where religious organisations provide residential and other out-of-home care services.

In this chapter we consider the experiences of victims of child sexual abuse in religious institutions who sought to or who did report the abuse to an external agency, and how those agencies responded. Rather than discussing the broader institutional responses set out in our *Criminal justice* report and Volume 11, *Historical residential institutions*, our focus here is on the responses of agencies such as police and child protection departments to reports of child sexual abuse in religious institutions, where those responses may have been influenced by the fact that the alleged abuse took place in a religious institution.

As described in Volume 11, previous inquiries have noted that the relationship between government child welfare authorities responsible for regulating and funding residential institutions, and the religious and other charitable organisations which often ran those institutions, was compromised. This was because, where governments relied on religious and charitable organisations to provide care to large numbers of children at relatively low cost, it was not in the interests of authorities to scrutinise these institutions.³ In addition, in Volume 11 we also observed that many survivors who were abused in children's residential institutions said they felt that they could not trust police to respond appropriately to their reports of child sexual abuse. In one case that we examined in detail, we found that senior members of a state police agency deliberately prevented a detective from continuing his investigation into a Catholic priest's sexual offending against children.⁴

18.1 Responses of child protection departments to allegations of child sexual abuse in religious residential institutions

However, a price has been paid historically for the government's willingness to place children in orphanages and residential institutions under the auspices of the religious denominations. It is possible that the bland official reporting in the Department's Annual Reports (1912–85) of conditions prevailing at these institutions is the result of not wishing to antagonise a valuable and cheap service provider.⁵

Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions

In public hearings and private sessions we heard harrowing accounts from former residents of children's residential institutions that operated from the 1940s to the 1990s about the physical and sexual abuse that they told us they endured. Volume 11, *Historical residential institutions*, and Part C, 'Nature and extent of child sexual abuse in religious institutions' discuss what we have learned from those accounts. Among these institutions were several operated by The Salvation Army, the Anglican Church and Catholic religious orders such as the Sisters of Mercy and the Congregation of Christian Brothers.

As discussed in Volume 4, *Identifying and disclosing child sexual abuse*, and Volume 11, it was often extremely difficult for children in residential institutions to report sexual abuse to anyone in authority. When they were able to make such reports they were frequently not believed and the abuse continued. During *Case Study 26: The response of the Sisters of Mercy, the Catholic Diocese of Rockhampton and the Queensland Government to allegations of child sexual abuse at St Joseph's Orphanage, Neerkol (St Joseph's Orphanage, Neerkol)*, we heard from survivors of child sexual abuse at the orphanage, which was run by the Catholic religious order the Sisters of Mercy. They said they rarely saw inspectors from the Queensland Department of Children's Services (and its predecessors) and that, when they did, they were not allowed to speak to them. Two former residents of the orphanage told us they were able to tell a department inspector their experience but that nothing changed and the sexual abuse continued. One survivor said she was beaten by the nuns at the orphanage for mentioning sexual abuse to an inspector. Another said that she was told by the inspector 'not to say such things about the priests and nuns'. In our report on *St Joseph's Orphanage, Neerkol* we found that the departmental officers did not provide a system of supervision for the delivery of care to children at the orphanage which would properly guard against their mistreatment.⁶

In Volume 11 we set out the historical context of children's residential institutions and discuss the inadequate internal and external monitoring of these institutions. A research report on the history of institutions providing out-of-home residential care for children, which we commissioned, concluded that:

Where governments funded church or charitable efforts there was the potential for inspection and regulation, but departments dependent on non-government organisations for places were aware of their limited bargaining power. Where there was no transfer of funds between government and institution, the regulatory hand was even lighter. There was little to rein in the activities of individuals and organisations who believed that they had a calling to 'care' for children they perceived to be unwanted or otherwise in need. Relationships with church-led or other supervising authorities were similarly lax, with few prepared to question self-funding and well-meaning individuals or committees undertaking this work.⁷

Similarly, historian, social researcher and survivor advocate Dr Joanna Penglase has written of two assumptions about religion in the 20th century that made 'life in institutional care inherently dangerous for children'. These were that 'religious people and organisations were by definition benevolent and above reproach' and 'that religion was somehow linked to a love of children'. She noted that:

Anybody professing religious commitment would never be suspected of the behaviour of which many thousands of religious personnel were in fact guilty. This also goes some way to explaining why society tolerated the lack of transparency and accountability in church-based Homes, and also why children felt it inconceivable to accuse their abusers.⁸

Evidence we received in the course of *Case Study 5: Response of The Salvation Army to child sexual abuse at its boys' homes in New South Wales and Queensland (The Salvation Army boys' homes, Australia Eastern Territory)* was consistent with this view. In a letter dated 19 July 1973, The Salvation Army's assistant state social secretary told its social services secretary that the Department of Children's Services had been 'most co-operative and handled the matter very discreetly'. He said that he felt that the 'high regard in which The Salvation Army is held in Government circles is responsible for the sympathetic handling' of allegations of child sexual abuse that had been made against Captain Donald Schultz.⁹

In that case study we found that, from at least 1973, senior officers of the Queensland Department of Children's Services were well aware of frequent sexual activity between many of the boys at Riverview Boys' Home in Queensland, including occasions of rape.¹⁰ During the public hearing, Ms Janice Doyle, who formerly worked for the Queensland Department of Children's Services, was asked why the department did not remove Riverview's licence to operate, given its concerns about the situation there. She said:

The churches at that time, in the early 1970s, were very powerful – not just The Salvation Army; the Anglicans, the Catholics, the Baptists – and I don't think any politician wished to read about themselves on the front page of the daily newspaper. So if the department was going to move against an organisation such as a church, the department would be very clear about its facts and would have demonstrated that it had done everything in its power to assist that church in our joint task of caring for children. I just see that as the context and the environment in which we worked at that time.¹¹

Another factor was the perceived absence of alternatives for housing children deemed in need of out-of-home care. In a memorandum written for the Queensland Minister for Children's Services dated 8 October 1970, the director of the Department of Children's Services wrote that, 'If the Department was not in such urgent need of accommodation for boys in care and control, I would not hesitate in recommending that the licence [for Riverview] ... should be cancelled and the Home closed'.¹²

The State of Queensland accepted that the response of the Department of Children's Services to concerns about conditions at Riverview and another Salvation Army run home at Indooroopilly was slow.¹³

In the same case study we found that, in the 1970s, reports by officers of the New South Wales Department of Child Welfare about visits they conducted to two Salvation Army run homes were cursory, displayed a high level of generality, reported on the general running of the homes rather than on the care of specific children and only occasionally commented on the children's care generally. We further found that, between 1970 and 1975, officers of the New South Wales Department of Child Welfare failed to review departmental personnel files when investigating applications to conduct children's homes.¹⁴

In our report on *Case Study 11: Congregation of Christian Brothers in Western Australia response to child sexual abuse at Castledare Junior Orphanage, St Vincent's Orphanage Clontarf, St Mary's Agricultural School Tardun and Bindoon Farm School (Christian Brothers)*, we noted that government inspectors of boys' homes run by the Congregation of Christian Brothers in Western Australia from the early to mid-20th century did not create comprehensive progress reports on these institutions following unannounced site inspections and the inspections did not address the welfare of the children in an individual way. Rather, the primary concern of the inspections was with the cleanliness and physical environment in which the children were being kept.¹⁵

In 1999, the Commission of Inquiry into Abuse of Children in Queensland Institutions (Forde Inquiry) made specific findings about the failures of the Queensland child protection department to effectively oversee abuse within institutions run by religious organisations. In summarising its findings, the inquiry's report said:

A recognition of the relationship between the Department and the denominations which ran the licensed institutions is essential to an understanding of how institutional care could fail children in so many respects without intervention from the Department. The levels of funding on which almost all of the denominational institutions operated were patently insufficient to allow the provision of proper individual care. Yet the Department continued to place children in those institutions because they provided a cheap means of lodging children for whose care it was responsible, and it was able to use as justification the fact that the children were, after all, in Christian care. The churches, for their part, acquiesced in this indiscriminating placement of children because of their perceived obligation to provide refuge to homeless children, however inadequate their resources might be. By doing so, they acquired an ascendancy over the Department; it was most unlikely that the Department would jeopardise its access to those placements by subjecting the institutions to scrutiny of the kind necessary to ensure that children were being cared for properly. The denominations were thus able to carry out what they considered to be their Christian mission without risk of interference from the Department. On its side, the Department maintained an irreplaceable, cheap resource, and could complacently point to the fact that the children were being raised in a Christian environment.¹⁶

We discuss in more detail how child protection departments have acted in the prevention of and response to the sexual abuse of children in state care in Volume 11, *Historical residential institutions*, and Volume 12, *Contemporary out-of-home care*.

18.2 Responses of police to allegations of child sexual abuse in religious residential institutions

We heard from a number of survivors that, after they were physically and/or sexually abused, they attempted to run away from a residential institution and report the abuse to the police. In the *Christian Brothers* public hearing, Mr Raphael Ellul told us that in 1965, after he was sexually abused by Brother Synan at St Mary's Agricultural School, Tardun, he ran away and tried to report the abuse at the Mullewa police station. A police officer there told him not to 'tell lies about these good Christian men' and slapped his face. He was then returned to Tardun.¹⁷ Similar experiences were described by two survivors of child sexual abuse in St Joseph's Orphanage in Neerkol. In our *St Joseph's Orphanage, Neerkol* case study, Mr Thomas Murnane said that the police did not believe him when he ran away and reported being physically abused at the orphanage. Ms Margaret Campbell gave evidence that she was told by a police officer to 'put it behind her'.¹⁸

In *The Salvation Army boys' homes, Australia Eastern Territory* public hearing, ES gave evidence that in the mid-1970s he absconded from Riverview Boys' Home in Queensland. He was caught by the police. He told police officers what Captain Victor Bennett had done to him at Riverview, which included serious physical and sexual abuse. The only response of the police was to telephone Captain Bennett, who denied ES's allegations.¹⁹ Another former resident of a Salvation Army run home in New South Wales in the early 1970s, Mr Mark Stiles, told us that he was physically abused by the manager of the home and repeatedly sexually abused by another Salvation Army officer. Mr Stiles and another boy ran away and were picked up by the police, to whom they reported the abuse. Mr Stiles gave evidence that the police officer responded by hitting him across the neck and side of the head before taking him and the other boy back to the home. When he returned, the manager of the home hit Mr Stiles on the head, chest and upper body with his open palm for 'telling lies'. When he absconded for a second time and was again picked up by the police, he did not say anything about the continuing abuse because of the beating he had received previously.²⁰

Our *Criminal justice* report discusses the manner in which the police handled complaints of child sexual abuse since the 1950s.²¹ Police responses to reports of child sexual abuse reflect the prevailing social attitudes to children from before the 1950s through to at least the 1980s. This would have included police responses to children who reported abuse by a priest, minister or member of a religious order while in a residential institution. In a research report commissioned by the Royal Commission, titled *Framework for historical influences on institutional child sexual abuse: 1950–2014*, it was found that:

Police who became aware of sexual abuse allegations have been described as either unwilling to follow up reports made by children because of the political and reputational repercussions for organisations that in the 1950s were regarded as the community's social and moral conscience, or as disbelieving of the allegation or the harm it caused.²²

This is consistent with the findings of the Royal Commission into the New South Wales Police Service (the Wood Royal Commission), which issued its report in 1997. The report noted that it had 'examined a number of investigations into allegations made against members of the clergy'. It found that these investigations 'had all the hallmarks of undue deference to the Church, and were less than thorough or impartial'. It also made reference to evidence that there was an 'apparent reluctance of police to believe that a member of the clergy or a priest would conduct himself in the way alleged'.²³

In January 2017, the media reported that a forum of Australian police commissioners had decided to issue an apology to survivors who were sexually abused as children in institutional care. According to these reports, the precise terms of the apology would be decided following the release of this Royal Commission's final report.²⁴

18.3 Responses of police to allegations of child sexual abuse in other religious institutions

We heard that in some instances police investigations were not initiated at all when a child reported having been sexually abused in a religious institution. We also received evidence and heard accounts about failures in the conduct of criminal investigations into institutional child sexual abuse, where those investigations were carried out by state police agencies.

In *Case Study 9: The responses of the Catholic Archdiocese of Adelaide, and the South Australian Police, to allegations of child sexual abuse at St Ann's Special School (St Ann's Special School)*, we examined, among other things, the response in the 1990s of the South Australia Police (SAPOL) to allegations of child sexual abuse perpetrated by Brian Perkins, an employee of the school. St Ann's was part of the South Australian Catholic school system, in the Archdiocese of Adelaide. It catered for students with intellectual disabilities and limited verbal capacity. Perkins was ultimately convicted in 2003 of five sexual offences involving three St Ann's students.

In our report on *St Ann's Special School*, we made several findings critical of the manner in which the SAPOL investigation of Perkins was conducted from 1991. These included findings of failures on the part of individual police officers and failures in SAPOL systems and practices in place at that time. These failures contributed to a delay of many years in bringing Perkins to trial. In addition, we found that for a decade SAPOL did not inform the broader school community of the sexual allegations against Perkins, despite being aware that other former students may have had contact with him.²⁵ In our report we also noted changes to the investigation of child sexual offences by SAPOL that were implemented from 2004.²⁶

In *Case Study 35: Catholic Archdiocese of Melbourne (Catholic Archdiocese of Melbourne)*, we heard evidence about an interview that a probationary officer with the Victoria Police conducted in December 1990 with Ms Julie Stewart. At the time of the interview, Ms Stewart was 15 years old and she described having been sexually abused by Father Peter Searson when she was 10 years old. The interview was conducted by the officer without a more senior officer or other adult present. During the interview, the officer made an insensitive and inappropriate comment to Ms Stewart. We found that while there was no evidence that the officer intended for his comment to be offensive, it shows that a junior male officer not trained in dealing with survivors of child sexual abuse should not have been sent to take the statement alone. We also found that the interview with Ms Stewart was not carried out in accordance with Victoria Police's policies or the accepted practice in place at the time.²⁷

An information report prepared around the time of the interview recorded that no offence had been disclosed by Ms Stewart – a conclusion which we found to be 'plainly wrong'. We found that the Victoria Police's Child Exploitation Unit failed to recognise the criminality of Father Searson's conduct and failed to progress their investigation of it.²⁸

In our *Catholic Archdiocese of Melbourne* case study, we found that some aspects of the conduct of the criminal investigation conducted by Victoria Police with respect to complaints of child sexual abuse against Father Nazareno Fasciale were unsatisfactory. In particular, we found that there had been excessive delays on the part of Victoria Police and the Office of Public Prosecutions (OPP) in reaching a decision on whether to prosecute Father Fasciale. The consequence of this was that no charges were brought against him prior to his death. In addition, document management by the OPP was deficient, in that the original brief of evidence provided by the police was lost. We found that the document and information management by Victoria Police and the OPP in relation to the Father Fasciale matter was unsatisfactory.²⁹

The most overt and serious example of a failure by the police to conduct a proper investigation of allegations of sexual abuse of children in the context of a religious institution was presented in *Case Study 28: Catholic Church authorities in Ballarat (Catholic Church authorities in Ballarat)*. In that case study we found that in the 1970s senior officers of Victoria Police impeded the investigation of sexual offending by a Catholic priest, Monsignor John Day, against children in Mildura.

Monsignor Day was a priest ordained in the Diocese of Ballarat in 1930. He was assistant priest in a number of parishes until January 1951, when he was appointed parish priest of Apollo Bay in Victoria. He held that position until July 1956, when he was appointed parish priest of Mildura in Victoria where he remained for almost 16 years. In the early 1970s, a number of allegations that Monsignor Day had sexually abused children in and around Mildura emerged.³⁰

Mr Denis Ryan is a former detective senior constable with Victoria Police. He joined Victoria Police in 1952. In 1962, Detective Ryan was stationed at Mildura. He remained there until his retirement from Victoria Police in 1972. Between 1970 and early 1972, Detective Ryan investigated allegations of child sexual abuse made against Monsignor Day. Mr Ryan was the central witness in relation to the response of Victoria Police to child sexual abuse allegations against Monsignor Day. He was an impressive witness, who we found to be honest and reliable.³¹

During the public hearing, Mr Ryan told us that when he joined Victoria Police in the 1950s there was a 'vast degree of sectarianism within the police force'.³² On one occasion, he was approached by another police officer who he knew to be a Catholic. The officer asked him if he would be interested in joining their Catholic group to look after the interests of the cathedral in relation to priests getting into some form of trouble. He declined to do so.³³

Mr Mick Miller, a former assistant commissioner and later chief commissioner of Victoria Police, told us that while he was in Victoria Police he 'heard stories about Catholic clergy being let off by Victoria Police in investigations not related to child sexual abuse'. However, he said he had no personal knowledge of this.³⁴

In 1970, Mr John Howden was a teacher at St Joseph's College – a Catholic secondary school connected with Mildura parish. In December that year, a man approached him at a Christmas party and told Mr Howden that Monsignor Day had been sexually abusing children.³⁵

In 1971, Mr Howden received another report about Monsignor Day, this time from the mother of a female student at St Joseph's College in Mildura. The mother came to see Mr Howden and told him Monsignor Day had been harassing her daughter and her daughter's friend and that he had molested them in his car.³⁶

Mr Howden contacted Detective Ryan and arranged a meeting. He told Detective Ryan not to tell fellow Mildura policeman, Detective Sergeant Jim Barritt, because he knew he was close to Monsignor Day. He told Detective Ryan of the allegations made by the mother and arranged for Detective Ryan to meet with her and her daughter. Detective Ryan told Mr Howden he would conduct the investigation himself.³⁷

Detective Ryan's investigation resulted in multiple statements from children in Mildura who alleged they had been sexually abused by Monsignor Day.³⁸

In October 1971, Detective Ryan approached the most senior officer in the district, Superintendent Jack McPartland and told him he had five statements from 'victims alleging that Monsignor Day has committed numerous acts of sexual assault, gross indecency and attempted buggery'. Superintendent McPartland told Detective Ryan to give the statements to Inspector Alby Irwin immediately and to cease any further inquiries. Inspector Irwin at the time was the senior uniformed officer at Mildura. Mr Ryan told us he knew Inspector Irwin was Catholic and was close to Detective Sergeant Barritt.³⁹

Detective Ryan told Superintendent McPartland about the friendship between Detective Sergeant Barritt and Inspector Irwin and said, 'That will be the end of this inquiry'. Superintendent McPartland replied that he had given an instruction and expected Detective Ryan to obey it. Detective Ryan followed Superintendent McPartland's instruction.⁴⁰

About a month later, in November 1971, Inspector Irwin told Detective Ryan he and Detective Sergeant Barritt would be interviewing Monsignor Day about the allegations. Detective Ryan responded 'You're taking Barritt with you? He's Day's best friend! That is contrary to everything you were taught as a detective. You are totally and completely compromising the investigation'.⁴¹

We found that it was highly inappropriate that Detective Sergeant Barritt was involved in the investigations of allegations of child sexual abuse by Monsignor Day, given that Detective Ryan had informed Superintendent McPartland and Inspector Irwin that Detective Sergeant Barritt was Monsignor Day's 'best friend'.⁴²

When Inspector Irwin and Detective Sergeant Barritt interviewed Monsignor Day in November 1971, he denied all of the allegations. Shortly after the interview, on 19 November 1971, Inspector Irwin wrote a report to Superintendent McPartland. He recommended that no further police action be taken in the matter. Inspector Irwin set out the allegations against Monsignor Day

and Monsignor Day's response. He wrote that those who made the allegations may be regarded as 'accomplices', that he failed to see how the allegations 'could stand up in a Court of Law', and that:

There are numerous stated cases dealing with accomplices, corroboration and complaints which adequately cover the law on matters such as these, and which clearly indicate that it would be futile to proceed to a prosecution.⁴³

On 30 November 1971, Superintendent McPartland sent Inspector Irwin's report recommending no further action to Victoria Police Chief Commissioner Reginald Jackson. Superintendent McPartland told the chief commissioner that he agreed with Inspector Irwin's conclusions. He recommended that the brief be considered by a 'competent legal authority' to determine what action, if any, should be taken.⁴⁴

Despite the direction to cease his inquiries, during December 1971 Detective Ryan obtained a number of further statements. The statements contained serious allegations of sexual abuse of children by Monsignor Day.⁴⁵

By the end of the month, Chief Commissioner Jackson knew that Detective Ryan had obtained additional evidence. Sometime in December 1971, Superintendent McPartland was replaced by Superintendent Harry Duffy, who Mr Ryan told us was a staunch Catholic. At the end of December 1971, Superintendent Duffy visited Mildura police station and interviewed Detective Sergeant Barritt and Detective Ryan, as well as other officers. Detective Ryan gave him the additional statements he had obtained detailing allegations of child sexual abuse by Monsignor Day.⁴⁶

When he reported to the chief commissioner about his meetings with the Mildura detectives in January 1972, Superintendent Duffy told the chief commissioner that he did not think a prosecution would be successful. He recommended consideration be given to transferring both Detective Ryan and Detective Sergeant Barritt out of Mildura.⁴⁷

In mid-January 1972, Chief Superintendent John O'Connor and another senior Victoria Police officer, Detective Chief Inspector Harvey Child, were appointed by Acting Chief Commissioner Carmichael to investigate the allegations against Monsignor Day.⁴⁸

Within days of their appointment, Superintendent O'Connor and Detective Chief Inspector Child went to Mildura and spoke with Detective Ryan. We found that Superintendent O'Connor told Detective Ryan that he intended to have Detective Sergeant Barritt moved on and have Detective Ryan made detective sergeant in Mildura. He told Detective Ryan that he could 'make it all happen' for him and said, 'Barritt's gone. You'll be my man up here. But you have to play ball with me on this one'.⁴⁹

We found that Superintendent O'Connor effectively offered Detective Ryan a promotion if he discontinued his investigations of Monsignor Day. We also found that Superintendent O'Connor deliberately prevented Detective Ryan from being involved in or continuing his investigation of the allegations against Monsignor Day.⁵⁰

At the end of January 1972, Superintendent O'Connor and Detective Chief Inspector Child visited Bishop Ronald Mulkearns in Ballarat and informed him of the further allegations against Monsignor Day. Two days later, on Sunday 30 January 1972, Monsignor Day publicly announced at mass in Mildura that he had submitted his resignation. We found that Monsignor Day was asked or told to resign as parish priest of Mildura as a result of the police informing Bishop Mulkearns of allegations of sexual abuse of children by Monsignor Day. No criminal charges were ever brought against him, and he died in 1978.⁵¹

In March 1972, Superintendent O'Connor reported to the deputy commissioner that he and Detective Chief Inspector Child had interviewed a number of persons, including alleged victims of Monsignor Day, but no corroborative evidence was obtained. However, Mr Ryan told us that many years later he spoke to seven of the people who had made statements and all but one told him they had not been approached by the police at all. We found that Superintendent O'Connor's report to the chief commissioner that he and Detective Chief Inspector Child had interviewed a number of persons was untrue insofar as it referred to the persons who made statements to Detective Ryan. We also found that Superintendent O'Connor and Detective Inspector Child's investigations were minimal.⁵²

In April 1972, at the request of the deputy commissioner, a 'legal assistant' provided an opinion about the allegations of indecent assault against Monsignor Day. The opinion included an observation that Monsignor Day would be entitled to a separate trial in respect of each complaint.⁵³

The deputy commissioner then obtained advice from the Victorian Solicitor-General, Mr Basil Murray who agreed that separate trials were likely and advised that they may not make it to a jury due to the time that had elapsed and the lack of corroboration.⁵⁴ Mr Murray concluded his advice with the following observation:

I trust that the authorities in the Church will realise that the decision not to prosecute does not arise from any conviction that the allegations are unfounded. Having regard to the similarities of the various accounts, there would appear to be little room for doubt that Day miscondacted himself. With some reluctance, therefore, I agree that no prosecutions should be launched.⁵⁵

Mr Murray's advice was sent to the chief commissioner towards the end of April 1972.⁵⁶

Acting Chief Commissioner Carmichael, with the concurrence of the chief commissioner, decided that both Detective Ryan and Detective Sergeant Barritt would be transferred from Mildura with effect from June 1972. A number of reasons were recorded as the basis for Detective Ryan's transfer. However, we found that Detective Ryan was transferred from Mildura by Victoria Police for investigating allegations that Monsignor Day had sexually abused children in Mildura and for refusing to cease those investigations despite being instructed to do so.⁵⁷

Detective Ryan appealed the decision that he be transferred from Mildura. He made an appointment with the Police Association in Melbourne. When Detective Ryan met with the official in Melbourne and told him about his investigations of Monsignor Day, the official left the room suddenly and did not return. Mr Ryan told us he tried to call the official several times after this visit, but his calls were never answered or returned.⁵⁸

On 16 May 1972, Detective Ryan submitted his resignation. He wrote in his resignation letter:

I can only hope that any member of the Police Force who in the future performs a similar type of enquiry that I performed in relation to the Monsignor does not suffer the same fate that I have suffered.⁵⁹

Mr Ryan told us he was forced out of the police force – being a police officer was his life, and he would never have left otherwise. He said he had 'nightmares of Monsignor Day raping kids and the way the police force had condoned these offences'. He said that after he resigned he was depressed and bitter, and he was worried about the financial situation of his family. He wonders how many children would have been saved if Victoria Police had gone on with the inquiry into Monsignor Day.⁶⁰

Mr Miller's evidence was that, based on what he had read in a book by Mr Ryan entitled *Unholy trinity*, a conversation with Deputy Commissioner Carmichael in 1972 and his knowledge of the structure of Victoria Police at the time, it is his opinion that Chief Commissioner Jackson was the 'architect of Victoria Police's response to Denis Ryan's investigations into Monsignor Day'. He said, 'It couldn't have operated in the manner it did without his knowledge and consent'.⁶¹

Mr Miller gave evidence that everyone down the chain of command, from Assistant Commissioner Crowley to the Swan Hill superintendents and Inspector Irwin, appeared to have fallen into line. He said that 'The function of all of those people was to counsel Denis Ryan and to assist him in the performance of his duty ... Not one of them did this'.⁶²

Mr Miller said:

This entire episode was a shameful event in the history of Victoria Police. It might well be remembered as a definite disincentive to others, confronted by a similar set of circumstances, to emulate former Senior Detective Denis Ryan's peerless, principled performance of his sworn duty.⁶³

Following our hearing in *Catholic Church authorities in Ballarat*, the media reported that, on 9 August 2016, the Chief Commissioner of the Victoria Police, Mr Graham Ashton, gave Mr Ryan a formal apology for the manner in which he was treated in the 1970s. The Deputy Secretary of the Victoria Police Association, Mr Bruce McKenzie was also reported to have offered an apology for the association's failure to offer Mr Ryan any support.⁶⁴

As noted in our *Criminal justice* report, many of the negative experiences of police responses that we have been told about occurred in earlier periods of time through to the early 2000s. We know that the criminal justice system, including the police response, has improved considerably over recent times in recognising the serious nature of child sexual abuse and the severity of its impact on victims.⁶⁵

Endnotes

- 1 For example, Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 5: Response of The Salvation Army to child sexual abuse at its boys' homes in New South Wales and Queensland*, Sydney, 2015, pp 59–67; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 17: The response of the Australian Indigenous Ministries, the Australian and Northern Territory governments and the Northern Territory police force and prosecuting authorities to allegations of child sexual abuse which occurred at the Retta Dixon Home*, Sydney, 2015, pp 32–47; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 26: The response of the Sisters of Mercy, the Catholic Diocese of Rockhampton and the Queensland Government to allegations of child sexual abuse at St Joseph's Orphanage, Neerkol*, Sydney, 2016, pp 59–61, 83.
- 2 Royal Commission into Institutional Responses to Child Sexual Abuse, *Criminal justice*, Sydney, 2017.
- 3 L Forde, *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions*, Queensland Government, 1999, pp 278–279.
- 4 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 28: Catholic Church authorities in Ballarat*, Sydney, 2017, s 4.2.
- 5 L Forde, *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions*, Queensland Government, 1999, p 36.
- 6 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 26: The response of the Sisters of Mercy, the Catholic Diocese of Rockhampton and the Queensland Government to allegations of child sexual abuse at St Joseph's Orphanage, Neerkol*, Sydney, 2016, pp 59–60.
- 7 S Swain, *History of institutions providing out-of-home care to children*, report prepared for the Royal Commission into Institutional Responses to Child Sexual Abuse, Sydney, 2014, p 28.
- 8 J Penglase, *Orphans of the living: Growing up in 'care' in twentieth-century Australia*, Freemantle Press, Fremantle, 2007, p 98.
- 9 Exhibit 5-0049, 'Letter from Assoc. State Social Secretary to Lieutenant Colonel G Peterson', Case Study 5, STAT.0111.001.0175 at 0175–0176.
- 10 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 5: Response of The Salvation Army to child sexual abuse at its boys' homes in New South Wales and Queensland*, Sydney, 2015, p 60.
- 11 Transcript of JM Doyle, Case Study 5, 5 February 2014 at 4499:29–39.
- 12 Exhibit 5-0001, 'Report prepared by C. Clark, Director re Endeavour Training Centre Riverview', 8 October 1970, Case Study 5, TEN.0003.001.0214 at 0214.
- 13 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 5: Response of The Salvation Army to child sexual abuse at its boys' homes in New South Wales and Queensland*, Sydney, 2015, p 62.
- 14 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 5: Response of The Salvation Army to child sexual abuse at its boys' homes in New South Wales and Queensland*, Sydney, 2015, p 64.
- 15 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 11: Congregation of Christian Brothers in Western Australia response to child sexual abuse at Castledare Junior Orphanage, St Vincent's Orphanage Clontarf, St Mary's Agricultural School Tardun and Bindoon Farm School*, Sydney, 2014, p 16.
- 16 L Forde, *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions*, Queensland Government, 1999, p v.
- 17 Exhibit 11-0010, 'Statement of Raphael Ellul', 8 April 2014', Case Study 11, STAT.0235.001.0001_R at 0008_R–0009_R.
- 18 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 26: The response of the Sisters of Mercy, the Catholic Diocese of Rockhampton and the Queensland Government to allegations of child sexual abuse at St Joseph's Orphanage, Neerkol*, Sydney, 2016, p 50, 60; Transcript of TR Murnane, Case Study 26, 15 April 2015 at 7472:1–32.
- 19 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 5: Response of The Salvation Army to child sexual abuse at its boys' homes in New South Wales and Queensland*, Sydney, 2015, pp 22–23; Exhibit 5-0011, 'Statement of ES', 15 January 2014, Case Study 5, STAT.0015.001.0001_M_R at 0006_M_R.
- 20 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 5: Response of The Salvation Army to child sexual abuse at its boys' homes in New South Wales and Queensland*, Sydney, 2015, p 30.
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- 22 A Quadara, *Framework for historical influences on institutional child sexual abuse: 1950–2014*, report prepared for the Royal Commission into Institutional Responses to Child Sexual Abuse, Sydney, 2017, p 15.
- 23 The Hon Justice JRT Wood, *Royal Commission into the New South Wales Police Service Final Report*, Volume IV: The Paedophile Inquiry, New South Wales Government, 1997, p 235.
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- 25 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 9: The responses of the Catholic Archdiocese of Adelaide, and the South Australian Police, to allegations of child sexual abuse at St Ann's Special School*, Sydney, 2015, pp 29–39.
- 26 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 9: The responses of the Catholic Archdiocese of Adelaide, and the South Australian Police, to allegations of child sexual abuse at St Ann's Special School*, Sydney, 2015, pp 39–40.
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- 60 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 28: Catholic Church authorities in Ballarat*, Sydney, 2017, s 4.2.
- 61 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 28: Catholic Church authorities in Ballarat*, Sydney, 2017, s 4.2.
- 62 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 28: Catholic Church authorities in Ballarat*, Sydney, 2017, s 4.2.
- 63 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 28: Catholic Church authorities in Ballarat*, Sydney, 2017, s 4.2.
- 64 J Silvester, 'They destroyed Denis Ryan's police career. Now they admit he was right all along', *The Age*, 2017, www.theage.com.au/national/they-destroyed-denis-ryans-police-career-now-they-admit-he-was-right-all-along-20160811-gqq1x2.html (viewed 12 September 2017).
- 65 Royal Commission into Institutional Responses to Child Sexual Abuse, *Criminal justice: Executive summary and parts I–II*, Sydney, 2017, p 261.

19 Common institutional responses and contributing factors across religious institutions

If anything, what we've learned from the Royal Commission is that child abuse transcends all religions, all communities, all groupings. Catholic, Anglican, Jewish, whoever it is, everybody has the experience of child sexual abuse ...

And the same way, the enablers, the people who covered it up, the people who didn't admit to the crime, it was almost like it was written from the same script: 'I couldn't possibly have known because I would have done something about it.' How many times did that statement get repeated in the Royal Commission? ...

The enablers came up in their own minds with all sort of excuses, but it has nothing to do with their religious beliefs because there was a common denominator, to protect their institution or to protect their own power ... The single similar denominator is power and trying to protect your institution and not for the sake of God, but for the sake of, again, maintaining that power.¹

Rabbi Moshe Gutnick, senior judge, Sydney Beth Din

There are significant structural and theological differences between and sometimes within the religious organisations we have considered in this volume. The contexts in which child sexual abuse occurred in religious institutions also differed. In some cases we primarily heard about abuse in schools or residential institutions, while in others we heard about abuse in places of worship, during religious or recreational activities, or within family homes (where allegations of child sexual abuse were reported to and handled by the religious institution). For example, in Catholic and Anglican institutions, allegations of child sexual abuse we heard about related primarily to schools and residential institutions. In The Salvation Army, most related to residential institutions. However, in the Jehovah's Witness organisation, many allegations of child sexual abuse we heard about occurred within the family. This was considered to be within our Terms of Reference because the child sexual abuse was reported to and handled by the Jehovah's Witness organisation.

It is also clear that the profile of perpetrators varied. In some religious institutions, perpetrators of child sexual abuse were predominantly people in religious ministry. In other religious organisations, a higher proportion of survivors told us about alleged perpetrators who were lay people.

Despite these differences our inquiry revealed remarkable similarities in the institutional responses to child sexual abuse across religious institutions. There are a number of common factors that may have contributed to the occurrence of child sexual abuse within religious institutions or to inadequate responses to such abuse.

This chapter summarises common institutional responses to child sexual abuse in religious institutions. It also considers factors that contributed to the occurrence of child sexual abuse in religious institutions or to inadequate institutional responses, which are common across religious institutions.

The occurrence of child sexual abuse and the institutional responses to abuse are sometimes considered to be two separate and distinct problems. However, it is apparent that they are interlinked, particularly when the perpetrators are people in religious ministry. Irish psychologist and researcher Dr Marie Keenan said that:

some of the factors that contributed to a climate in which clerical men could sexually offend also contributed to the conditions that made it possible for the Church hierarchy to act as they did in handling the abuse complaints. In essence, they were both part of the same institutional culture.²

Dr Keenan explained that issues that have been identified as contributing both to the occurrence of child sexual abuse by clergy and to the responses of the Catholic Church include the ‘theology of sexuality, the ecclesiastical structure of power relations and the hierarchical authority, clerical culture and seminary formation’.³

Similarly, speaking of the Anglican Church, Professor Patrick Parkinson AM, professor of law, University of Sydney, told us:

That culture of protection of the clergy, that culture of dealing with things internally in a way that makes people discouraged from going to the police – that self-facilitates abuse, because somebody who has a tendency or an orientation towards the abuse of children is going to make a risk calculation. What happens if it is disclosed? If the risk of consequences is low, one is much more encouraged to do that than if the risk of consequences is high. So the culture of the church, in terms of how it will deal with these issues, if it comes out, is itself causative, or at least facilitative, of some sexual abuse in church communities.⁴

We have been told about child sexual abuse in religious institutions spanning from the late 1920s until after the establishment of this Royal Commission. Some of the institutional responses we examined were from many decades ago; some were very recent. We acknowledge that, over the past two decades, many religious institutions have taken steps to improve their approach to child safety, including how they respond to complaints of child sexual abuse. Particularly in recent years, some of the religious institutions we examined have made progress in the development of mechanisms to prevent and better respond to child sexual abuse.

19.1 Common institutional responses

It is clear that leaders of some religious institutions in Australia knew about allegations of child sexual abuse occurring in their institutions. Some were aware of the serious risks posed by alleged perpetrators, including people in religious ministry and lay people. Instead of holding perpetrators to account, leaders of some religious institutions adopted responses to allegations of child sexual abuse that were ineffectual and showed little regard for the protection of children.

‘In-house’ responses

It was a common practice of religious institutions in Australia to adopt ‘in-house’ responses when dealing with allegations of child sexual abuse. ‘In-house’ responses were characterised by a reluctance to report child sexual abuse to the civil authorities, the leaders of religious institutions preferring instead to respond to allegations within the institution.

For example, as set out in Chapter 15, ‘Jehovah’s Witnesses’, our examination of the Jehovah’s Witnesses showed that the organisation dealt with allegations of child sexual abuse in accordance with internal disciplinary policies and procedures. We found that at least until 1998, complainants of child sexual abuse were required to state their allegations in the presence of the person against whom the allegation was made. The two-witness rule applied – that wrongdoing could only be established on the basis of testimony from two or more ‘credible’ eyewitnesses to the same incident (or strong circumstantial evidence testified to by at least two witnesses or testimony of two witnesses to the same kind of wrongdoing). Allegations were investigated by elders who were all men and had no relevant training.

Across religious institutions in some cases, there was no response at all to allegations of child sexual abuse. In other cases, alleged perpetrators were treated with considerable leniency. Some alleged perpetrators were encouraged to resign from ministry. Some were given warnings and remained in positions where they had access to children. Others were transferred between locations. In some cases, the leaders of institutions to which alleged perpetrators were transferred, or the communities which these institutions served, were not told of the risk to children.

‘In-house’ responses ensured that allegations remained secret, shielded religious institutions from public accountability or scrutiny and avoided scandal or damage to an institution’s reputation.

Major David Eldridge, a retired Salvation Army officer, spoke of ‘a Salvation Army “bubble” without external reference points that could contribute to ensuring that the needs of children and young people were paramount’.⁵

The Catholic Archbishop of Perth, Archbishop Timothy Costelloe SDB, gave evidence that:

the Church, in a sense, saw itself largely as ... a law unto itself, that it was somehow or other so special and so unique and, in a sense, so important that it stood aside from the normal things that would be a part of any other body that works or exists in a society.

So I think there was a profound cultural – I’m not sure what the word is – not instinct, exactly, but a profound cultural presupposition, perhaps, about the uniqueness of the Church and the specialness of the church, in a sense the untouchability of the Church, that didn’t have to answer to anybody else; it only had to answer to itself.⁶

In many cases, the leaders of the religious institutions we examined behaved as if their religious organisation was a ‘law unto itself’. Their responses to allegations of child sexual abuse were primarily guided by religious principles or laws, or internal organisational rules. In some cases this approach had catastrophic consequences for children who were placed at risk of further abuse by alleged perpetrators in relation to whom institutional responses were seriously inadequate.

Responses to victims and survivors of child sexual abuse

Leaders of religious institutions in Australia often showed insufficient consideration for victims at the time they disclosed allegations of child sexual abuse. They frequently responded with disbelief or denial, or attempted to blame or discredit the victim. We also heard of instances where, children who disclosed sexual abuse were punished or suffered further abuse. Leaders of religious institutions often minimised the sexual conduct that was reported to them, and wrongly concluded that there was no criminality in the alleged actions.

In our public hearings, some survivors told us that their allegations were dismissed after they disclosed that they had been sexually abused to someone in authority in a religious institution. They told us that nothing was done or that they had been told to ‘let sleeping dogs lie’,⁷ to ‘try to be forgiving’,⁸ or to ‘forget and move on’.⁹

Others experienced violence after disclosing. Within The Salvation Army, the threat of violence played a part in the suppression of allegations of child sexual abuse within its children’s homes. Three of our case studies included consideration of responses to child sexual abuse in children’s homes operated by The Salvation Army.¹⁰ We heard that boys were physically punished for reporting sexual abuse to Salvation Army officers or to police. Survivor FV told us that he was caned up to 18 times by the manager of Bexley Boys’ Home in Sydney after he disclosed that he had been sexually abused.¹¹ Survivor ES told us that, when he reported sexual abuse by an older boy to Victor Bennett, the manager at Riverview Boys’ Home in Ipswich, Queensland, Bennett stuck a towel in his mouth and anally penetrated him in his office.¹² During our *Case Study 49: Institutional review of The Salvation Army, Australia Eastern Territory and Australia Southern Territory (Institutional Review of The Salvation Army)*, Major Eldridge acknowledged that within

the children's homes 'a culture emerged about the exercise of power', a culture that included discouraging disclosure of abuse 'and disbelieving' complaints that were made.¹³

In multiple case studies we heard of the minimisation of allegations of child sexual abuse. For example, within the Catholic Church this was illustrated in a file note written in 1993 by the Marist Brothers provincial at the time, Brother Alexis Turton, who described an incident of child sexual abuse by Brother John (Kostka) Chute as involving 'hugging, squeezing and touching ... certainly not extreme and not anything inside clothes or even genital'.¹⁴

During *Case Study 36: The response of the Church of England Boys' Society and the Anglican Dioceses of Tasmania, Adelaide, Brisbane and Sydney to allegations of child sexual abuse (Church of England Boys' Society)*, we heard that Bishop Phillip Newell, the Anglican Bishop of Tasmania, diminished the criminality of an incident of child sexual abuse by Louis Daniels, a priest and prominent member of the Church of England Boys' Society (CEBS). In June 1987, survivor BYM met with Bishop Newell and disclosed sexual abuse by Daniels during a CEBS convention. In response, Bishop Newell made clear that he believed BYM's allegations but said that as Daniel's conduct 'had not progressed beyond fondling, it is not a Police matter'.¹⁵

Failure to report to police

The leaders of religious institutions frequently failed to recognise or treat child sexual abuse as a crime. During the *Case Study 52: Institutional review of Anglican Church institutions (Institutional review of Anglican Church institutions)* public hearing, Mr Garth Blake SC, Chair of the Professional Standards Commission and Chair of the Royal Commission Working Group of the Anglican Church, described the 'disjunction between child sexual abuse being criminal and sort of the belief system of those in authority that it was not that serious'.¹⁶

Leaders of religious institutions typically did not report allegations of child sexual abuse to the police. For example, we received no evidence in our case studies that Catholic Church authorities reported allegations of child sexual abuse to the police before the development of national procedures in the 1990s. The Catholic Church in Australia has acknowledged that those in positions of authority failed to report cases to the police. In a joint commitment statement issued in September 2013, Catholic Church leaders said:

The Church is also ashamed to acknowledge that, in some cases, those in positions of authority concealed or covered up what they knew of the facts ... or failed to report matters to the police when they should have. That behaviour too is indefensible.¹⁷

Similarly, in *Case Study 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse (Jehovah's Witnesses)*, we found that there was no evidence of the Jehovah's Witness organisation having reported to police or any other civil authority allegations received about any of the 1,006 alleged perpetrators of child sexual abuse recorded in case files held by Watchtower Australia.¹⁸

It is apparent that Anglican Church personnel also frequently did not report allegations of child sexual abuse to the police. In *Case Study 42: The responses of the Anglican Diocese of Newcastle to instances and allegations of child sexual abuse (Anglican Diocese of Newcastle)* we received no evidence that child sexual abuse matters were reported to police or other authorities during Bishop Ian Shevill's and Bishop Alfred Holland's episcopates, which covered the period from 1973 to 1992.¹⁹ Furthermore, we found that during Bishop Roger Herft's tenure from 1993 to 2005 very few allegations of child sexual abuse were reported to police (although the police were already aware of some).²⁰

In the *Church of England Boys' Society* public hearing we heard instances where Anglican Church personnel across the dioceses of Sydney, Tasmania, Adelaide and Brisbane did not report allegations of child sexual abuse by clergy and other people involved in or associated with CEBS to authorities. For example, we heard that police were not notified when the Anglican Bishop of Tasmania, Bishop Newell, received complaints in 1987 that a priest and prominent member of CEBS, Louis Daniels, had sexually abused three boys.²¹

Continued ministry or employment with access to children

Leaders of religious institutions were often reluctant to remove alleged perpetrators of child sexual abuse from positions in ministry or employment after suspicions of child abuse were raised, or allegations were received. In some cases perpetrators made admissions of behaviour amounting to child sexual abuse, yet religious leaders were still reluctant to take decisive action or report them to police. Where they enabled perpetrators to continue in ministry or in other positions where they had access to children, the leaders of religious institutions showed little consideration for the safety of those children.

Victims who reported allegations were at times assured by leaders of religious institutions that action would be taken against alleged perpetrators, when often none was. The number of complaints received by some religious institutions, often including multiple complaints about the same individual, suggested a pattern of inaction in responding to alleged perpetrators of child sexual abuse.

Many alleged perpetrators remained in the same positions with access to children for years and sometimes decades after initial and successive allegations of child sexual abuse were raised. For example, in *Case Study 13: The response of the Marist Brothers to allegations of child sexual abuse against Brothers Kostka Chute and Gregory Sutton* we found that successive provincials of the Marist Brothers permitted Brother Chute to continue teaching children at Marist College Canberra between 1976 and 1993. This was after Brother Chute had admitted to child sexual abuse in 1962 and been given a canonical warning in 1969, and after the provincial at the time, Brother Alman Dwyer, received an allegation against Brother Chute in 1986.²² Brother Chute was eventually removed from the school in December 1993 after the provincial at the time, Brother Turton, received two further complaints alleging child sexual abuse.²³

Some leaders of religious institutions made serious errors of judgment in the face of compelling evidence of child sexual abuse, by giving alleged perpetrators a 'second chance' with continued or successive appointments. For example, we heard in *Case Study 33: The response of The Salvation Army (Southern Territory) to allegations of child sexual abuse at children's homes that it operated (The Salvation Army children's homes, Australia Southern Territory)* that a file note from March 1950 recorded that the manager of Box Hill Boys' Home in Victoria found that officer Captain Arthur Clee had indecently touched four boys after 'lights out'.²⁴ The manager said of the incident:

The Captain had been so sincerely penitent and so shamed, that the Major agreed to give him a chance to live the experience down and re-establish himself in the eyes of both Officers and boys.²⁵

Some perpetrators were moved to new positions in different locations where they were offered a 'fresh start', untarnished by their history of sexual offending or previous allegations. In relation to the Catholic Church, Brother James McGlade, the provincial of the Christian Brothers between 1966 and 1978, described in a 2005 statement obtained by CCI his 'general approach' to 'incidents of misconduct'.²⁶ He stated:

My approach was to allow a Brother a chance for a fresh start in a new school without having his reputation adversely affected or the environment contaminated by passing on information to the community leader or provincial.²⁷

Similarly, in the *Church of England Boys' Society* case study we heard that in 1988 the Anglican Bishop of Tasmania, Bishop Newell, nominated perpetrator Louis Daniels for the position of rector in a new parish after receiving multiple disclosures that Daniels had sexually abused children.²⁸ Bishop Newell told us that before making this nomination he obtained a reassurance from Daniels that he had 'amended his life'.²⁹

In some instances, new appointments were geographically removed from the locations where the original complaints arose, and involved movements across Australia, or between different religious institutions. For example, in *Case Study 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions (Yeshiva Bondi and Yeshivah Melbourne)* we heard that following allegations of child sexual abuse against David Kramer, former rabbi and primary school teacher at Yeshivah College Melbourne, Yeshivah College leaders terminated Kramer's employment and paid for his airline ticket to return to Israel.³⁰ Kramer was later convicted of child sexual offences committed overseas.³¹

In taking this action, some leaders of religious institutions failed to make accurate or frank statements either to other members of the religious institution or to the wider community about the real reasons for transfers. They also failed to adequately consider the risks these individuals posed.

We examined the case of former Catholic priest Father Gerald Ridsdale in *Case Study 28: Catholic Church authorities in Ballarat (Catholic Church authorities in Ballarat)*. In about late 1975, Father Ridsdale admitted to Bishop Ronald Mulkearns, Bishop of Ballarat, that he had offended against children at Inglewood. Bishop Mulkearns removed Father Ridsdale from the parish, and gave him a temporary appointment to the Parish of Bungaree.³² In 1976 Father Ridsdale was moved to the Parish of Edenhope. In September 1979, he resigned as parish priest of Edenhope and was granted a year of study leave for the following year.³³ In 1981 Father Ridsdale was appointed parish priest at Mortlake. When Bishop Mulkearns was later informed of allegations about Father Ridsdale in 1982 at Mortlake, he removed him from that parish, and then negotiated an appointment for him at the Catholic Enquiry Centre in the Archdiocese of Sydney.³⁴ We found that the need to ‘negotiate’ an appointment in Sydney, outside the diocese and not in a parish, made plain that the context was to remove Father Ridsdale both from the diocese and from parish work. Father Ridsdale remained out of the state of Victoria and the Diocese of Ballarat for four years.

Ridsdale told us that he continued to sexually abuse children during his time at the Catholic Enquiry Centre.³⁵ When Father Ridsdale was asked to leave the Catholic Enquiry Centre in 1986 after he had a young boy or teenager stay the night, Bishop Mulkearns gave him an appointment at Horsham Parish when he returned to the Diocese of Ballarat.³⁶ Bishop Mulkearns learned of allegations against Father Ridsdale in Horsham in August 1987. He did not remove Father Ridsdale from the parish or from ministry at this time.³⁷ In early 1988 Bishop Mulkearns was informed of further allegations of child sexual abuse against Father Ridsdale from his time at the Catholic Enquiry Centre.³⁸ Within a month of Bishop Mulkearns receiving those allegations, in April 1988, Father Ridsdale resigned from Horsham Parish.³⁹ In around the following month, Bishop Mulkearns granted him ‘extended leave’ from parish work.⁴⁰ Ridsdale has since been convicted of child sexual offences occurring in multiple parishes including Ballarat East, Swan Hill, Warrnambool, Apollo Bay, Inglewood, Edenhope, and Mortlake.⁴¹

Across religious institutions, we heard of alleged perpetrators who were not only allowed to continue in religious ministry but also promoted to positions of considerable authority despite allegations of child sexual abuse having previously been made against them. For example, in the *Church of England Boys’ Society* case study we found that allegations against Daniels first became known to diocesan officials within the Diocese of Tasmania in 1981.⁴² As we discussed earlier, in 1988 Bishop Newell nominated Daniels for a position as rector in a different parish despite being aware of new allegations in 1987 that Daniels had sexually abused a number of boys. In 1989, Bishop Newell promoted Daniels to the position of Archdeacon of Burnie, making him one of the highest ranking officials within the diocese. Bishop Newell also later nominated Daniels for a position on the Standing Committee of the General Synod, a position of influence within the Anglican Church of Australia.⁴³

Leaders of religious institutions also commonly allowed alleged perpetrators to continue in religious ministry with little or no risk management or monitoring of their interactions with children. In many cases, supervisory arrangements were either not put in place or were not effective.

Some perpetrators who continued in ministry or employment continued to sexually abuse children. Frequently, other members of the religious institution and the communities into which alleged perpetrators were subsequently appointed were not made aware of the risks these individuals posed to children.

Limited use of disciplinary measures

Some religious institutions have internal disciplinary processes with penalties that range from restricting alleged perpetrators' access to children to dismissal from the religious institution. Across religious institutions, the inadequacy of internal disciplinary systems and the limited use of disciplinary measures meant that some alleged perpetrators were not disciplined at all; some were disciplined in a minimal way; and others were disciplined many years after allegations of child sexual abuse were raised or perpetrators were convicted.

This had the result that perpetrators who were in religious ministry retained their religious titles, and lay perpetrators remained attached to religious institutions, in circumstances where it was plainly inappropriate for them to do so.

As set out in Section 12.4, 'Early Anglican Church responses to child sexual abuse', in the Anglican Church, the diocesan tribunal process, the primary formal mechanism for disciplining clergy before 2004, was rarely engaged in responding to complaints of child sexual abuse. We heard evidence that in some instances in the 1990s, disciplinary measures could have been taken by dioceses against clergy by way of diocesan tribunals, and were not. We saw an example of this in the Diocese of Tasmania, where Louis Daniels was deposed from holy orders in 2002. However, we found a diocesan tribunal process could have been initiated in his case in 1994.⁴⁴ Similarly, Allan Kitchingman was only deposed from holy orders in 2014, even though he was convicted of child sex offences in 1968 and in 2002.⁴⁵ In the *Anglican Diocese of Newcastle* public hearing, Archbishop Roger Herft told us that while he was Anglican Bishop of Newcastle, from 1993 to 2005, he was 'cautious' about using diocesan tribunals for disciplining clergy, and that the process was 'very cumbersome'. The only matter pursued in the disciplinary tribunal during his tenure was unrelated to child sexual abuse and was unsuccessful.⁴⁶

The reluctance of Catholic Church leaders to engage with canonical disciplinary processes for the dismissal of clergy perpetrators may have been in part due to the cumbersome and confusing nature of those processes. For example, Archbishop Mark Coleridge, the Catholic Archbishop of Brisbane, told us that it was 'extraordinarily difficult' to dismiss a priest without the priest's consent under canon law prior to the early 2000s.⁴⁷ We also heard that leaders of Catholic Church authorities held the view that the Vatican tended to resolve disciplinary matters in favour of offending priests. In *Case Study 14: The response of the Catholic Diocese of Wollongong to allegations of child sexual abuse, and related criminal proceedings, against John Gerard Nestor, a priest of the Diocese (Catholic Diocese of Wollongong)* we heard that the Congregation for the Clergy 'strongly urged' the Catholic Bishop of Wollongong, Bishop Philip

Wilson, to seek a pastoral resolution of the matter involving Father John Nestor. This approach could be explained by the preference in canon law for pastoral resolutions over formal decrees or penalties.⁴⁸ We heard that there were significant delays on the part of Australian Catholic bishops to instigate proceedings for the dismissal of priests which resulted in perpetrators remaining in positions within the Catholic Church for an extended period of time after the date that their guilt had been admitted or established. This included Father Victor Rubeo from the Archdiocese of Melbourne, who pleaded guilty to two counts of indecent assault in 1996. Although his faculties were removed the same year, an application to have him reduced to the lay state was not commenced until almost 14 years later in 2010.⁴⁹

Instead of engaging with formal disciplinary processes for the dismissal of perpetrators of child sexual abuse from religious ministry, people who responded to complaints about child sexual abuse in religious institutions sometimes encouraged perpetrators to retire or resign as a way of dealing with these matters 'quietly'. For example, within the Anglican Church we found that the Bishop of Newcastle, Bishop Alfred Holland, was aware of the nature of child sexual abuse offences committed by a priest, Stephen Hatley Gray, at the time he requested his assistant bishop to obtain Hatley Gray's resignation.⁵⁰

Leaders of religious institutions often took steps to conceal the real reasons for which people were removed from positions in ministry or employment following allegations or admissions of child sexual abuse. This included allowing perpetrators to retire or resign on false grounds, such as for personal or health reasons. In *Case Study 18: The response of the Australian Christian Churches and affiliated Pentecostal churches to allegations of child sexual abuse (Australian Christian Churches)* we found that, despite having knowledge that Mr William Francis 'Frank' Houston admitted to sexually abusing AHA, the National Executive of Australian Christian Churches allowed him to publicly resign in 2000, without damage to his reputation or the reputation of Hillsong Church.⁵¹

In the Jehovah's Witness organisation, the sanctions available for a person found to have committed child sexual abuse include 'reproval' and 'disfellowshipping'. A reproval, including the identity of the reprovved perpetrator, may be announced to the congregation. However, the grounds of the reproval are not announced, and the perpetrator is able to remain within the congregation. When a perpetrator is disfellowshipped for child sexual abuse, meaning that they are excommunicated or cast out, the elders make an announcement to the congregation to the effect that the person is 'no longer one of Jehovah's Witnesses'. However, as with reproval, the elders do not disclose to the congregation the reasons why the person has been disfellowshipped.⁵²

We heard that some perpetrators who were removed from positions in ministry for reasons of child sexual abuse were later readmitted into religious institutions. An analysis of files provided to us by Watchtower Australia indicated that 230 of the 401 alleged perpetrators of child sexual abuse in the Jehovah's Witnesses in Australia who were disfellowshipped as a result of allegations of child sexual abuse were later reinstated into the Jehovah's

Witnesses. Further, 28 alleged perpetrators were appointed to positions as elders or ministerial servants after an allegation of child sexual abuse was made against them.⁵³

Similarly, in *The Salvation Army children's homes, Australia Southern Territory* case study we found that, despite having been convicted in 1974 in relation to the sexual abuse of three children, Charles Allan Smith was reaccepted into The Salvation Army in 1979 and later promoted to the rank of captain. The decision to readmit and promote Smith defeated one of the purposes of The Salvation Army's own *Orders and Regulations for soldiers of The Salvation Army*: to protect children in its care.⁵⁴

Support for victims and survivors

Commencing in the 1990s some religious organisations developed protocols for responding to complaints of child sexual abuse, as well as redress processes.

For some survivors of child sexual abuse, engaging with internal redress procedures developed by religious institutions was a positive experience that contributed to their process of healing. Some survivors were complimentary about particular aspects of these processes, including offers of pastoral support, and spoke of receiving genuine apologies that had a significant healing effect.

However, many survivors told us that their experiences of engaging with these processes were difficult, frightening or confusing. Religious institutions frequently failed to provide appropriate care and support for survivors during redress processes, during civil litigation, or criminal proceedings. This sometimes exacerbated the trauma experienced by survivors. As the Catholic Archbishop of Canberra and Goulburn, Archbishop Christopher Prowse, acknowledged during *Case Study 50: Institutional review of Catholic Church authorities (Institutional review of Catholic Church authorities)*, 'too many have said, indeed, that they were victimised again by an uncaring wall of the institutional Church'.⁵⁵

We found that processes for receiving and responding to complaints and claims for redress were often overly legalistic, lacked transparency, involved generic apologies or no apologies at all, and failed to appropriately recognise the long-term and devastating impacts of child sexual abuse on victims, survivors and their families. During *The Salvation Army children's homes, Australia Southern Territory* case study, Commissioner Floyd Tidd, National Commander, The Salvation Army Australia, offered an apology to survivors for 'failing you in responding when you came to us for help in rebuilding your lives'.⁵⁶ He gave evidence that:

Some survivors were let down by The Salvation Army in a further way. Many of you reached out to us for help, in many cases decades after your lives were broken by the abuse you suffered in our homes. In many cases all you wanted was an acknowledgement of what happened to you, an apology. In other cases you needed financial support to try and rebuild your lives ...

Too often we treated you as claimants and not as survivors of abuse. Too often we have not adequately investigated what you told us happened. Too often we did not listen and respond to what you said you needed from us or even ask how we could help you. In many cases it took too long to resolve your claims.⁵⁷

Religious institutions at times adopted aggressive legal strategies and took advantage of the legal defences available to defend their liability for child sexual abuse. For example, we heard that representatives of Catholic Church authorities expressed the view that they would ‘vigorously’ or ‘strenuously’ defend civil proceedings brought by survivors of child sexual abuse. In *Case Study 8: Mr John Ellis’s experience of the Towards Healing process and civil litigation*, we found that the Catholic Archdiocese of Sydney failed to conduct civil litigation with Mr John Ellis in a manner that adequately took account of his pastoral and other needs as a survivor of child sexual abuse.⁵⁸ Steps taken by the Archdiocese of Sydney and its solicitors included rejecting an offer of compromise put forward for Mr Ellis and not making a counteroffer, wrongly concluding that the archdiocese had never accepted that Mr Ellis had been abused by Father Aidan Duggan, and continuing to dispute that Mr Ellis had been abused as a child because of legal advice that this approach was in the archdiocese’s interests in the litigation.⁵⁹ Cardinal George Pell gave evidence that, in relation to Mr Ellis’s case, ‘In a legal sense, we always acted honestly’ but that ‘from a Christian point of view, leaving aside the legal dimension, I don’t think we did fairly’.⁶⁰

In *Case Study 3: Anglican Diocese of Grafton’s response to child sexual abuse at the North Coast Children’s Home*, we found that by denying legal liability for sexual or physical abuse of children by clergy, staff or other people associated with the North Coast Children’s Home and not providing a pastoral response to former residents who made a group claim in relation to child sexual abuse, the Diocese of Grafton’s response had a detrimental effect on them.⁶¹ CN described the legal process overall as being very distressing:

At the end of that case, it was like being raped all over again. So it made me feel just like I felt when I was in the [North Coast Children’s] Home, like I was lying and worthless.⁶²

People in religious institutions who responded to allegations of child sexual abuse also at times demonstrated a lack of compassion and a reluctance to offer support to survivors of abuse during criminal proceedings and following convictions. During the *Australian Christian Churches* public hearing, we heard from ALD, the father of survivor ALA, who spoke of a ‘deafening silence’ from the Assemblies of God (now known as the Australian Christian Churches), following the conviction of Jonathan Baldwin in 2009.⁶³ When asked what he had expected, ALD told us:

I was expecting that ... an organisation such as the church would then take the position that we have a victim here that we need to support, we had someone here who’s been injured severely by what’s happened, and I would have expected from at least the local, if not the highest level, preferably the highest level, the organisation should have come cap in hand to that young boy and said ‘we’re terribly sorry, what can we do?’ That was the type of response I was expecting from an organisation that is supposedly a Christian organisation.⁶⁴

Similarly, during the *Yeshiva Bondi and Yeshivah Melbourne* public hearing, we heard from survivor AVB, who was sexually abused by two different perpetrators. In 2014, one of these perpetrators, Daniel Hayman, was convicted of child sexual offences against AVB. AVB told us that, several weeks after Hayman was sentenced, Yeshiva Bondi honoured Hayman at a communal event by listing him as one of the people who had sponsored and funded the event.⁶⁵ AVB told us:

I remember thinking to myself, ‘You can’t be serious. Here is a man who three weeks earlier – three weeks, not three years or three decades; three weeks – had been sentenced for crimes committed whilst working for that institution and for whom that institution had ultimate responsibility and had failed, and failed miserably. The magistrate made it known that it was a heinous crime ...

So you take a person who is engaged in that and rather than distancing yourself from him you embrace him; you embrace him. So what does that say? What does that say to me? What does it say to all other victims of child sexual abuse at that institution? What does it say to all victims of child sexual abuse who have disclosed or not disclosed in the Jewish community? Who is the pariah? Who is the one that’s welcome and who is the one that’s not?’⁶⁶

AVB told us that he did not receive an apology from anyone at Yeshiva Bondi following Hayman’s conviction.⁶⁷ In reflecting on what this was like, AVB told us:

I feel my soul has been taken away. Bring my soul back by treating me like a person; acknowledging that what happened to me was wrong, that failures were made, that ‘when the investigation started we didn’t respond in the right way’; and put out the hand, extend that hand, still do it today, you can do it tomorrow, but give me back my dignity that was taken away against my will by showing me that love, embracement and that warmth. Give me back what was taken by embracing me and accepting. I have done nothing wrong.⁶⁸

19.2 Common contributing factors

During the *Institutional review of Catholic Church authorities* public hearing, the Archbishop of Hobart, Archbishop Julian Porteous, said that ‘organisations have cultures, and there can be times when that culture is not working for the good of what the professional or particular organisation should be doing’.⁶⁹ Our inquiry revealed a number of common factors that may have contributed to the occurrence of child sexual abuse and to inadequate institutional responses. Multiple and often interacting factors have contributed to the occurrence of child sexual abuse in religious institutions and to inadequate institutional responses to such abuse. Our work suggests these include a combination of cultural, governance and theological factors. In several of the religious institutions that we examined, the central factor, underpinning and linked to all other factors, was the status of people in religious ministry.

The status of people in religious ministry

We repeatedly heard that the status of people in religious ministry, described in some contexts as ‘clericalism’, contributed to the occurrence of child sexual abuse within religious institutions, as well as to inadequate institutional responses to such abuse.

The power and authority exercised by people in religious ministry, as well as the trust they were shown, gave them access to children and created opportunities for abuse.

‘Clericalism’ as it is understood within the Anglican and Catholic traditions describes a concern for promoting the interests of members of clergy, including by protecting their powers and privileges, based on a belief that those in a clerical state are distinct from the laity.⁷⁰ Dr Thomas Doyle OP, American Dominican priest, canon lawyer and survivor advocate, told us that clericalism was a ‘virus’ in the Catholic Church whereby priests and bishops were treated as sacred personages who were ‘held as more important and protected more’.⁷¹

We heard that child sexual abuse by people in religious ministry was, in essence, an abuse of this spiritual power and that for this reason it could cause devastating and lasting ‘spiritual trauma’, in circumstances where the child victim felt they were being abused by God or God’s representative. The elevated status of the person in religious ministry made it extremely difficult for victims to disclose abuse.

Children and adults within religious communities frequently saw people in religious ministry as figures that could not be challenged and, equally, as individuals in whom they could place their trust. Dr Keenan described this power and authority of people in religious ministry as ‘unregulated public power’.⁷² As she explained:

the kind of access [to children] that clergy are given is the product of their institutional identity and the kind of safety that their roles suggest comes to them from the authority of the institution.⁷³

Commissioner Tidd acknowledged that in The Salvation Army the coexistence of extreme power and vulnerability within the institution was a ‘strong foundation stone’ for the abuse which occurred.⁷⁴ During our *Institutional review of The Salvation Army* public hearing, Commissioner Tidd discussed the power differential between the officers and others. He acknowledged that it could be ‘a foreboding presence to have somebody standing before you in a Salvation Army uniform’ which sometimes caused survivors to be confused or intimidated.⁷⁵ Major Eldridge gave evidence that:

I think that people felt they had such power over children, they could exercise physical violence and, if inclined, sexual abuse ... It’s a betrayal of their values, their beliefs; it’s a betrayal of the organisation they worked for; but especially a betrayal of the children.⁷⁶

Furthermore, children and The Salvation Army congregation were taught that officers of The Salvation Army were beyond wrongdoing. Major Eldridge also told us that the status of The Salvation Army as a religious institution, and of its officers as ‘good Christian’ men and women, resulted in perpetrators being able to hide their offending behaviour behind a ‘veil of piety’, and that alleged perpetrators were not challenged for inappropriate behaviours.⁷⁷

Our inquiry has revealed that it is not only people in religious ministry who are afforded a particular status and level of trust in religious institutions. A similar status may attach to other religious personnel working for or on behalf of religious institutions, who gain status and trust from their association with the religious institution. During the *Institutional review of Anglican institutions* public hearing, Archbishop Glenn Davies, Anglican Archbishop of Sydney, told us that the Anglican Diocese of Sydney’s problems with the abuse of power also related to lay people, ‘particularly where a layperson would enter the safety of a church environment, became a leader of a youth group of whatever it might be, and then regrettably and ashamedly use the opportunities that they had to engage in terrible conduct’.⁷⁸

The inherent status and levels of trust commanded by people in religious ministry may also have contributed to poor institutional responses to child sexual abuse.

The culture of clericalism often involved a ‘club’ mentality whereby those receiving allegations of child sexual abuse were more inclined to identify with perpetrators than with victims. Within the ‘clerical bubble’ in which they lived, religious leaders responded to allegations in ways that protected the reputation of the religious institution and the status of people in religious ministry.

Within religious institutions, there was often an inability to conceive of the possibility that a person in religious ministry was capable of sexually abusing a child. This resulted in a failure by adults to listen to children who tried to disclose sexual abuse, a reluctance of religious leaders to take action when faced with allegations against people in religious ministry, and a willingness of religious leaders to accept denials from alleged perpetrators.

In *Case Study 35: Catholic Archdiocese of Melbourne (Catholic Archdiocese of Melbourne)*, Bishop Peter Connors told us that former Archbishop Thomas Francis Little was ‘very slow to accept the fact that a priest was offending’. Monsignor Thomas Doyle, the former director of the Catholic Education Office in the Archdiocese of Melbourne, was asked his view on why Archbishop Little chose not to act on complaints of child sexual abuse, and said he thought the Archbishop had an ‘exaggerated respect for the priesthood’.⁷⁹

Similarly, during the *Institutional review of Anglican institutions* public hearing, Mr Blake SC gave evidence that:

I think another factor – and this is the flip side of not believing children – was a disbelief that your colleague in ministry, the person you had been at seminary with, or theological college, who embraced the same values that you did, could possibly commit an act of child sexual abuse.⁸⁰

During the same public hearing, Archbishop Davies expressed the view that:

I think at heart people almost didn't believe such behaviour could be engaged in in a church environment, I think it was actually a disbelief with regard to that, and that's why we didn't listen properly to children and when complaints were made, they were not properly addressed ...⁸¹

Other religious leaders also spoke in terms of a denial that child sexual abuse could take place within religious institutions. During *Case Study 53: Institutional review of Yeshivah Melbourne and Yeshiva Bondi (Institutional review of Yeshiva/h)*, Rabbi Moshe Gutnick, Senior Dayan (a judge) of the Sydney Beth Din (a rabbinical court), told us that until 2011 he thought child sexual abuse 'was not something that happened within our community'.⁸² Similarly, in the *Institutional review of Catholic Church authorities* public hearing, former provincial of the Salesians of Don Bosco, Professor Francis Moloney SDB AM, said, 'We took it for granted that once people took this life on, they were going to do good things, not bad things, and that was a mistake'.⁸³ In the *Institutional review of The Salvation Army* public hearing, Major Eldridge gave evidence that:

The initial response of Children's Home managers and senior Officers to the reporting of child sexual abuse cases was often denial. They refused to believe such things could happen in their homes either because they found it incredulous that Salvationists or Christians would behave in such a way or because they felt children exaggerated and were unreliable informants.⁸⁴

At times, the deference shown to leaders of religious institutions meant that the actions they took in responding to alleged perpetrators of child sexual abuse were not questioned or challenged, either within religious institutions or among the wider religious community.

During the *Catholic Archdiocese of Melbourne* public hearing, Bishop Connors told us there was 'no doubt' that the culture of seniority and authority in the Catholic Church did not encourage questioning of the Archbishop. He said that he had felt constrained in questioning Archbishop Little and challenging his decisions or inaction. With hindsight, he could see that he should have questioned the Archbishop more and pushed back on some of his decisions. Similarly, when asked how the sexual abuse of many children could have occurred over decades in the Archdiocese of Melbourne, Archbishop Hart said, 'There was such a respect that only the Archbishop could act, that this introduced a paralysis'.⁸⁵

Inadequate selection, screening and training

The occurrence of child sexual abuse within religious institutions may in part be attributed to the poor selection and screening of candidates for religious ministry and the lack of appropriate initial training or formation. We received evidence of inadequate selection, screening and training of people in religious ministry in relation to a number of religious institutions.

For example, before the 1970s in the Catholic Church in Australia, entry into the priesthood or religious life included little to no formal screening processes. The style of formation was highly regimented and based on obedience to religious superiors. Long periods of initial formation were spent in a closed or cloistered environment where seminarians and novices were separated from the communities they were training to serve. These arrangements were likely to be detrimental to psychosexual maturity, and produced priests and religious who were poorly prepared for the pastoral realities of life in ministry.

In writing about the link between poor selection and formation practices and child sexual abuse in the Catholic Church, clinical psychologist Dr Gerardine Robinson gave evidence that:

Until recently (and perhaps to date) poor or non-existing screening procedures allowed for the selection of candidates who were relatively immature psychosexually and psychologically. Furthermore, formation systems were typically characterised by rigid, formal, hierarchical relationships that inhibited healthy psychological development and precluded opportunities for healthy psychosexual development.⁸⁶

This view was supported by the Truth, Justice and Healing Council, which submitted that ‘historically, many priests and religious received formation that was inadequate to prepare them to live their vocation, including in relation to human formation and celibacy’.⁸⁷ Celibacy is also practiced in a number of other religious traditions. However, it is apparent that compulsory celibacy and vowed chastity for Catholic clergy and religious has contributed to child sexual abuse in the Catholic Church, especially when combined with other risk factors, including inadequate selection, screening and formation for a life of celibacy.

We also heard that the process of initial formation played a role in initiating priests and religious into the culture of clericalism. During the *Institutional review of Catholic Church authorities* public hearing, Brother Peter Carroll, Provincial, Marist Brothers in Australia, told us that the formation processes of the Marist Brothers had instilled a sense of entitlement akin to clericalism and that ‘some of the brothers would have seen themselves as set apart and special’.⁸⁸ Dr Keenan has argued that the problem of clericalism appears to be rooted in a seminary system that introduces seminarians into a closed, secretive clerical world and into a hierarchy that is answerable only to itself.⁸⁹ Dr Keenan gave evidence that:

my research suggests that Catholic seminarians of the 1950s, 1960s, 1970s and 1980s had little training on the parameters of power and how to exercise power appropriately, while operating in a position of power as adult men and as ministers of the Catholic Church. Instead, their training had taught them to think of power in one direction only – upwards. Within such a context, boundary violations, including sexual violations, were inevitable.⁹⁰

During the *Institutional review of Anglican institutions* public hearing, Bishop Tim Harris, then the Administrator of the Diocese of Adelaide and now Assistant Bishop, Diocese of Adelaide, told us that ‘significant failures’ and ‘lack of accountabilities’ in the selection and screening of candidates for ordination contributed to child sexual abuse in the Anglican Church.⁹¹ In the *Anglican Diocese of Newcastle* case study, we considered whether there were links between the institutional culture at St John’s Theological College in Morpeth, New South Wales (Morpeth College), and the perpetration of child sexual abuse within the diocese. At least six former students of Morpeth College have been convicted of child sexual offences, and a further 10 former students are alleged to have committed child sexual abuse.⁹² Until 1979, students who attended Morpeth College were nominated by their diocese, and Morpeth College itself played no role in screening its candidates. Reverend Lance Johnson, the principal of Morpeth College from 1975 to 1979, told us that ‘too much weight was often given to the intuition of the Bishop as to whether the student was of good character’.⁹³

During the *Institutional review of Anglican institutions* public hearing, Archbishop Phillip Aspinall, Archbishop of Brisbane, and former primate of the Anglican Church of Australia, said that the environments of Morpeth College and St Francis Theological College in Brisbane ‘tended to be monastic, closed communities ... and perpetrators have been allowed to grow in that environment’.⁹⁴ In reflecting on the high proportion of perpetrators who undertook training at Morpeth College, Bishop Gregory Thompson, the former Anglican Bishop of Newcastle, spoke of the ‘generational nurturing of offending’ in that diocese,⁹⁵ and the ‘culture of the diocese which had allowed Morpeth [College] to be a place where older offending clergy could nurture young emerging ordinands’.⁹⁶ Bishop Thompson told us that ‘part of the clericalism is the mentoring’ of apprentices, who are supported by and learn from an older priest.⁹⁷ He said that ‘this is even further distortion of power – that is, people are compromised early on in their ministry by older men, and are groomed to accept this as the normal rights or the entitlements of a priest’.⁹⁸

We also heard about inadequate training of staff in Salvation Army institutions. In *The Salvation Army boys’ homes, Australia Eastern Territory* case study we heard that a lack of sufficiently trained staff affected The Salvation Army’s ability to prevent, as well as adequately respond to, child sexual abuse in its children’s homes.⁹⁹ Staff who arrived at homes were put to work without any training in relation to the indications, investigation or handling of child sexual abuse. Generally they had been transferred to the homes from elsewhere in The Salvation Army without going through a selection process or background check.¹⁰⁰

Structure and governance of religious institutions

The governance arrangements of particular religious institutions have also inhibited effective institutional responses to child sexual abuse.

Autonomy and decision-making within religious institutions

Although each religious organisation is different, in the Catholic Church and the Anglican Church, individual dioceses or churches operate with a significant amount of independence and autonomy. Further, each of the individual Pentecostal churches affiliated with Australian Christian Churches is autonomous and self-governing. This autonomy has in some cases contributed to a lack of uniformity and ad hoc approaches to responding to child sexual abuse. This was particularly true before the development of internal guidelines and national protocols within the Catholic Church and Anglican Church during the 1990s and 2000s, which were implemented in large part in order to enhance consistency in responding to child sexual abuse.

Historically, within the Catholic Church in Australia there was little collaboration between bishops and religious superiors about the approaches they were taking towards alleged perpetrators of child sexual abuse in their own dioceses and religious congregations. Bishop Geoffrey Robinson, retired Auxiliary Bishop in the Catholic Archdiocese of Sydney, told us that ‘different bishops were finding different solutions and probably none of them very good’.¹⁰¹ However, beginning in the 1990s, leaders of the Catholic Church authorities have made considerable advances towards the development of a national response to child sexual abuse, and in the areas of prevention, child safety, and professional standards.

Similarly, in the early 2000s the General Synod of the Anglican Church began the process of working towards the development of national protocols for handling child sexual abuse, child protection, screening and training of clergy and church workers, and professional standards.¹⁰² However, the Anglican Church has struggled to implement uniform standards, and as of 2017 there are still different policies and procedures in place in the 23 dioceses of the Anglican Church in Australia.

The lack of a consistent national approach to responding to allegations of child sexual abuse continues to be a major challenge for the Anglican Church in Australia. Archbishop Aspinall, the former primate of the Anglican Church in Australia, has observed that while the Anglican Church represents itself as a unified national body, it does not operate in a unified way.¹⁰³ The Anglican Church in Australia is a federation of autonomous dioceses, and in reality there are limited instruments of authority at the national level. Authority within the Anglican Church is dispersed both at the diocesan level (where the bishop in conjunction with the synod governs the diocese) and the parish level (where the parish priest operates in conjunction with a parish council).¹⁰⁴

During the *Institutional review of Anglican Church institutions* public hearing, Bishop Thompson told us:

I'm really disappointed that the national church hasn't been galvanised for years to have a common national response [to child sexual abuse], and I think it's been undermined by tribal interests, vested interests in keeping the jurisdictions of not allowing someone else coming into our territory to tell us what to do. And this is so disappointing. It's as if the child protection, child safety thrust is being overwhelmed by these other vested interests, and they need to be examined.¹⁰⁵

We note that in September 2017 the General Synod of the Anglican Church of Australia adopted the Safe Ministry to Children Canon 2017. If implemented by all 23 Anglican dioceses, this would prescribe a code of conduct and minimum standards and guidelines for safe ministry to children.¹⁰⁶

The Australian Christian Churches is in effect an association or movement of independent and self-governing Pentecostal churches. The principle of autonomy is enshrined in the United Constitution of the Australian Christian Churches.¹⁰⁷ The self-governing nature of Pentecostal churches, their flat power structures, and the personalised nature of pastoral authority, allow for the senior pastor of each member church to control the management of their own church.¹⁰⁸ Pastor John Hunt, Australian Christian Churches State President for Queensland and the Northern Territory, described this as an 'ambiguity' of the movement's structure.¹⁰⁹ As a result, different policies may be adopted by the national, state and local levels of the movement. As Pastor Wayne Alcorn, the National President of the Australian Christian Churches, told us, the Australian Christian Churches 'has no authority to direct individual churches regarding local governance'.¹¹⁰ He acknowledged that this 'brings with it a lot of different approaches, different challenges for us as leaders'.¹¹¹

Independent, autonomous or decentralised governance structures have often served to protect leaders of religious institutions from being scrutinised or held accountable for their actions, or lack of action, in responding to child sexual abuse. The Truth, Justice and Healing Council told us that in the Catholic Church, while bishops are required by canon law to consult with certain bodies within their diocese on particular matters, they have 'full power of governance' in their diocese and in 'the majority of instances ... the bishop is free to make decisions on his own'.¹¹² Dr Doyle has written that the consequence of the individualised nature of authority in the Catholic Church is that 'there is no separation of powers, hence no checks and balances and no true accountability for Church leaders'.¹¹³

In the *Catholic Archdiocese of Melbourne* case study, failures and deficiencies in the archdiocese's response to child sexual abuse were, in part, a product of the structure of the religious institution. During the tenure of Archbishop Little, decision-making within the Archdiocese in response to complaints of child sexual abuse against priests was highly centralised. There were no effective checks and balances on the archbishop's exercise of his powers in relation to priests who were the subject of complaints. A system for responding to complaints of child sexual abuse in which the exclusive authority for making decisions is vested in one person is deeply flawed.¹¹⁴

We heard that there was a lack of accountability for decision-making and responses to child sexual abuse in religious institutions operating under more hierarchical governance structures. Major Eldridge explained how the structure and governance arrangements of The Salvation Army may have had a negative impact on the effective reporting of allegations of child sexual abuse. He said that the hierarchical structure of the organisation:

meant any complaint alleging sexual or physical abuse by an Officer or staff member could be withdrawn or minimised at any level of the management structure by an Officer who deemed that the complaint was not serious or worth pursuing.¹¹⁵

Major Eldridge told us that the single chain of command structure of The Salvation Army made it difficult to challenge the decisions and responses of more senior members of the institution. He described The Salvation Army as having an ‘amalgam of ... military and ecclesiastical approaches to bureaucratic management’ and said that this was:

an approach where people should follow orders unquestioningly, internal structures and processes were deemed to be infallible and there was a strong tendency for leaders to never admit that they were wrong or seek advice from outside their immediate leadership growth. It led to a hierarchical organisational structure being even more hierarchical and less transparent.¹¹⁶

Similarly, as set out in Section 13.11, ‘Contributing factors in the Catholic Church’, we have concluded that the hierarchical structure of the Catholic Church created a culture of deference in which poor responses to child sexual abuse went unchallenged. Where senior clergy and religious with advisory roles to the bishop or provincial were aware of allegations of child sexual abuse, often they did not challenge or attempt to remedy the poor actions taken by their bishop or provincial or believed that they could not do so.

The highly centralised and hierarchical structure of the Jehovah’s Witness organisation allows little flexibility within the organisation in relation to responding to child sexual abuse. In the *Jehovah’s Witnesses* public hearing, we heard that the worldwide activities of the Jehovah’s Witness organisation are overseen by the Governing Body, a council of senior male elders based at the world headquarters in the United States of America. The Governing Body retains authority over the general principle and framework of all publications in the name of the Jehovah’s Witness organisation, and any view or perspective contrary to the Governing Body’s interpretation of the scriptures is not tolerated.¹¹⁷ We were told that the Jehovah’s Witness organisation addresses child sexual abuse in accordance with scriptural direction. The Jehovah’s Witness organisation in Australia is not able to alter practices such as the ‘two-witness rule’, the principle of ‘male headship’ and the sanctions of reproof and disfellowshipping.¹¹⁸ We consider that, as long these practices are applied in response to allegations of child sexual abuse, the Jehovah’s Witnesses will remain an organisation that does not respond adequately to child sexual abuse and that fails to protect children.

In the *Yeshiva Bondi and Yeshivah Melbourne* case study, we heard that within each individual community the head rabbi was considered to be the spiritual head of the community and the arbitrator in matters of spirituality and Jewish law.¹¹⁹ In this role, we heard that rabbis had significant influence upon the thinking and conduct of members of the Yeshiva Bondi and Yeshivah Melbourne communities.¹²⁰ In addition to being in a position to arbitrate matters of spiritual and Jewish legal significance, we heard that the rabbis were not subject to any oversight.¹²¹ We consider that a reverence for rabbinical leaders and lack of oversight contributed to a lack of scrutiny of the responses of the rabbis to allegations of child sexual abuse. During the *Institutional review of Yeshiva/h* hearing, Rabbi Benjamin Elton, Chief Minister and Rabbi, The Great Synagogue, Sydney, told us about the recent establishment of the Rabbinic Council of Australia and New Zealand which ‘has a complaints procedure’ so that matters can be ‘investigated by independent figures, giving assurances that they’re taken seriously and properly pursued’.¹²²

Conflicts of interest

At times, the structure and governance of particular religious institutions gave rise to conflicts of interest for those involved in responding to allegations of child sexual abuse. We heard of a number of instances where the personal or familial connections of those in leadership roles contributed to inadequate responses to child sexual abuse. In some instances religious leaders showed a lack of understanding of or disregard for perceived or actual conflicts of interest in circumstances where there were inadequate checks and balances to regulate their personal power. We heard that where people who responded to allegations of child sexual abuse in religious institutions had close connections with alleged perpetrators, they at times failed to act protectively towards survivors, did not report allegations to the police and did not follow their institution’s policies and procedures.

In the *Australian Christian Churches* case study, we found that there was a clear conflict of interest in Dr Ian Lehmann, the senior pastor of Sunshine Coast Church, investigating allegations against youth pastor Jonathan Baldwin, who dated and later married Dr Lehmann’s daughter.¹²³ The conflict of interest for Dr Lehmann unfolded over time and started when Baldwin resided at his house, dated his daughter and subsequently became his son-in-law. This conflict contributed to Dr Lehmann’s failure to take appropriate action to protect ALA, despite being repeatedly advised of concerning observations and accounts of Baldwin’s behaviour towards ALA.¹²⁴

In the same case study, we also found that the National President of the Assemblies of God in Australia, Pastor Brian Houston, had a conflict of interest when he assumed responsibility for handling allegations against his father, Mr Frank Houston.¹²⁵ In responding to the allegations against Frank Houston, we found that the National Executive did not follow the policies and procedures set out in the Administration Manual, which should have governed the discipline of Frank Houston. It also failed to recognise and respond to Pastor Brian Houston’s conflict of interest.¹²⁶ During the public hearing, Pastor Keith Ainge, who was the National Secretary

of the Assemblies of God in Australia at the time, told us that the National Executive felt ‘pressure’ arising from ‘the fact that Frank Houston was a well-known, respected and appreciated member of the Assemblies of God’ and a founding member of the Sydney Christian Life Centre.¹²⁷

In the *Yeshiva Bondi and Yeshivah Melbourne* case study, historically and at the time of the public hearing, key employees of the Yeshivah Centre and members of the Committee of Management responsible for the leadership and governance of Yeshivah Melbourne were closely connected by family ties, longstanding friendships or relationships of marriage. We found that the failure to recognise and deal transparently with perceived and actual conflicts of interest contributed to poor governance on the part of the Committee of Management at Yeshivah Melbourne.¹²⁸

Patriarchal structures and the limited role of women

In some religious organisations, the absence or insufficient involvement of women in leadership positions and in governance structures negatively affected decision-making and accountability, and may have contributed to the inadequate institutional responses to child sexual abuse. We are aware that the operation of patriarchal structures is a considerable issue in a number of the religious institutions we examined.

The Jehovah’s Witness organisation, in its scriptural teachings, places great importance on the principle of ‘male headship’ which provides that ‘the head of every man is the Christ, in turn the head of a woman is the man’. This belief is reflected in the patriarchal culture of the organisation, where only men hold positions of authority within congregations, just as men exercise headship in the family.¹²⁹ In the *Jehovah’s Witnesses* public hearing, we heard that the principle of male headship means that, scripturally, ‘men make the final decisions’.¹³⁰ Only men can be elders and only elders can investigate and preside over judicial hearings involving allegations of serious sin, including child sexual abuse.¹³¹

The requirement that only male elders can participate in making decisions in the investigation of whether someone has committed child sexual abuse is a fundamental flaw in that process and a factor that contributes to the institution’s inadequate response to child sexual abuse. We found that, in about 1989, elders from the Mareeba Congregation in Far North Queensland did not offer survivor BCG the opportunity to have the support and involvement of another woman or women while they were investigating her allegations of abuse.¹³² In the cases of BCG and another survivor, BCB, the requirement that victims disclose their experience of abuse to a group of male elders resulted in their not disclosing the full extent of the abuse they experienced, and caused them further trauma and distress.¹³³

Similarly, women are excluded from governance of the Catholic Church. In the Catholic Church, only baptised males may be ordained and the power of governance is tied to ordination.¹³⁴ Dr Michael Leahy, a former priest, told us in a submission that sound governance in the Catholic Church today requires real power-sharing by all members, and that the exclusion of women and married people from governance structures in the Catholic Church contributes to ‘conditions conducive to the flourishing of paedophilia’.¹³⁵ He noted that the bishops who made decisions on how to respond to child sexual abuse were not experts on psychosexual matters or how best to care for the needs of traumatised children. He added that the response within the Catholic Church to perpetrators and victims of abuse is likely to have been different if it had involved broad consultation including lay men and women.¹³⁶

Bishop Vincent Long Van Nguyen OFM Conv, Catholic Bishop of Parramatta, told us in the *Institutional review of Catholic Church authorities* public hearing that:

I do believe that the marginalisation of women and the laity is part of this culture of clericalism that contributes not insignificantly to the sexual abuse crisis, and I think if we are serious about reform, this is one of the areas that we need to look at.¹³⁷

Similarly, Bishop Robinson has written that a ‘true equality between male and female in the Church would change the entire culture dramatically’¹³⁸ and that:

It is surely reasonable to assume that, if women had been given far greater importance and a much stronger voice, the church would not have seen the same level of abuse and would have responded far better to this overwhelmingly male problem.¹³⁹

Catholic Church leaders have expressed considerable support for the need to involve women in decision-making within the Catholic Church. Archbishop Coleridge has written that:

It is hard to believe that the Church’s response would have been so poor had lay people been involved from the start in shaping a response. In more recent years, lay men and women – not all of them Catholic – have been much involved in shaping the Church’s response, and that is one reason why we are now doing better. The task belongs not just to the bishops and priests but to the whole Church, with all working together in this fraught situation.¹⁴⁰

Anglican Church leaders have made similar statements. In the *Institutional review of Anglican institutions* public hearing, Bishop Thompson told us that the increased involvement of women in decision-making was having a positive influence on the culture and governance in the Diocese of Newcastle. He said:

part of the change is women. I think extraordinarily, the diocese supported the ordination of women. It was a watershed moment for the diocese having a new perspective, a new way of thinking about ministry, but also it broke the power of older men mentoring younger boys.¹⁴¹

Similarly, Archbishop Aspinall, reflecting on the more recent involvement of women in positions of leadership within the Anglican Church, said:

I think that certainly the increased involvement of women in leadership at all sorts of levels has gone hand in hand with changes in culture to make the church safer. Whether it's a cause – I think it probably is.¹⁴²

Child sexual abuse as a 'moral failing'

It is clear that in some cases, leaders of religious institutions knew that allegations of child sexual abuse involved actions that were or may have been criminal, or perpetrators made admissions. However, there was a tendency to view child sexual abuse as a forgivable sin or a moral failing rather than a crime. This contributed to inadequate institutional responses to such abuse.

Some leaders of religious institutions claimed to have had a general lack of understanding about paedophilia and child sexual abuse. During the *Institutional review of Anglican institutions* public hearing, Bishop Dr Sarah Macneil, Anglican Bishop of Grafton, commented on the Anglican Church's 'naivety and, indeed, a lack of knowledge about the dynamics of perpetrators and the perpetration of sexual abuse'.¹⁴³ Similarly, during the *Institutional review of Catholic Church authorities* public hearing, Archbishop Anthony Fisher OP, the Archbishop of Sydney, stated that the leaders of the Catholic Church:

didn't appreciate the long-term damage this was doing to people, the repetitiveness of it, the almost addictiveness of it in some of the perpetrators; the fact that there is no way to manage that by moving someone somewhere else – that you have to completely contain them, possibly for the rest of their life. I think people didn't understand that and maybe we still don't fully understand the phenomenon of paedophilia.¹⁴⁴

At times, an allegation of child sexual abuse was inappropriately seen as an 'aberration' or a 'one-off incident' and not part of a pattern of behaviour. Dr Peter Jensen, former Anglican Archbishop of Sydney, told us that there was a belief 'that if a person perpetrated this, it was likely to be a lapse and not something that they would do all the time', acknowledging that we now 'know that this is utterly false'.¹⁴⁵ He stated further:

I'm not exonerating what happened ... there were those who knew what should be done, but I'm explaining part of what the ethos was that made such a catastrophic mistake a possibility.¹⁴⁶

We also heard that child sexual abuse was seen as involving a 'moral failure' rather than a crime on the part of the perpetrator. Across religious institutions in Australia, allegations and admissions of child sexual abuse were often approached through the lens of forgiveness and repentance. This is reflected in the forgiveness of offenders through the practice of religious confession, as

well as through encouraging victims to forgive those who abused them. As Archbishop Davies of the Anglican Diocese of Sydney told us during the *Institutional review of Anglican institutions* public hearing, forgiveness 'is a theologically well-grounded understanding in the Bible'.¹⁴⁷ He acknowledged, however, that 'what has happened in the past is that there has been easy forgiveness, or shall I say cheap forgiveness, whereby a person has been forgiven thinking it is not going to happen again ... we too easily forgave'.¹⁴⁸ Similarly, Mr Blake SC spoke of the 'aligning of forgiveness and trust', and said:

I think that the practice of forgiveness was to say, 'Once you are forgiven, we now trust you', and there is a difference, I think, between forgiveness and trust, which we now recognise, which, in its practice, was not always recognised.¹⁴⁹

We heard that, at least until the early 1990s, the leaders of religious institutions believed that child sexual abuse involved behaviour that could be rectified or 'cured', and that it was the role of the religious institution and the responsibility of the religious leader to support an alleged perpetrator and facilitate this change, through psychological treatment or counselling. Bishop Peter Ingham, Catholic Bishop of Wollongong, told us during the Catholic Diocese of Wollongong public hearing that in the past the Catholic Church had tended to deal with perpetrators internally, through the sacrament of confession.¹⁵⁰ Further, Bishop Bede Heather, Bishop of the Catholic Diocese of Parramatta during the 1980s, told us during *Case Study 44: The response of the Catholic Dioceses of Armidale and Parramatta to allegations of child sexual abuse against a priest*:

I guess I was inclined to see it [child sexual abuse] as a moral failing in which this person had been involved and from which this person could, with proper guidance, recover ... and the goal of the Church's mission would be to help that person ... to recover from that moral failure.¹⁵¹

Repentance and restoration were primary considerations in determining how to respond to alleged perpetrators of child sexual abuse across other religious institutions. This includes The Salvation Army, where the aims of disciplinary action included to 'lead to the repentance and restoration of the offender; discourage a repetition of the offence'.¹⁵²

Similarly, the internal disciplinary system of the Jehovah's Witness organisation provides that in the event of a confession or if a complaint of child sexual abuse is substantiated according to their internal processes, the elders in the congregation are required to form a 'judicial committee', whose primary purpose is to assess the degree of repentance of the perpetrator. Where guilt and repentance have been established, the primary task of the elders is to rehabilitate and 'restore' the wrongdoer regardless of the gravity of the wrongdoing or sin.¹⁵³ Mr Rodney Spinks, the Senior Service Desk Elder of the Watchtower Bible and Tract Society of Australia responsible for assisting congregation elders in dealing with allegations of child sexual abuse, told us that elders do not formally consider the risk of reoffending, other than reliance upon the word of the perpetrator, when they assess the degree of repentance of a perpetrator of child sexual abuse.¹⁵⁴

Within the Australian Christian Churches, the view that child sexual abuse represented a moral failing apparently continued into the late 2000s. In the *Australian Christian Churches* case study, we noted that the 2010 Administration Manual endorsed by the National Conference of the Assemblies of God in Australia set out policies and procedures for disciplining ministers and pastors who had committed 'Any moral failure involving sexual misconduct'.¹⁵⁵

We frequently heard that the view that child sexual abuse was a moral failing contributed to the practice of not reporting allegations to police, instead leaving an alleged perpetrator in ministry or in a position where they had access to children or transferring alleged perpetrators to new positions in different locations.

Application of religious laws or principles

The interpretation and, at times, inappropriate application of religious laws, rules or principles in some religious organisations also contributed to inadequate institutional responses to child sexual abuse by hindering internal action on allegations of abuse and by acting as a barrier to external reporting. It is clear that for some religious organisations internal laws, or specific scriptural, doctrinal or theological principles present an ongoing obstacle to the reforms needed to ensure that children are safe from sexual abuse in religious institutions.

During the *Yeshiva Bondi and Yeshivah Melbourne* case study, we heard that conduct that is consistent with Jewish religious law (or *halacha*) is of particular importance to members of the Chabad-Lubavitch community, and that there is significant individual and community focus upon whether an act (upon strict interpretation of Jewish law) is, or is not, *halachically* permitted.¹⁵⁶

We found that senior leaders at both Yeshiva Bondi and Yeshivah Melbourne had the opportunity to dispel concern, controversy and confusion within the community over the application of Jewish law to cases of child sexual abuse. Instead, their actions gave the impression that the principles of *mesirah* (which prohibits a Jew from informing on, or handing another Jew over to, a secular authority, particularly where criminal conduct is alleged) and *loshon horo* (gossiping or speaking negatively of another Jew or Jewish institution) prohibited communication about and reporting of child sexual abuse.¹⁵⁷

We consider that the actions of these leaders probably had the effect of dissuading some members of the Yeshivah Melbourne community from communicating with the civil authorities about child sexual abuse.¹⁵⁸ Every member of the panel who gave evidence during the *Institutional review of Yeshiva/h* public hearing stated that the principles of *loshon horo* and *mesirah* do not apply in matters involving child sexual abuse.¹⁵⁹ Another witness, Rabbi Pinchus Feldman, Head Rabbi of Yeshiva Centre Bondi stated that:

the position of the Chabad movement is that not only is it allowed to cooperate with the authorities, but it is a religious imperative to do so, as this is essential for the development and safety of our society and our children.¹⁶⁰

As set out in Section 13.11, ‘Contributing factors in the Catholic Church’, it is clear to us that the disciplinary system imposed by canon law has contributed significantly to the failure of the Catholic Church to effectively take proper action against clergy alleged perpetrators. The emphasis on a pastoral approach as a precondition to disciplinary action has meant that the withdrawal of faculties and dismissal from the priesthood and religious life became ‘a last resort’. Canon law continues to impose a limitation period that will prevent some victims from taking action.¹⁶¹ The standard of proof required before a priest or religious can be removed or dismissed is ‘moral certainty’, which is a higher standard than that imposed in similar circumstances by other churches and professional bodies.¹⁶² Finally, Catholic bishops in Australia do not have the authority to remove offending priests from the clerical state. The Congregation for the Doctrine of the Faith in the Vatican has reserved to itself the ‘exclusive competence’ to determine whether priests accused of child sexual abuse are to be permanently removed from ministry in Australia, not the Australian bishops and religious superiors.¹⁶³

Canon law secrecy provisions apply to canonical provisions relating to child sexual abuse. Aside from an exception granted for reporting to civil authorities in jurisdictions where there are reporting laws, the ‘pontifical secret’ currently applies to allegations of child sexual abuse made against clergy, as well as canonical proceedings relating to those allegations. The ‘pontifical secret’ is a permanent silence that binds the bishop and those involved in a canonical investigation and trial. We can see no good reason for imposing the ‘pontifical secret’ over all aspects of matters relating to child sexual abuse by Catholic clergy. We conclude that canon law should be amended so the pontifical secret no longer applies to allegations relating to child sexual abuse.

The application of inflexible, scripture-based policies and practices within the Jehovah’s Witness organisation has been and continues to be inappropriate in responding to child sexual abuse. During *Case Study 54: Institutional review of Church of the Jehovah’s Witnesses and its corporation, the Watchtower Bible and Tract Society of Australia*, Mr Terrence O’Brien, a Director of the Watchtower Bible and Tract Society of Australia and an active member of the Jehovah’s Witness organisation for over 40 years, told us:

This is in the Bible Book of Isaiah, chapter 33, and it talks about the laws under which Jehovah’s Witnesses believe we come. Chapter 33, verse 22. It says: ‘For Jehovah is our judge. Jehovah is our lawgiver. Jehovah is our king.’

So that covers every aspect of the legislative, the executive, the judicial process, all Jehovah God reserves to himself. Now, we understand scripturally he delegates some of that authority to congregations, to families, husbands, wives, parents. But ultimately, if God’s word provides a direction on a certain doctrine, Jehovah’s Witnesses are bound by that, regardless of how others may view that.¹⁶⁴

As set out in Chapter 15, ‘Jehovah’s Witnesses’, we consider that as long as the Jehovah’s Witness organisation continues to address child sexual abuse in accordance with scriptural direction, relying on a literal interpretation of the Bible to set practices, policies and procedures, it will remain an organisation which does not respond adequately to child sexual abuse and fails to protect children.

These scriptural principles include the principle of ‘male headship’ and the sanctions of ‘reproval’ and ‘disfellowshipping’. This also includes the Jehovah’s Witness organisation’s reliance on the two-witness rule, which requires in all cases of complaints of ‘wrongdoing’, including child sexual abuse, the evidence of a second witness to establish the accused’s wrongdoing.¹⁶⁵

In the *Jehovah’s Witnesses* public hearing we heard that the organisation’s reliance on the two-witness rule put congregational elders in a position where they were unable to take disciplinary action against perpetrators even when they believed that allegations of child sexual abuse were true.¹⁶⁶ Regardless of the biblical origins of the two-witness rule, the Jehovah’s Witness organisation’s retention of and continued application of the rule to a complaint of child sexual abuse is wrong. It shows a failure by the organisation to recognise that the rule will more often than not operate in favour of a perpetrator of child sexual abuse, who will not only avoid sanction but also remain in the congregation and the community with their rights intact and with the capacity to interact with their victim and other children.¹⁶⁷

Protecting the reputation of religious institutions

In responding to child sexual abuse, many leaders of religious institutions demonstrated a preoccupation with protecting the institution’s ‘good name’ and reputation. Actions were often taken with the aim of avoiding, preventing or repairing public ‘scandal’, and concealing information that could tarnish the image of the institution and its personnel, or negatively impact on its standing in the community.

In the *Anglican Diocese of Newcastle* case study, a long-time worshipper and volunteer in the diocese, gave evidence that when she discussed allegations of child sexual abuse against a parish priest in the 1970s with the Bishop of Newcastle at the time, Bishop Shevill, he said ‘we must never speak of it again’ and ‘we must protect the good name of the Church’.¹⁶⁸ We found that Bishop Shevill took no formal disciplinary steps against the parish priest because he was concerned to protect the reputation of the Anglican Church.¹⁶⁹

During the *Institutional review of Anglican institutions* public hearing, Bishop Geoffrey Smith, then Assistant Bishop in the Diocese of Brisbane and now Anglican Archbishop of Adelaide, told us, ‘When you are a member of an institution there seems to be almost a built-in reaction, a defence mechanism, and I think that that has been very strong in the past’.¹⁷⁰

The Catholic Archbishop of Sydney, Archbishop Fisher gave evidence that he considered a ‘self-protectiveness on the part of the institution’ to have been a factor in the inadequate response to child sexual abuse in the Catholic Church in Australia:

you didn’t want scandal, you didn’t want causes for people to think less of the clergy or the bishops or religious, of the institution. And so you might say things were staring us in the face, but it seemed to me people wouldn’t see it because they just wanted to protect the name or the institution very often.¹⁷¹

In a pastoral letter that Archbishop Coleridge wrote in 2010 when he was Catholic Archbishop of Canberra and Goulburn, he gave his opinion about potential contributing factors to child sexual abuse in the Catholic Church. One of the factors he identified was:

A certain triumphalism in the Catholic Church, a kind of institutional pride, was a further factor ... which leads to a determination to protect the reputation of the Church at all costs ... What mattered was to present well in public in order to affirm ourselves and to others that we were 'the great Church'. Such hubris will always have its consequences.¹⁷²

The Truth, Justice and Healing Council told us that clericalism in the Catholic Church had generated a 'culture of secrecy' in which misbehaviour and immoral activities were ignored, tolerated or tacitly accepted.¹⁷³ It quoted the opinion of one Irish priest-commentator that:

What we need is not a rigid, defensive, secretive church but an open, transparent, inclusive one; one where power and decision-making are not the preserve of elderly celibate males but where all the baptised – men and women, single and married, in ministry and outside it – are included and have a voice.¹⁷⁴

Major Eldridge acknowledged the 'protect the brand' mentality was prevalent within The Salvation Army.¹⁷⁵ In *The Salvation Army children's homes, Australia Southern Territory* case study, we found that this was evident in The Salvation Army's handling of the case of Captain Smith. In January 1974, Captain Smith pleaded guilty to three counts of aggravated assault, which related to his sexual abuse of three 'band lads' in the Rivervale Corps in 1973.¹⁷⁶ Describing the moment Captain Smith admitted he was guilty of the charges, the Divisional Commander wrote, 'My first aim was to protect the name of the Salvation Army and then to do what I could to help with the Captain'.¹⁷⁷

During the *Institutional review of The Salvation Army* public hearing, Major Eldridge acknowledged that:

The Salvation Army has come to terms with the reality that our reputation does not need to be protected; children need to be protected; and, in doing so, the reputation of The Salvation Army will take care of itself. Doing that which is right for survivors and for children, creating safe environments, will look after the reputation. We don't start with the reputation. We start with the child.¹⁷⁸

19.3 Conclusions about common institutional responses and contributing factors

By their nature, the culture and governance of religious institutions tend to be deeply embedded in beliefs, traditions and history. Sometimes these features of religious institutions have presented considerable obstacles to appropriate responses to child sexual abuse.

This is one reason why the leadership of religious institutions is critically important. Leaders play a critical role in shaping and maintaining institutional cultures, through the way in which they model behaviour and communicate assumptions, values and beliefs. Religious leaders, by virtue of their position and religious status, hold considerable power and influence in both their institution and the community more broadly.

During the *Institutional review of Catholic Church authorities* public hearing, Archbishop Coleridge acknowledged that there was a ‘colossal failure of culture’ and a ‘colossal failure of leadership’ within the Catholic Church in responding to child sexual abuse.¹⁷⁹ Our inquiry has revealed that this failure extends more broadly and applies across all the religious institutions we examined.

Many leaders of religious institutions in Australia demonstrated an inability or unwillingness to respond appropriately to child sexual abuse. Leaders of religious institutions failed to acknowledge the reality that child sexual abuse could and did occur within religious institutions, by dismissing and diminishing allegations raised by victims and survivors. They often did not report allegations to the police and showed a preference for adopting ‘in-house’ responses. This concealed allegations of child sexual abuse and enabled alleged perpetrators to continue in positions with access to children. Leaders of religious institutions failed to hold perpetrators accountable for criminal conduct and failed to protect children from risk. Leaders of religious institutions often further traumatised victims and survivors of abuse who initiated redress procedures or sought support in rebuilding their lives, years and sometimes decades after the abuse.

One of the most irreconcilable aspects of our inquiry is that both the occurrence of child sexual abuse within religious institutions and the poor responses of religious institutions to child sexual abuse are fundamentally at odds with the stated philosophies, values and beliefs of the religious institutions we examined. Also irreconcilable is that religious institutions that espouse caring for the vulnerable as a fundamental mission should have done so much harm.

The Anglican Archbishop of Sydney, Archbishop Davies, acknowledged that respect for children and the protection of children from harm is of fundamental importance within the Anglican Church. He said:

The theological underpinning which is universally held around the Anglican Church is that children are made in the image of God. It is therefore an offence to God when children are abused, that is our fundamental united view ...¹⁸⁰

During the *Institutional review of Yeshiva/h* public hearing, Rabbi Gutnick agreed that this was true of the Torah and his own religious heritage.¹⁸¹ He told us, ‘The most fundamental principles [of Judaism] are protecting the weak and protecting children’.¹⁸²

During the *Institutional review of Catholic Church authorities* public hearing, Archbishop Costelloe told us that ‘the very reality of the sexual abuse of children and young people is such a fundamental betrayal of what the Catholic Church purports to stand for’.¹⁸³ Similarly, Truth,

Justice and Healing Council Chief Executive Officer Mr Francis Sullivan spoke of the ‘hypocrisy involved in these historic failures’ as ‘grossly unbecoming a Church which seeks to be, and should be, held to its own high standard’.¹⁸⁴ Speaking of the number of claims of child sexual abuse made to Catholic Church authorities, he said:

This data, along with all we have heard over the past four years, can only be interpreted for what it is: a massive failure on the part of the Catholic Church in Australia to protect children from abusers and perpetrators; a misguided determination by leaders at the time to put the interests of the Church ahead of the most vulnerable; and a corruption of the gospel the Church seeks to profess.

As Catholics, we hang our heads in shame.¹⁸⁵

Finally, Commissioner Tidd acknowledged in addressing the victims and survivors of abuse during *The Salvation Army children’s homes, Australia Southern Territory* case study that ‘the truth of the matter is we betrayed your trust in ways that cannot be reconciled with our mission and with our values as a Christian organisation’.¹⁸⁶

We have heard leaders of religious institutions apologise for the failings of the past. We have heard leaders of religious institutions ask forgiveness from those who have been harmed, betrayed and let down by the responses of religious institutions to child sexual abuse. In speaking of the Catholic Church during the *Institutional review of Catholic Church authorities* public hearing, Dr David Ranson, theologian and Vicar General of the Diocese of Broken Bay, said:

I am not convinced that we as a Church, through our leadership, have admitted the problem. That is, we know that there are complaints. We have sought to deal with those complaints. But we have not, as a Church, stood and said what needs to change within ourselves. This is essential, I think. Because apology is not enough and I think people are tired of hearing apologies. Apologies fall hollow unless, at the same time, the Church can say, ‘We have done great wrong. We are in the wrong. There is something wrong in us and we need to change what is wrong.’¹⁸⁷

Leaders of religious institutions should commit to understanding, interrogating and fully acknowledging the nature, extent and impact of child sexual abuse revealed by our inquiry. However, institutional cultures are created, maintained and shared by all members of the institution. They are built from the bottom up as well as the top down. The safety of children in religious institutions is a shared responsibility of all adults in those institutions. For this reason, advocating for and implementing change that will ensure that children’s best interests and their protection from harm are at the heart of each institution’s culture is the responsibility of all adult members of religious institutions.

This responsibility extends beyond the religious institutions that we have examined to encompass all religious institutions in Australia, so that the failings of the past are not repeated in the future.

Endnotes

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- 4 Transcript of P Parkinson, Case Study 52, 17 March 2017 at 26653:27–38.
- 5 Exhibit 49-0008, 'Outline of expected evidence of David Eldridge', Case Study 49, 12 May 2016, STAT.1284.001.0001 at 0004.
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PART E

CREATING CHILD SAFE RELIGIOUS INSTITUTIONS

Introduction

Religious institutions continue to play an integral role in many children's lives. In addition to the role of religion in shaping the spiritual life of children in Australia, religious institutions provide a significant number of services to children and young people. For example, the vast majority of schools in the non-government sector (96 per cent) have a religious affiliation.¹ Religious institutions are also the leading non-government providers of health and social welfare services in Australia,² including out-of-home care services, disability care services and youth services. Religious institutions interact with and have a duty of care for a diverse range of children, including Aboriginal and Torres Strait Islander children, children with disability, and children from culturally and linguistically diverse backgrounds.

In earlier parts of this volume, we detail what we learned about child sexual abuse in religious institutions, including its nature, extent, characteristics, impacts, and victim's and survivor's experience of disclosure. We also examine the responses of particular religious institutions to child sexual abuse, and the factors that may have contributed to failures to prevent and adequately respond to it.

We acknowledge that, over the past two decades, many religious institutions have attempted to improve their approach to child safety, including how they respond to complaints of child sexual abuse. Particularly in recent years, some of the religious institutions we examined have made significant progress in the development of mechanisms to prevent and better respond to child sexual abuse. While positive reforms are underway, there is still much progress to be made before the community can be confident that all religious institutions in Australia are as safe for children as possible.

Our Terms of Reference required us to 'inquire into institutional responses to allegations and incidents of child sexual abuse and related matters'. In carrying out this task, we were directed to focus on systemic issues, informed by an understanding of individual cases. We were required to examine institutional responses to child sexual abuse and identify how children can be better protected. A key aspect of our task has been to examine what makes institutions 'child safe'.

Part E examines how to make all religious institutions in Australia safer for children. It makes recommendations to prevent child sexual abuse from occurring in religious institutions and, where it does occur, to help ensure effective response. These recommendations have been informed by our case studies, by what we heard in private sessions from survivors of sexual abuse in religious institutions, from consultations with a broad range of stakeholders, and from research we commissioned. They focus on factors that we identified as potentially contributing to failures to prevent child sexual abuse and to inadequate institutional responses in religious institutions.

This part should be read alongside Volume 6, *Making institutions child safe*, Volume 7, *Improving institutional responding and reporting* and Volume 8, *Recordkeeping and information sharing*, which present a national approach for child safe institutions. It should also be read alongside particular sections of our *Redress and civil litigation* report and *Criminal justice* report, which outline our recommendations to make institutions and their personnel more responsible for preventing and reporting child sexual abuse through the application of civil and criminal law.

Volumes 6, 7 and 8 explain how institutions can be made safer for children by better preventing, identifying, responding to and reporting institutional child sexual abuse. They recommend a number of independent but interrelated initiatives to create child safe institutions. A list of relevant recommendations from volumes 6, 7, 8, and our *Redress and civil litigation* and *Criminal justice* reports is at Appendix A to this volume.

A number of the recommendations made in other volumes are of general application to all religious institutions. They are supplemented by specific discussion and recommendations in this part aimed at enhancing child safety in religious institutions.

Chapter 20, ‘Making religious institutions child safe’, discusses how religious institutions can implement the Royal Commission’s 10 Child Safe Standards and makes recommendations designed to make religious institutions safer for children with reference to those standards.

Chapter 21, ‘Improving responding and reporting by religious institutions’, examines how religious institutions can improve their responses to, and reporting of, child sexual abuse.

Chapter 22, ‘Redress and civil litigation for survivors of child sexual abuse in religious institutions’, examines how religious institutions have sought to improve the way they provide redress to survivors, including through civil litigation, since the release of our *Redress and civil litigation* report in 2015.

Chapter 23, ‘Recordkeeping and information sharing in religious institutions’ outlines how recordkeeping and information sharing can be improved by religious institutions through new legislative arrangements, better policies, and enhanced information-sharing mechanisms.

Many of the recommendations outlined in this part, and elsewhere in this Final Report, are designed to improve policies, laws and regulations in order to keep children safe in institutions. Collectively, the recommendations are aimed at driving reform in institutions, including religious institutions, and keeping children safer in the future.

While Part E focuses on improving child safety generally in all religious institutions, we place a particular emphasis on the unregulated services they provide that involve children, such as places of worship, youth groups and camps, and faith education programs. Our work on other specific types of institutions is set out in other volumes of this report. Volume 12, *Contemporary out-of-home care*, includes consideration of out-of-home care services operated by religious institutions, and how to improve child safety in those contexts. In Volume 13, *Schools*, we discuss how to improve child safety in schools in Australia, including those managed by or affiliated with religious institutions. We refer to these volumes to supplement our discussion in Part E. We also consider here some issues relating to child safety in schools that arise because of their relationship with religious institutions.

Part E draws extensively on information we received during our institutional review hearings relating to particular religious institutions, including their approaches, practices, policies and procedures in relation to child safety. We have not undertaken a forensic examination of the operation of these policies and procedures and cannot comment on whether they have been fully implemented or are operating effectively. We also understand that since our institutional review hearings, the religious institutions we examined may have made amendments to their policies and procedures. In addition, we note that our discussion in Part E is also not designed to be comprehensive in terms of covering all aspects of policies we received from religious institutions. It seeks to highlight the key issues emerging from the evidence.

Key terms

Child safe institutions / child safe organisations

‘Child safe institutions’ create cultures, adopt strategies and take action to prevent harm to children, including child sexual abuse. The Australian Children’s Commissioners and Guardians define a child safe institution as one that consciously and systematically:

- creates conditions that reduce the likelihood of harm to children
- creates conditions that increase the likelihood of identifying and reporting harm
- responds appropriately to disclosures, allegations or suspicions of harm.

Complaint

A ‘complaint’ includes any allegation, suspicion, concern or report of a breach of the institution’s code of conduct. It also includes disclosures made to an institution that may be about or relate to child sexual abuse in an institutional context.

A complaint may be made about an adult allegedly perpetrating child sexual abuse or about a child exhibiting harmful sexual behaviours. It can be received in writing, verbally, or be the result of other observations, including behavioural indicators.

We recognise the term complaint is used differently by some institutions. For example, instead of complaint, institutions have encouraged people to ‘speak up’ about their concerns, referred to both ‘complaints or concerns’, or used the term ‘allegation’.

Complaint handling

‘Complaint handling’ encompasses the development and implementation of policies, procedures, systems and processes for responding to complaints of child sexual abuse.

Information sharing / information exchange

We use the terms ‘information sharing’ and ‘information exchange’ to refer to the sharing or exchange of information about, or related to, child sexual abuse in institutional contexts. The terms refer to the sharing of information between (and, in some cases, within) institutions, including non-government institutions, government and law enforcement agencies, and independent regulator or oversight bodies. They also refer to the sharing of information by and with professionals who operate as individuals to provide key services to or for children.

Investigation

The term ‘investigation’ refers to the process of inquiry that begins after a complaint has been received by an institution. In this volume, the term does not refer to a police investigation; rather it is a process conducted by or on behalf of the institution associated with the complaint.

Prior to commencing an investigation an institution should perform a risk assessment. Institutions must also assess whether there are any legislative, contractual or other requirements to report to an individual or agency, or to conduct the investigation in a prescribed manner before commencing an investigation.

Institutions are responsible for ensuring that investigations are completed in accordance with prescribed requirements

Mandatory reporter / mandatory reporting

A ‘mandatory reporter’ is a person who is required by either state or territory legislation to report known and suspected cases of child abuse and neglect to a nominated government department or agency (typically the child protection authority).

‘Mandatory reporting’ refers to where a legislative requirement is placed on an individual to report known and suspected cases of child abuse and neglect to a nominated government department or agency (typically the child protection authority).

Record

A 'record' refers to information created, received, and maintained as evidence and/or as an asset by an organisation or person, in pursuance of legal obligations or in the transaction of business or for its purposes, regardless of medium, form or format.

Religious institution

An entity which operates or previously operated under the auspices of a particular religious denomination or faith and provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children. This includes, for example, dioceses, religious institutes, parishes, schools and residential facilities.

Religious organisation

A group of religious institutions that coordinate and/or organise together. For example, the Catholic Church is a religious organisation which is made up of different dioceses and religious institutes.

Report

A 'report' is where concerns relating to child sexual abuse are notified to an authority or agency external to the relevant institution – for example, where a person or institution notifies the police, a child protection agency, an oversight agency or a professional or registration authority.

Reportable conduct

'Reportable conduct' refers to conduct that must be reported under legislation that obliges designated institutions to report allegations of institutional child sexual abuse to an independent statutory body.

Endnotes

- 1 J Buckingham and T Jha, *One school does not fit all*, The Centre for Independent Studies, Sydney, 2016.
- 2 J Jupp, 'The social role of religion' in J Jupp (ed), *The encyclopedia of religion in Australia*, Cambridge University Press, Melbourne, 2009, p 39; S Swain, 'Welfare work and charitable organisations' in J Jupp (ed), *The encyclopedia of religion in Australia*, Cambridge University Press, Melbourne, 2009, p 685.

20 Making religious institutions child safe

This chapter considers what measures would improve child safety in all religious institutions in Australia. It sets out what religious institutions should do to promote the safety of children in their care.

One of this Royal Commission's central recommendations is that all institutions implement the 10 Child Safe Standards. We developed the Child Safe Standards to articulate the essential elements of a child safe institution. They set a benchmark against which institutions can assess their child safe capacity and set performance targets. Our work on the Child Safe Standards is set out in detail in Volume 6, *Making institutions child safe*.

In this chapter, we first set out the responsibilities to keep children safe in religious institutions, including through policy frameworks, laws and regulations. We then outline the Child Safe Standards and discuss how those standards can be monitored and enforced in religious institutions.

Drawing on our case studies, consultations, private sessions, and examples of policies and procedures we received during our institutional review hearings, we go on to make recommendations to all religious institutions about improving child safety. Our recommendations are framed by the Child Safe Standards and focus on factors that we identified as potentially contributing to failures to prevent child sexual abuse and to inadequate institutional responses in religious institutions.

Finally, we outline our recommendations to religious institutions, and their personnel more responsible for preventing and reporting child sexual abuse.

20.1 Responsibilities to keep children safe in religious institutions

Broadly, governments, institutions and individuals have duties and obligations to protect children under common law, as well as relevant child protection and other legislation.

The Australian Government has various responsibilities at the domestic and international levels to protect children from sexual abuse. Australia has ratified a number of international human rights treaties, including the *Convention on the Rights of the Child* in 1990.¹ Because of these commitments, Australia is obligated to take appropriate measures to ensure that children are protected and able to realise their rights, including in religious institutions.

The responsibility to protect children is shared by all Australian governments, institutions and the community. Various policy and legal frameworks, such as the National Framework for Protecting Australia's Children 2009–2020 (discussed below), make it very clear that protecting children is everyone's business.

This section outlines the various policy and legal frameworks that place responsibilities on governments, institutions and individuals to keep children safe in religious institutions. These frameworks work together to promote child safety in religious institutions and can be used to drive reform aimed at improving child safety.

20.1.1 Relevant policy frameworks

The National Framework for Protecting Australia's Children 2009–2020 makes it clear that the Australian and state and territory governments, as well as non-government institutions, must work together to protect Australia's children.² Strategy 3 of this framework's Third Action Plan aims to improve the way institutions respond to children and young people to keep them safe. The National Framework for Protecting Australia's Children and its Third Action Plan are discussed in detail in Volume 6, *Making institutions child safe*.

Australia has national policy frameworks in place for both schools and out-of-home care. Schools and out-of-home care service providers can be managed by religious institutions or broadly affiliated with religious organisations.

The National Safe Schools Framework is an Australian Government initiative to provide policy guidance on how all Australian schools can be safe schools. This framework is discussed further in Volume 13, *Schools*.

The National Standards for Out-of-home Care were an outcome of the First Action Plan of the National Framework for Protecting Australia's Children. They were established to improve and promote a nationally consistent approach to the quality of contemporary out-of-home care in Australia.³ Volume 12, *Contemporary out-of-home care*, discusses these national standards further.

There are no specific policy frameworks which guide religious institutions in respect of their unregulated activities involving children.

20.1.2 Relevant law and regulation

As noted above, the Australian Government has ratified a number of international human rights treaties that place responsibilities on the Australian Government to protect children from sexual abuse in all contexts. We note that our work on the Child Safe Standards is underpinned by the *Convention on the Rights of the Child*. In particular, our work is guided by children's rights to:⁴

- have their best interests as a primary concern in decisions affecting them
- non-discrimination
- have the responsibilities of parents or carers respected
- participate in decisions affecting them
- be protected from all forms of sexual exploitation and sexual abuse, including while in the care of parents, guardians or other carers
- have special protection if they have a disability.

Consistent with Article 3 of the *Convention on the Rights of the Child*, we believe that all institutions concerned with children should act with the best interests of the child as a primary consideration.⁵ We believe that this foundational principle should be at the core of all child-related institutions' purpose and operation. Institutions and their leaders need to make sure it is widely understood and applied by all staff and volunteers. Further detail is available in Volume 6, *Making institutions child safe*.

A range of laws apply to institutions and individuals more generally which are relevant to keeping children safe in religious institutions. These include legislation concerning:

- mandated child safe standards (in Queensland, South Australia and Victoria)
- Working With Children Checks
- obligatory reporting to external authorities, including mandatory reporting to child protection authorities and criminal offences for failure to report child sexual abuse
- oversight of institutional responses to complaint handling, including under reportable conduct schemes.

Aspects of civil liability under common law are also relevant to the responsibilities of institutions and individuals to keep children safe.

Child safe standards

Victoria, Queensland and South Australia have implemented mandatory child safe approaches that generally apply to all institutions providing services for children.⁶ Religious institutions are expressly included under each of the three mandatory approaches, including in terms of their unregulated services that involve children.⁷ In addition, religious institutions fall within the scope of these mandatory schemes as providers of other services to children, including through schools, education and care services, and child accommodation services.⁸

All three approaches set standards which must be met by relevant institutions. For example, the Victorian Child Safe Standards, which became fully operative in January 2017, require institutions to develop strategies to embed an organisational culture of child safety, including through effective leadership arrangements.⁹ The South Australian and Victorian approaches both require institutions to develop strategies to promote the participation and empowerment of children.¹⁰ In Victoria, with regard to each standard, an institution must include principles that promote the cultural safety of Aboriginal and Torres Strait Islander children and children from culturally and/or linguistically diverse backgrounds, and the safety of children with disability.¹¹

The Victorian, Queensland and South Australian approaches include mechanisms for monitoring compliance and enforcement of their standards in institutions.¹² They are also supported by capacity-building initiatives.

Mandatory child safe frameworks can have a positive impact on the policies and procedures of the institutions that fall within their ambit. However, as we discuss in Volume 6, *Making institutions child safe*, inconsistencies in state and territory approaches compromise protection of children and create inefficiencies overall. There are benefits to establishing a nationally consistent approach to child safe institutions.

Working With Children Checks

In Australia, each state and territory has its own scheme for conducting background checks for people seeking to engage in child-related work.

These schemes, commonly known as Working With Children Check (WWCC) schemes, help ensure that appropriate people are chosen to work or volunteer with children.¹³

Each state and territory has its own WWCC scheme. Each of the eight schemes operates independently of the others. In our 2015 *Working With Children Checks* report we found that the WWCC schemes are inconsistent and complex, and there is unnecessary duplication across schemes.¹⁴ We found that the schemes are not integrated, and that there is inadequate information sharing about, and monitoring of, WWCC cardholders between the schemes in different jurisdictions.¹⁵

We concluded that these problems had created a number of weaknesses, including that each scheme defines who needs a check differently. A person might require a WWCC in one jurisdiction but not in another despite engaging in the same type of work.¹⁶ These inconsistencies affect whether people in religious ministry require a WWCC. In our *Working With Children Checks* report, we made recommendations to address these inconsistencies.¹⁷

The extent to which religious institutions, as a matter of policy, require people in religious ministry to hold WWCCs is discussed in Section 20.4.5 below. We discuss the implementation of the recommendations in our *Working With Children Checks* report by state and territory governments in Volume 17, *Beyond the Royal Commission*.

Obligatory reporting to external authorities

In each state and territory, certain individuals and institutions are legally obliged to report suspicions, risks and instances of child abuse and neglect, including child sexual abuse, to the police, or child protection or oversight agencies. We refer to this type of reporting as ‘obligatory reporting’.

The aim of obligatory reporting is to detect, stop, and prevent child abuse and neglect by requiring certain individuals and institutions to report to an external government authority.¹⁸ Obligatory reporting generally applies to a range of types of abuse and neglect of children, including our focus: child sexual abuse. The main types of obligatory reporting relevant to religious institutions and their activities are set out below.

Where an institution or an individual associated with an institution does not have any legal reporting obligations, they can make a voluntary report of institutional child sexual abuse to appropriate authorities.¹⁹ In most jurisdictions, the appropriate authorities are the police or the child protection authority. The possibility of making a voluntary report of child sexual abuse exists, whether or not a pathway for such reports is provided by legislation.

Reporting of institutional child sexual abuse to external authorities is detailed in Volume 7, *Improving institutional responding and reporting*.

We summarise existing reporting obligations and their relevance to religious institutions below. In Chapter 21, ‘Improving responding and reporting by religious institutions’, we discuss how to improve the frequency, quality and timeliness of reporting by religious institutions of child sexual abuse through legislative reforms.

Mandatory reporting to child protection authorities

Mandatory reporting laws require certain individuals to report to child protection authorities any known or suspected cases of child abuse and neglect, including child sexual abuse.²⁰ Upon receiving a mandatory report, the nominated department or agency may assess the report, investigate the risk of harm (usually in collaboration with the police if sexual offences are suspected) and take steps to protect the safety and wellbeing of any affected children.²¹

Mandatory reporting laws have been enacted in every Australian state and territory.²² The laws have common features but also differences, including in relation to who must report abuse or neglect.

South Australia is the only jurisdiction in Australia to expressly include ‘ministers of religion’ as mandatory reporters.²³ In the Northern Territory every person is a mandatory reporter, and therefore people in religious ministry and other personnel associated with religious institutions are legally obliged to report suspected cases of child abuse and neglect to authorities.²⁴

People in religious ministry might fall within the scope of mandatory reporting obligations in different jurisdictions when fulfilling other identified roles, for example that of a school counsellor or teacher. However, other than in South Australia, people in religious ministry are not mandatory reporters in relation to their ministry to children.

Failure to report offences

‘Failure to report’ offences impose criminal liability on third parties – that is, persons other than the perpetrator of the child sexual abuse – who know or believe that child sexual abuse has taken place but fail to report this abuse to the police. These third parties must report abuse to the police in order to avoid committing a ‘failure to report’ offence.

Victoria and New South Wales have both enacted ‘failure to report’ offences that may apply to people in religious ministry or other personnel of religious institutions. Section 316 of the *Crimes Act 1900* (NSW) requires people to report to the NSW Police Force serious indictable offences committed, or suspected of being committed, by others.²⁵ In Victoria, section 327(2) of the *Crimes Act 1958* (Vic) requires an adult who has information that leads them to form a reasonable belief that a sexual offence has been committed in Victoria against a child by another adult to report that information to the Victoria Police.²⁶

‘Failure to report’ offences are considered in detail in our *Criminal justice* report.²⁷

Reportable conduct schemes and oversight of institutional complaint handling

Reportable conduct schemes oblige heads of certain institutions to notify an oversight body of any reportable allegation, conduct or conviction involving any of the institution’s employees. The oversight body is obliged to monitor institutions’ investigation and handling of allegations.²⁸

There is a reportable conduct scheme operating in New South Wales.²⁹ Victoria and the Australian Capital Territory are implementing reportable conduct schemes that are based on the New South Wales model.³⁰ Under the New South Wales scheme and the proposed Australian Capital Territory scheme, religious institutions are not covered, except to the extent that they fall into other categories of institutions – for example, because they provide educational or accommodation and residential services. In Victoria, the reportable conduct scheme includes entities that are a ‘religious body’ within the meaning of section 81 of the *Equal Opportunity Act 2010* (Vic)³¹ – that is, ‘a body established for a religious purpose’.³²

Civil liability

In some circumstances, an institution may be liable for failing to keep children safe, including from sexual abuse.

A survivor will have a clear cause of action against the perpetrator or perpetrators of the abuse in the intentional tort of battery.

A cause of action against an institution is considerably more difficult. Difficulties arise because civil litigation against the institution seeks to have the institution found liable for the deliberate criminal conduct of another person. There are three possible approaches to the liability of institutions:

- An action in negligence based on an institution’s breach of a duty of care owed to the child. The existence of the duty and its breach must be proven. The breach must have caused the damage. The duty is a duty to take reasonable care in the circumstances. What is ‘reasonable’ is determined by reference to the standards that applied at the time the duty is alleged to have been breached.
- Vicarious liability of the institution for torts committed by its employees while acting in the course of their employment. In Australia, vicarious liability has been limited to apply only to the acts of ‘employees’. The approach of Australian law is that child sexual abuse will not be found to have occurred ‘in the course of employment’.
- An action for breach of the institution’s non-delegable duty to ensure that a third party takes reasonable care to prevent harm. This is a duty to ensure that reasonable care is taken by relevant others. It is somewhat similar to vicarious liability, but it applies to the acts of independent contractors as well as employees. Australian law has not imposed a non-delegable duty on an institution for the criminal acts of an employee or member.³³

We discussed civil liability of institutions in detail in our *Redress and civil litigation* report.

20.2 The Royal Commission's Child Safe Standards

As part of our Terms of Reference the Royal Commission was required to inquire into what institutions and governments should do to better protect children against child sexual abuse and related matters in institutions in the future. A key aspect of this task has been to examine what makes institutions 'child safe'.

While the Royal Commission has focused on the sexual abuse of children in institutions, most child safe frameworks have a broader application and aim to help institutions prevent, identify and improve responses to physical, sexual, emotional and/or psychological abuse and neglect of children. Stakeholders told us that a broader approach that seeks to prevent all forms of harm to children in institutions would better address the often co-existing nature of different types of abuse and avoid unintended consequences.

The Royal Commission's work on child safe institutions is underpinned by the United Nations *Convention on the Rights of the Child*. Consistent with Article 3, all institutions concerned with children should act with the best interests of the child as a primary consideration.³⁴

The Royal Commission has identified 10 Child Safe Standards that articulate the essential elements of a child safe institution (see Figure 16.1). The standards set out best practice and can guide institutions towards becoming child safe.

The Child Safe Standards are a benchmark against which institutions can assess their child safe capacity and set performance targets. The standards all work together to articulate a child safe environment. All of the Child Safe Standards are equally important and interrelated. For example, the standard on institutional leadership, governance and culture is an important part of other standards such as that on children's participation and empowerment. Similarly, the standard on equity and diversity is a relevant consideration for all standards.

The Child Safe Standards are:

- Standard 1: Child safety is embedded in institutional leadership, governance and culture
- Standard 2: Children participate in decisions affecting them and are taken seriously
- Standard 3: Families and communities are informed and involved
- Standard 4: Equity is upheld and diverse needs are taken into account
- Standard 5: People working with children are suitable and supported
- Standard 6: Processes to respond to complaints of child sexual abuse are child focused
- Standard 7: Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training
- Standard 8: Physical and online environments minimise the opportunity for abuse to occur
- Standard 9: Implementation of the Child Safe Standards is continuously reviewed and improved
- Standard 10: Policies and procedures document how the institution is child safe.



Figure 16.1 – The Child Safe Standards

20.2.1 Implementing the Child Safe Standards in religious institutions

The Royal Commission is of the view that all institutions in Australia should have the same child safe standards in place to protect all children. We recommend in Volume 6, *Making institutions child safe*, that all institutions concerned with children implement the Child Safe Standards and be guided by the core components of each standard, as outlined in Recommendations 6.4, 6.5 and 6.6 in that volume. The complete Child Safe Standards are outlined in Appendix A of this volume.

We recommend that the Child Safe Standards be mandatory for all religious institutions. We have defined religious institutions to include all institutions that provide activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children.

Recommendation 16.31

All institutions that provide activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children, should implement the 10 Child Safe Standards identified by the Royal Commission.

The Child Safe Standards are principle-based and focused on outcomes as opposed to setting detailed and prescriptive rules that must be followed, or specific initiatives. This means the standards can be implemented by all institutions in a flexible way, informed by their specific nature and characteristics.

Religious institutions need to identify risks relevant to each standard, and put in place strategies to mitigate or manage those risks. It follows that where there are higher risks to children, more extensive strategies will be needed to manage these risks and meet the Child Safe Standards. Religious institutions will need to tailor strategies to their context and size, their level of contact with children and the risk they pose to children.

Appendix B describes the Child Safe Standards in more detail. It provides a range of possible initiatives, actions and practices institutions could implement to be child safe. In Section 20.4 below, we recommend specific actions and practices for religious institutions based on the evidence and information we received during our inquiry.

Many of our witnesses, particularly in relation to religious institutions, acknowledged that setting consistent standards is not enough. There must be mechanisms by which institutions can be held to those standards. This point was articulated by the Reverend Dr Bruce Kaye AM, Adjunct Research Professor, Centre for Public and Contextual Theology, Charles Sturt University, and former General Secretary of the General Synod of the Anglican Church of Australia, during *Case Study 52: Institutional review of Anglican Church institutions (Institutional review of Anglican Church institutions)*. He said: ‘one needs to have ways of auditing the way in which

protocols are effectively followed in the parishes where ... power differentials enable them not to be followed'.³⁵ Reverend Dr Kaye explained that, at least in the Anglican Church, despite the extensive lay representation on governance bodies, in parishes the priest or rector has 'significant power in relation to what happens and how people relate to them'.³⁶

Speaking about the Australian Christian Churches' recent shift to a national model of child protection, Pastor Wayne Alcorn, National President of the Australian Christian Churches (ACC), told us during *Case Study 55: Institutional review of Australian Christian Churches and affiliated Pentecostal churches (Institutional review of Australian Christian Churches)*:

We realised that many things that we were asking of our churches were recommended. Now they are no longer recommended, they are required, and, really, that was the primary thing which really was the domino which flowed through the entire movement. This is no longer optional. There are minimum standards and we require them.³⁷

We recommend in Volume 6, *Making institutions child safe*, that an independent oversight body in each state and territory is responsible for monitoring and enforcing the Child Safe Standards. The independent oversight body would be able to delegate responsibility for monitoring and enforcing the Child Safe Standards to another state or territory government body, such as a sector regulator (see Recommendation 6.10). We also recommend that the Australian Government establish a National Office for Child Safety to coordinate the implementation of the Child Safe Standards across states and territories, including through national evaluation, consultation with children, collaboration on capacity building, and awareness raising (see Recommendations 6.16 and 6.17, set out in Appendix A).

Relevant recommendations from Volume 6, *Making institutions child safe*, are outlined in Appendix A of this volume.

20.2.2 Monitoring and enforcing the Child Safe Standards in religious institutions

Religious institutions are diverse in size, nature, resources and governance, and in the types of activities and services they provide that involve children. Governments will need to carefully consider how to best monitor and enforce the Child Safe Standards in these environments. In this section, we outline some of the considerations in monitoring and enforcing the standards in religious institutions.

Some religious institutions are small and poorly resourced. Their sole function may be to provide worship services to the community and children may only interact with them through attendance at those services with their family. Other religious institutions can be similarly small but provide more child-focused activities. Some religious institutions are significant in size and resources and provide a wide array of services to children in different sectors.

The governance arrangements of religious institutions can vary significantly. The nature of these arrangements can affect the extent to which the institutions are resourced, and their capacity to develop and implement child safe policies and procedures.

Religious institutions provide a variety of different services to children and young people. Some of those services are subject to existing government regulation. For example, out-of-home care service providers and schools managed by or affiliated with religious institutions are regulated by existing state or territory government bodies. Through our work, we heard that for highly regulated sectors, integrating child safe standards into existing regulatory frameworks, with responsibility for enforcement falling to existing regulators, would reduce duplication and regulatory burden. We have made recommendations consistent with this view in relation to monitoring and enforcing the Child Safe Standards in the out-of-home care and education sectors. These recommendations are set out in Volume 12, *Contemporary out-of-home care* and Volume 13, *Schools*, respectively.

Many other services that religious institutions provide to children, or through which they interact with children, are unregulated. Each religious organisation considered in this volume has its own places of worship and religious rituals or activities, which often involve children. As discussed in Part C, 'Nature and extent of child sexual abuse in religious institutions', many survivors told us about experiencing sexual abuse as children in places of worship or during religious activities such as Bible study, Sunday school, confession or while serving as altar servers. We also heard from some survivors about experiencing child sexual abuse while taking part in recreational activities affiliated with religious institutions, such as church-run youth camps.

We believe that for religious institutions that provide unregulated services that involve children, the independent oversight body should take a responsive, risk-based approach to compliance with the mandatory Child Safe Standards (Recommendations 6.10 and 6.11, set out in Appendix A). Responsive regulation is a dynamic model of enforcement based on an ongoing relationship between the regulator and the regulated entity. It encourages voluntary compliance through self-regulation and persuasive, informal enforcement measures.³⁸ Enforcement methods can range from encouragement, such as education and training, to sanctions, such as penalties and the revocation of a licence. Under this model, coercive measures are used only when less interventionist measures have failed to achieve compliance.³⁹

The diversity in characteristics of institutions that engage in child-related work, including religious institutions, has been an important consideration in developing our recommended approach to the monitoring and enforcement of the Child Safe Standards. We acknowledge that for small institutions, making sure they are compliant with mandatory standards can impose a burden. Our approach seeks to minimise that burden. We believe it is important that any efforts to enforce child safety not deter or prevent religious institutions from providing services to children.

In our view, enforcement efforts should focus on religious institutions that provide unregulated and higher risk activities, for example faith education programs, camps, youth groups or other unregulated child-focused activities.

As we will explain below, the independent oversight bodies should work with religious institutions, and where appropriate their relevant religious organisation, to ensure they are able to comply with requirements. This means supporting and building the capacity of religious institutions to understand how and why they should comply with the child safe approach and what a child safe environment looks like. Capacity building, with a focus on education and training and centralised support, will be the most appropriate approach for the vast majority of religious institutions.

Focusing regulatory efforts on improving safety for children, rather than reinforcing prescriptive requirements, will allow religious institutions to tailor child safe practices to their operational context, such as their size, resources and risk to children. This approach will minimise the burden and prioritise cultural change.

20.2.3 Supporting implementation of and compliance with the Child Safe Standards in religious institutions

We have looked at existing bodies that could support implementation of and compliance with the Child Safe Standards in religious institutions, particularly for those religious institutions that provide unregulated services that involve children. Religious organisations and other religious bodies and councils, such as the National Council of Churches in Australia, are well positioned to work proactively with the independent oversight bodies to ensure that individual religious institutions are able to comply with the requirements.

Religious organisations

Most of the religious institutions we have examined are part of religious organisations that, to varying degrees, coordinate and organise on a national level. This includes the Catholic Church, the Anglican Church, The Salvation Army, the Uniting Church, the Jehovah's Witness organisation, and the Australian Christian Churches. These organisations take a range of forms, including governing bodies, general synods and conferences.

In our view, religious organisations have a responsibility to drive consistent standards in their affiliated institutions. Religious organisations, therefore, have a key role to play in supporting the implementation of the Child Safe Standards.

Representatives from a number of religious institutions we examined have acknowledged their organisation's responsibility to develop and drive consistent and better standards for child safety. The Archbishop of Melbourne and Primate of the Anglican Church of Australia, Archbishop Philip Freier, told us during our *Institutional review of Anglican Church institutions* hearing:

It is more incumbent upon us to keep developing things than simply get uniformity of something which might be an earlier work or a standard that isn't as high ... the intention is for us to drive the highest standards we can and some of it might be a bit messy getting there.⁴⁰

The Catholic Archbishop of Canberra and Goulburn, Archbishop Christopher Prowse, told us during *Case Study 50: Institutional review of Catholic Church authorities* (*Institutional review of Catholic Church authorities*) that in the Catholic Church:

What has been needed ... is a consistency across the whole of Australia, and at the moment I'm not sure if that consistency is there in regard to standards, expectations, training and protocols. Some dioceses seem to be ahead of others, for all sorts of reasons, and I think this will help with an audit of that, to ensure that there is a standardisation of high quality across Catholic Australia.⁴¹

Reverend Heather den Houting, General Secretary of the Uniting Church Queensland Synod, told us during *Case Study 56: Institutional review of Uniting Church in Australia* (*Institutional review of Uniting Church in Australia*) that: 'in its ongoing response to the work of the Royal Commission, the Church recognised a need to develop a national standard for child safe policies across the life of the Church'.⁴²

Over the past 20 years, some religious organisations have developed national responses to the issue of child sexual abuse and child safety in their institutions. In recent years, a number have made significant progress in the development of mechanisms to better prevent and respond to child sexual abuse. In Section 20.3, we outline some of the key national child safe initiatives established by religious organisations since the commencement of our inquiry. Several of these initiatives establish, or plan to establish, overarching policy frameworks or standards that must be adopted or met by religious institutions affiliated with that particular religious organisation.

We consider that religious organisations should work closely with the relevant state and territory oversight bodies to support the implementation of the Child Safe Standards in all their affiliated institutions.

Religious organisations are uniquely positioned to understand the nature of the services their affiliated institutions provide to children, the existing capacity of those institutions, and what support they may need in the future to provide child safe environments. Religious organisations are likely to already have an understanding of those institutions that may need additional

support to meet or comply with the Child Safe Standards. Religious organisations should work with the relevant state or territory oversight body to provide additional training and education for those institutions.

As part of this role, religious organisations should drive a consistent approach to the implementation of the Child Safe Standards in their affiliated institutions. This could be, for example, through the development of model canons in the Anglican Church, or the development of model policies and procedures in other religious organisations. The implementation of Child Safe Standards should include a consistent approach to handling complaints of child sexual abuse, which is aligned with the recommendations set out in Chapter 21.

We believe that religious organisations can also play a role in promoting ongoing compliance with the Child Safe Standards for affiliated institutions. Some of the national child safe initiatives developed by religious organisations since our inquiry began, establish mechanisms by which compliance with particular standards will be measured in individual institutions. Measuring compliance in institutions across sectors and jurisdictions can provide unique insights into institutional approaches to child safety and allow the organisation to strategically address gaps and build capacity where required. It can also function as a mechanism by which institutions that need further support to comply with the standards are identified. We encourage religious organisations to implement a process of measuring compliance in their affiliated institutions and to work closely with state and territory oversight bodies for the Child Safe Standards in those audits. Existing auditing mechanisms could link closely with any potential auditing undertaken by oversight bodies.

The Catholic and Anglican churches have indicated that, in addition to measuring compliance, they will publicly report on the extent to which their institutions are complying with their standards with respect to child safety. Public reporting on compliance can be a powerful accountability mechanism for individual institutions to implement and achieve better standards in relation to child protection. It is a way in which the community can gauge the extent to which individual religious institutions are committed to protecting children in their care. It is also a way in which families can make informed choices about which institutions they should entrust with their children's care. Other religious organisations should consider such a mechanism in order to promote transparency and accountability in their institutions.

In existing highly regulated sectors, such as education and out-of-home care, religious organisations will have less of a role to play in supporting implementation of and compliance with the Child Safe Standards. As noted above, in those sectors we recommend the Child Safe Standards be integrated into existing regulatory frameworks with the responsibility for monitoring and enforcement falling to existing sector regulators.

Nevertheless, we consider that where an institution operates under the auspices of a religious organisation, there should be some oversight of that institution by the religious organisation with respect to child safety. In our view, institutions in existing highly regulated sectors should report their compliance with the Child Safe Standards, as monitored by the relevant sector regulator, to the religious organisation to which they are affiliated. The results of compliance could be made public by the religious organisation together with compliance results of other affiliated institutions.

Recommendation 16.32

Religious organisations should adopt the Royal Commission’s 10 Child Safe Standards as nationally mandated standards for each of their affiliated institutions.

Recommendation 16.33

Religious organisations should drive a consistent approach to the implementation of the Royal Commission’s 10 Child Safe Standards in each of their affiliated institutions.

Recommendation 16.34

Religious organisations should work closely with relevant state and territory oversight bodies to support the implementation of and compliance with the Royal Commission’s 10 Child Safe Standards in each of their affiliated institutions.

Recommendation 16.35

Religious institutions in highly regulated sectors, such as schools and out-of-home care service providers, should report their compliance with the Royal Commission’s 10 Child Safe Standards, as monitored by the relevant sector regulator, to the religious organisation to which they are affiliated.

Religious bodies and councils

Some existing religious bodies and councils represent or support particular religious organisations or groups of religious institutions. The independent oversight bodies could also work with these religious bodies and councils to facilitate the implementation of the Child Safe Standards, including through direct capacity-building initiatives. This approach may be effective where institutions are not part of a religious organisation with the capacity to undertake such support, or to reach smaller, close-knit institutions.

The National Council of Churches in Australia (NCCA) is a group of 19 Christian churches from across Australia. In addition to many larger churches, the NCCA’s membership includes smaller churches, such as the Armenian Apostolic Church, the Chinese Methodist Church, the Indian Orthodox Church, the Religious Society of Friends (Quakers), and the Syrian Orthodox Church.⁴³

The NCCA has an existing Safe Church Program, which includes representatives from churches who work in aspects of professional standards and provide support for and input into NCCA Safe Church Program initiatives. These initiatives include:⁴⁴

- the *Safe church training agreement*, which facilitates Safe Church Program workshops for local church leaders
- the Safe Church Network, which seeks to ensure that Australian churches are ‘physically, emotionally and spiritually safe for children and vulnerable adults’ and provides guidance on safeguarding for churches
- the Safe as Churches? Conference, which provides professional development opportunities, support and network opportunities.

Another example is the Executive Council of Australian Jewry (ECAJ), which is the national peak body for the Jewish community in Australia. Its constituents include councils and boards in all Australian states and the Australian Capital Territory.

During *Case Study 53: Institutional review of Yeshivah Melbourne and Yeshiva Bondi (Institutional review of Yeshiva/h)* we received evidence about the work of the New South Wales Jewish Board of Deputies Task Force on Child Protection, a constituent body of the ECAJ. The purpose of the task force is to develop policies, protocols and procedures to create a framework to apply to all Jewish institutions in New South Wales which have contact with children.⁴⁵

In June 2015, the task force held a symposium on child protection. Emeritus Professor Bettina Cass, chair of the task force, outlined three community priorities that guide their work:⁴⁶

- empowering our community organisations with knowledge, ideas and commitment to keep children and young people safe and to enhance and safeguard their wellbeing
- driving innovation and improvements across all our community organisations by working cooperatively to share our knowledge, wisdom and experience and ensuring a regular commitment to updated knowledge and training
- calling upon our Jewish religious and ethical values of interpersonal and social justice to protect our greatest heritage: our children and young people from abuse and harm.

We acknowledge that there are a variety of bodies and councils in different religious denominations and faiths that may undertake similar roles to the NCCA and the ECAJ and its constituent bodies.

20.3 Child safe initiatives in religious organisations

These tragic events are considered to be mere history. They contend that they have much better processes in place, and it wouldn't happen now. On the basis of our experience, we think it would, and it probably does. This Royal Commission into Institutional Responses to Child Sexual Abuse is our first opportunity to bring this matter forward for scrutiny. This long-standing denial of natural justice and due process must now be addressed for all victims of this crime of abuse and their families, and especially for our son David, who died.⁴⁷

Mrs Helen Gitsham, victim's mother

Because the Catholic Church, as an institution, has been responsible for many shocking incidents of child sexual abuse, the Church has an obligation to now be a significant part of the solution and a major contributor to a proactive approach to child safety, not just within the Church but in society as a whole.⁴⁸

Archbishop Timothy Costelloe SDB, Catholic Archbishop of Perth

In recent years, a number of the religious organisations we examined have made significant progress in the development of mechanisms to better prevent and respond to child sexual abuse. Some have developed national initiatives designed to establish consistent standards, improve policies and procedures, and develop a culture of safeguarding children in their affiliated institutions. In the case of the Catholic Church, the Holy See has implemented its own child protection initiative at an international level.

We do not discuss the Jehovah's Witness organisation, Yeshiva Bondi or Yeshivah Melbourne in this section. In the case of the Jehovah's Witness organisation, we did not receive any evidence during *Case Study 54: Institutional review of Church of the Jehovah's Witnesses and its corporation, the Watchtower Bible and Tract Society of Australia (Institutional review of the Jehovah's Witnesses)* to suggest that the organisation in Australia has undertaken, or plans to undertake, any national child safe initiatives. In the case of Yeshiva Bondi and Yeshivah Melbourne, evidence provided during the *Institutional review of Yeshiva/h* hearing suggests that some improvements have been made to policies and procedures relevant to child safety in institutions associated with those organisations, but those improvements have not occurred as part of any overarching child safe initiative.

20.3.1 Catholic Church

The Pontifical Commission for the Protection of Minors

The Pontifical Commission for the Protection of Minors (Pontifical Commission) was established in March 2014 as an advisory body at the service of Pope Francis. Its purpose is to propose initiatives to the pope that promote the protection of minors and vulnerable adults in local Catholic Churches around the world. Although the Pontifical Commission is attached to the Holy See, it is independent from it.⁴⁹ As of 2017, the 15 member Pontifical Commission is led by Boston's Cardinal Archbishop, Sean Patrick O'Malley OFM Cap.

During our *Institutional review of Catholic Church authorities* public hearing, we heard evidence from three members of the Pontifical Commission: Professor Sheila the Baroness Hollins (United Kingdom), Ms Kathleen McCormack AM (Australia), and Mr Bill Kilgallon OBE (New Zealand).

The evidence from these witnesses was that, despite being operational for several years, the Pontifical Commission was still in its infancy and has been slow to develop.

In her submission, Ms McCormack told us:

The [Pontifical Commission] is experiencing difficulties in reaching the 'performance' stage of its development as a result of infrequent meetings of the whole [Pontifical Commission] (twice a year), limited resources, and both structural and cultural barriers both in the Church and across nations.

There is still much to do and time to elapse before the [Pontifical Commission] will make a positive contribution to protecting minors and vulnerable people internationally.⁵⁰

Ms McCormack told us that the Pontifical Commission's budget 'would be what you would do in a diocese, but we're dealing with the whole world'.⁵¹ Similarly Mr Kilgallon told us that although they had not had any requests for funding denied, 'the way the Commission has been structured in terms of the support staff is inadequate'.⁵² Baroness Hollins told us that they have spent considerable time attempting to establish relationships and understand how things operate in the Holy See, which has delayed their work.⁵³

The witnesses further told us of some of the cultural barriers that they face in their international approach. Ms McCormack gave evidence that awareness and acknowledgment of child sexual abuse by Catholic clergy and religious is not the same across all countries.⁵⁴

However, we did hear from the witnesses about some of the initiatives and work of the Pontifical Commission to date. Mr Kilgallon told us that one initiative was a 'template' for guidelines to prevent and respond to sexual abuse, which is available on the Pontifical

Commission's website. Mr Kilgallon explained that each national conference of bishops is required to have a set of guidelines. The template was provided to them as a base for establishing those guidelines. Mr Kilgallon told us that the next stage of the process involves ensuring that within a country or group of countries, there is consistency in the sets of guidelines developed.⁵⁵ He explained:

We don't want a situation where you have a country where everybody agrees it except one rogue bishop doing his own thing, or one rogue order saying, 'We don't want to sign up to that'. It needs to be a coherent set of guidelines for the whole country.⁵⁶

Ms McCormack told us the Pontifical Commission had recently held a discussion at the Pontifical Gregorian University in Rome for the representatives of various countries to discuss what they are doing locally about child sexual abuse, in order to identify gaps.⁵⁷

Reflecting on the challenges faced by the Pontifical Commission, Ms McCormack told us: 'it's years and years of hard work we have to look at'.⁵⁸

In late September 2017 it was reported in the media that Pope Francis had his first face-to-face discussion with members of the Pontifical Commission on 21 September 2017 during their plenary assembly.⁵⁹ According to the *Catholic News Service*, Pope Francis told the members that the Catholic Church has been 'late' in facing and properly addressing the sin of sexual abuse by its members. Pope Francis reportedly endorsed a 'zero tolerance' approach toward all members of the church guilty of sexually abusing minors or vulnerable adults. He said that 'whoever has been proven guilty of abuse has no right to an appeal' and he will 'never grant a papal pardon'. Pope Francis said that the Pontifical Commission has had to 'swim against the tide' because of a lack of awareness or understanding of the seriousness of the problem.⁶⁰

The activities of the Pontifical Commission are relevant to our Terms of Reference because they have the ability to positively influence the responses of Catholic Church authorities in Australia to child sexual abuse. We have not considered the Pontifical Commission's activities in detail.

Catholic Professional Standards Limited

On 23 November 2016, the Australian Catholic Bishops Conference (ACBC) and Catholic Religious Australia (CRA) launched a new company, Catholic Professional Standards Limited (CPS), on the recommendation of the Truth, Justice and Healing Council (the Council). The Council acted for all major Catholic religious institutes and all Catholic archdioceses and dioceses in Australia (with the exception of three of the Eastern Rite Eparchies) and spoke on their behalf to the Royal Commission.

In its submission to us in relation to the *Institutional review of Catholic Church authorities* hearing, the Council stated that the purpose of the company is to 'set professional standards and to monitor and report on their implementation within the Catholic Church (in Australia)'.⁶¹ According to the Council, while each Catholic Church authority will retain responsibility for what occurs within its own jurisdiction, they will all be required to enter into a contract with CPS agreeing to ensure that their various Church entities meet the professional standards set by the company.⁶² The Council told us that each Catholic Church authority will have their compliance with the standards audited by the company and the results will be made public.⁶³

The Chair of the Council, the Hon. Neville Owen; the Chief Executive Officer of the Council, Mr Francis Sullivan; and a member of the Council's Supervisory Group, Archbishop Mark Coleridge, gave evidence to us about CPS as part of the *Institutional review of Catholic Church authorities* hearing. Mr Owen told us at that time that the company was 'very much in its embryonic stage'.⁶⁴

The witnesses told us about the specific areas in which it is likely that CPS will set standards. Archbishop Coleridge gave evidence that complaint handling would be an 'obvious' area in which standards would be developed, along with measures to prevent child sexual abuse, which would be 'a crucial part of the setting of standards'.⁶⁵ However, we heard that CPS will have no role to play in responding to complaints. CPS will instead provide principles, standards and guidelines for Catholic Church authorities to follow when dealing with individual complaints.⁶⁶ Mr Owen explained:

The standards will give guidance as to the principles to which whatever the model is that is being used by a particular Church authority – that must comply with those particular standards. Those standards will be backed by – they will be at the level of principles and policies, but I would imagine that they will also be supplemented by strong guidance notes. So the actual operation of the adopted model will have to be within the confines that are developed within that overall framework of assistance mechanisms.⁶⁷

In addition, Archbishop Coleridge told us that it is likely standards would be set in relation to seminary training, the selection of individuals for particular positions, such as parish priests, and ongoing education for bishops, priests and religious.⁶⁸ The archbishop indicated that standards in relation to taking disciplinary action could be set and he would welcome any guidance that CPS might be able to offer that was consistent with canon law.⁶⁹

The Council expressed the view that CPS would not duplicate standards in areas where standards are already mandated by government authorities, for example in schools⁷⁰ and out-of-home care.⁷¹ Mr Owen told us that those institutions would still have to comply with the standards set by CPS but would not be separately audited for compliance.⁷² Mr Owen said that if the authority concerned could demonstrate that it had complied with the regulatory regime to the satisfaction of the government agency, it would not have to do that again with CPS.⁷³

Discussing the reasons for establishing the new company, the Council conceded that ‘professional standards in relation to child protection and dealing with allegations of child sexual abuse have not been consistently and adequately applied by all Church authorities’.⁷⁴ The Council told us that CPS is designed to develop consistency but also to address issues of transparency and accountability evident in past responses to child sexual abuse. For example, the Council noted that criticisms of Towards Healing (the Catholic Church’s national process for responding to complaints of child sexual abuse) have included the ‘in-house’ nature of its process, insufficient transparency and outside scrutiny, and the absence of a mechanism for supervision and enforcement of its operation.⁷⁵ We discuss Towards Healing in detail in Chapter 13, ‘Catholic Church’.

We consider the establishment of CPS to be a positive and important step forward for the Catholic Church in developing consistent and best-practice approaches to child safety across its authorities. However, it is evident that there are a number of challenges it must address to reach its goal.

For example, the effectiveness of the company relies firstly on each individual Catholic Church authority agreeing to be bound by its standards. Mr Owen told us that the endorsement of the company by the ACBC and CRA was one indication that major dioceses and institutes would participate.⁷⁶ But he also noted:

We can only go on the fact that this has been through a long period of discussion and consultation. Various views were expressed. All sorts of reservations were expressed and held from time to time ... the nature of the discussions which have been carried out gives me, certainly, some confidence. I can’t give any guarantees.⁷⁷

Speaking in relation to CPS during the *Institutional review of Catholic Church authorities* hearing, the Archbishop of Canberra and Goulburn, Archbishop Christopher Prowse, told us:

I think we all must sign up to it. We have all signed up to it. We must speak with one voice on the national proposal here – well, the new company coming together. We must back it with finance. We must ensure that we give way to its recommendations so that when they come into a particular diocese to audit us and perhaps find deficiencies, or whatever, there is a docility in all the dioceses to be able to respond nationally. I think there is a common mind and common heart, and I believe that is already there amongst the bishops.⁷⁸

We note that the ACBC and CRA have as members the majority of Catholic Church authorities in Australia but not all.

The effectiveness of the company will be dependent on its auditing function and the ability to make audit results public. Mr Owen explained that CPS has no ability to ‘sanction’ or ‘discipline’ Church authorities for noncompliance with any particular professional standards it sets; the ‘teeth’ of the system is the ability to make audit results public.⁷⁹

During the *Institutional review of Catholic Church authorities* hearing, we considered the company’s constitution, which set out circumstances in which audit results may not be made public. The company’s constitution stated that audit results would be made public unless its board resolved that the information:

- (a) ‘has the potential to cause harm to Church contacts;
- (b) is inaccurate;
- (c) is likely to cause confusion or to mislead the public; or
- (d) could endanger public safety.’⁸⁰

While Mr Owen told us that public reporting of audit results ‘will be the norm’,⁸¹ during our examination he accepted that this particular clause in the company’s constitution provides an ‘extraordinary power’ not to publish audit results.⁸² Archbishop Coleridge suggested that the drafting of particular aspects of the company’s constitution, including the discretion not to publish, needed to be revisited.⁸³ Separately during the *Institutional review of Catholic Church authorities* hearing, Archbishop Anthony Fisher OP of the Archdiocese of Sydney told us that the breadth of power conferred on the board of CPS to withhold audit information should be ‘reconsidered and ... redrafted, because there was no intention ... in the drafting process of reinforcing a culture of concealment’.⁸⁴

In June 2017, we wrote to CPS to ask whether the company’s constitution had been revisited. It told us that a process had been established and that any alterations ‘should be finalised by the end of September 2017’.⁸⁵ In late September 2017, CPS wrote to the Royal Commission and advised that it had made amendments to its constitution. It said it had removed the particular clause in its constitution regarding the discretion not to publish audit results and replaced it with the following:

Reports ... will be made public, unless the Board resolve otherwise. In considering whether a report not be made public, the Board must give regard to the desire of Church leadership to promote accountability, transparency and trust in the life of the Church and its contribution to society.⁸⁶

We also explored the issue of funding for the new company. Mr Owen told us that CPS will be funded by its members, but that the specific funding model had not been finalised. Despite this, he said there was a recognition among authorities that one of the problems with the National Committee for Professional Standards, the body set up to advise the ACBC and CRA on matters relating to child safety and the implementation of Towards Healing, was that it was not properly resourced. Mr Owen said that CPS must be properly resourced.⁸⁷ Similarly, Archbishop Coleridge told us:

So despite the apprehension initially, there was a very strong, indeed unanimous, commitment to fund CPS in any way that it needs to be funded, because we don't want a repetition of what has happened in the past where an ambivalence or a lack of commitment has led to an under-resourcing, underfunding, and therefore has restricted or even crippled an operation. We certainly don't want that to happen with CPS.⁸⁸

The company's constitution suggests its annual budget requires approval from all its members.⁸⁹ For this reason we consider the commitment to properly fund the company to be particularly important. CPS told us in June 2017 that, while no decision had been made with respect to the funding model, the ACBC had undertaken to fund the company directly and share the costs on an agreed basis with CRA, pending development of a long-term funding model. Budgets have been approved for 2016–17 and 2017–18.⁹⁰

CPS also told us in June 2017 that while it had not yet set any standards, consideration of the process for developing and approving child safeguarding standards had 'advanced'. It told us there are a significant number of existing standards to consider, including formal legislative requirements and other sources of guidance, like the Royal Commission, as well as standards established overseas.⁹¹

20.3.2 Anglican Church

As discussed in Chapter 12, 'Anglican Church', we heard during our *Institutional review of Anglican Church institutions* hearing that the Anglican Church in Australia had not yet established a nationally consistent approach to child safety. The Anglican Archbishop of Brisbane and former primate of the Anglican Church of Australia, Archbishop Phillip Aspinall, told us that there was no such approach 'concerning child sexual abuse, concerning professional standards in general, and concerning episcopal standards'.⁹²

Witnesses from the Anglican Church told us that there are specific structural and cultural barriers to implementing a nationally consistent to child safety in the Anglican Church. Dr Muriel Porter OAM, member of the General Synod of the Anglican Church of Australia, told us that:

There are very real tensions within our church which come because of its structure, but also because of the reason for that structure, and the reason is because we are so very different, across the church, in the nature of our churchmanship.⁹³

Likewise, Reverend Dr Bruce Kaye AM, Adjunct Research Professor, Centre for Public and Contextual Theology, Charles Sturt University, and former General Secretary of the General Synod of the Anglican Church of Australia, told us that:

It is a long-embedded structure, and I think it's really hard to imagine engaging in a strong move to centralise it, unless it is on some such issue as this, which is obviously one of great national importance and which the church has manifestly failed in. So I think I wouldn't want to underestimate the challenge involved in such a move.⁹⁴

Safe Ministry to Children Canon 2017

Following the *Institutional review of Anglican Church institutions* hearing in March 2017, the Anglican Church of Australia provided us with information about its progress in developing and implementing a national approach to child safety. We were told that a new canon to facilitate minimum standards with respect to child safety across its dioceses – the *Safe Ministry to Children Canon 2017* – was adopted by the General Synod of the Anglican Church of Australia at its 17th Session in September 2017.

We outline below what we understand about the canon on the basis of our review of its text, and other documents provided by the Anglican Church.

The object of the *Safe Ministry to Children Canon 2017* is as follows:

- (a) 'to prescribe a code of conduct for safe ministry to children
- (b) to prescribe minimum standards and guidelines for safe ministry to children; and
- (c) to implement the Protocol so far as it provides for obtaining and taking into account Ministry Suitability Information before authorising clergy church workers to undertake ministry to children.'⁹⁵

The canon provides that 'each diocese shall have standards, and guidelines unless there are cogent reasons for not doing so', that give effect to the standards and guidelines in the canon.⁹⁶

The prescribed code of conduct under the canon is *Faithfulness in service: A national code for personal behaviour and the practice of pastoral ministry by clergy and church workers (Faithfulness in service)*.⁹⁷

It also prescribes standards for screening different members of the Anglican Church, including deacons; clergy and bishops; licensed, authorised and paid church workers; volunteers; and professional standards personnel. The standards required for screening clergy and the bishop of a diocese include, for example:⁹⁸

- verification that a member of the clergy holds a WWCC or working with vulnerable people check where required by the laws of the Commonwealth or a state or territory; or, where not required, consideration of a national police history check
- consideration of any information about a member of the clergy on the Anglican National Register
- consideration of a member of the clergy's Safe Ministry Check and their referee's completed Safe Ministry Check
- where the member of clergy was previously authorised for ministry in another diocese of the Anglican Church, or in another denomination, reasonable endeavours to obtain and consider information from the responsible authority.

Other members are required to undertake similar screening, although volunteers, for example, have fewer requirements.

Under the canon, the standards of training for clergy and church workers involve the satisfactory completion of accredited training – that is, training that meets the national *Safe ministry training national benchmarks* – every three years. All bishops, clergy and workers (whether paid or voluntary) are required to complete the accredited training prior to commencing 'ministry with children', apart from under 'exceptional circumstances'.⁹⁹

The canon appears to exclude from its operation bodies that provide services to children pursuant to the laws of, or contracts or agreements with, the Commonwealth, states or territories or one of their agencies or authorities. We understand the effect of this provision to be that most schools and out-of-home care service providers for example will be excluded from the canon, in the expectation that they would otherwise be subject to standards imposed because of their relationship with the government agency or authority. However, it appears the Standing Committee of the General Synod must be satisfied that those bodies have equivalent standards and guidelines to be followed that give effect to the applicable prescribed standards and guidelines.¹⁰⁰

The canon sets out that compliance with the minimum standards will be audited at intervals of three years. It also provides that audit reports will be published on the General Synod website. The canon authorises the General Synod to provide the audit to an agency or authority of the 'Commonwealth, State or Territory' with responsibility for child safe standards for institutions providing services to children.¹⁰¹ A list of bodies that have equivalent standards and guidelines by virtue of their contractual relationship with governments will also be published on the General Synod website.¹⁰²

The canon also sets a timetable for the coming into force of particular provisions, to allow dioceses to prepare. The standards of screening and training, and provisions as to a diocesan 'safe ministry authority' come into force on 1 January 2018. The standards for safe ministry with persons of concern, and provisions as to audits, come into force on 1 January 2019.¹⁰³

It is evident from our review of the canon that the ultimate effectiveness of the proposed national initiative will rely on each of the 23 Anglican dioceses adopting its terms. The canon states that:

The provisions of this canon affect the order and good government of the Church within a diocese and shall not come into force in a diocese unless and until the diocese by ordinance adopts this canon.¹⁰⁴

A diocese can also subsequently exclude the canon pursuant to section 30(d) of the Anglican Constitution.¹⁰⁵

We encourage all 23 dioceses to adopt the proposed measure to ensure there is a uniform approach to child safe standards in the Anglican Church of Australia.

We note, however, the emergence of another model that, in our view, could also achieve the implementation of nationally consistent standards in relation to child safety for the Anglican Church. During the *Institutional review of Anglican Church institutions* hearing we received evidence that the dioceses of Melbourne and Bendigo have established an independent corporate entity called Kooyoora Ltd. The initial members of the corporation will be the Bendigo Anglican Diocesan Corporation Ltd and the Melbourne Anglican Diocesan Corporation Ltd.¹⁰⁶ The Diocese of Wangaratta has indicated that it intends to be a client of the corporation.¹⁰⁷

In a statement provided to us as part of the *Institutional review of Anglican Church institutions* hearing, Mr Michael Shand QC, Chancellor of the Diocese of Melbourne and member of the Professional Standards Commission, told us that the role of the 'independent scheme corporation' will be to administer complaints and clearance regimes as well as any Church redress scheme.¹⁰⁸

Mr Shand QC told us that the corporate approach was a compromise between acknowledging the autonomy of dioceses, and the need for a common and independent approach.¹⁰⁹ He told us:

We see that independence as really important. It is really important to winning back the confidence of the community in the church through setting up an independent process, governed by a very clearly defined process. In effect, we would see this winning back the confidence and trust of the community.

The way we do that would be to committing to a common process through this common body that could operate nationally, but committing to it, so that when the question is asked, ‘Well, what confidence do you have that in future the church will appropriately respond? Boards change, councils change, bishops change, they come and go.’ We commit to a legislated process that we would say is transparent and independent and can stand scrutiny, and it will endure into the future, and it will be the set of rules and expectations by which bishops, clergy and lay people operate within their own diocese.¹¹⁰

We acknowledge that the purpose of the independent scheme corporation is restricted to managing the complaint handling process for the Diocese of Melbourne and others. While it is not something that we explored at the hearing, an independent corporate entity could in fact operate nationally and have within its remit the implementation of consistent child safe standards across all Anglican Church dioceses.

As discussed in Section 12.5, ‘Contemporary Anglican Church responses to child sexual abuse’, the General Synod recently adopted the *Redress for the Survivors of Abuse Canon 2017*. The canon authorises the Standing Committee to establish an independent corporate entity for purpose of co-ordinating and managing redress for survivors of child sexual abuse in the Anglican Church. Among other things, it will engage with the Australian Government redress scheme on behalf of Anglican dioceses and associated institutions.

In Section 12.6, ‘Contributing factors in the Anglican Church’, we discuss the structural and cultural barriers to national consistency that exist within the Anglican Church. An independent corporate entity may resolve some of those barriers by placing responsibility for national child safe standards outside the often slow decision-making processes of synods.

20.3.3 The Salvation Army

National Professional Standards Council

During *Case Study 49: Institutional review of The Salvation Army, Australia Eastern Territory and Australia Southern Territory (Institutional review of The Salvation Army)*, we heard that in 2014 The Salvation Army Eastern Territory and The Salvation Army Southern Territory formed a National Professional Standards Council (NPSC).¹¹¹ According to the preamble to the NPSC’s terms of reference, its purpose is to ‘ensure, among other things, that abuse such as occurred in the children’s homes run by The Salvation Army in Australia pre-1990s should never happen again’.¹¹²

The terms of reference for the NPSC indicate that its responsibilities are broad and principally focused on developing a national and best-practice approach to child safety across The Salvation Army territories in Australia. The NPSC's terms of reference state that it will:

1. 'Provide a national perspective in respect to all matters pertaining to issues of child sexual abuse and all other forms of abuse'.
2. 'Co-ordinate a national approach to the development of policies, principles, procedures and other resources necessary to promote ministry and service practices for children, vulnerable adults and all people accessing Salvation Army services'.
3. 'Work to provide a world's best practice response to allegations of abuse'.
4. 'Coordinate the response to the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) and various other state-based inquiries into abuse within religious and other organisations'.
5. 'Consider and respond to any related matters as it considers appropriate'.¹¹³

The chair of the NPSC is one of the two territorial commanders, as appointed by the General of The Salvation Army. The other territorial commander assumes the position of vice-chair.¹¹⁴

The NPSC has extensive functions, including to consider all matters relevant to professional standards, safe ministry and service practices; create standards that can be applied to all Salvation Army settings; ensure standards are maintained and applied; harmonise disciplinary processes and national Officers Review Board procedures for 'dealing with sexual offences'; receive regular reports from territories about incidents of abuse, compensation payments and statistical data; and report findings and recommendations to the territories.¹¹⁵

Commissioner Floyd Tidd, National Commander of The Salvation Army Australia, told us that, as at July 2016, the work of the NPSC has resulted in the development of a *National minute for the management of sex offenders*. A further initiative was the implementation of a Bulk Payment Agreement with Medicare by the Southern Territory, which followed the approach of the Eastern Territory. The Bulk Payment Agreement is designed to simplify the reporting obligations for survivors and enable The Salvation Army to process claims for medical expenses more quickly.¹¹⁶

A national Salvation Army

During the *Institutional review of The Salvation Army* hearing, we received evidence that in March 2016 The Salvation Army International Headquarters announced the unification of The Australian Salvation Army Southern and Eastern territories, titled the Australia One Project.¹¹⁷ The transition to a unified Salvation Army in Australia commenced in 2016 and is expected to be completed by June 2019.¹¹⁸ The unified Australian Salvation Army will be led by Commissioner Tidd, supported by the chief secretaries of each of the Southern and Eastern territories, and the national president of women's ministries.¹¹⁹

During our *Institutional review of The Salvation Army* hearing, Commissioner Tidd told us that the transition to a single national structure was seen as a more beneficial way for The Salvation Army to operate and interact with government, business and community organisations.¹²⁰ A driving factor for a national territory was differences in policies of the Southern and Eastern territories. Commissioner Tidd told us ‘the move to a national territory allows best practice to be embraced by all’.¹²¹

We received evidence in the course of our *Institutional review of The Salvation Army* hearing about the proposed approach to developing best-practice child safe policies and procedures in The Salvation Army’s new national territory. The policies relevant to child protection of the two Salvation Army territories differ. The Southern Territory uses the *Keeping children safe policy*,¹²² while the Eastern Territory uses the *Safe salvos manual: caring for kids, youth and other vulnerable people (Safe salvos)*.¹²³ Commissioner Tidd told us that it is the intention that all policies and procedures will be uniform.¹²⁴ He gave evidence that the *Keeping children safe policy* and associated documents operational in the Southern Territory will be rolled out as the policy framework for a national territory.¹²⁵ Ms Nici Lhuede, Coordinator and Policy Consultant, Territorial Professional Standards Unit, The Salvation Army Southern Territory, explained her approach to drafting policy that requires application over many jurisdictions:

if there are legislative requirements, I look at what is the highest threshold. I set that as the highest threshold. So if Victoria, for example, has the highest threshold around requirements under their child safe standards, or reportable conduct scheme, even though it’s going to be very similar to the New South Wales scheme, we will set that as our threshold ... there will be consultation around how we merge those into a national approach, and, again, it will be that common threshold – so what is the highest level legislatively or ethically or morally that the organisation wants – needs to set, and that’s what we will set as our framework.¹²⁶

20.3.4 The Uniting Church in Australia

During our *Institutional review of Uniting Church in Australia* hearing, we received evidence that in August 2015 the Uniting Church in Australia developed a National Child Safe Policy Framework. The purpose of the framework is ‘to provide an overarching and nationally consistent framework for child safety for the Church and its institutions’.¹²⁷

Reverend Heather den Houting, General Secretary of the Uniting Church Queensland Synod, told us that the framework identifies required principles which the councils and institutions of the Uniting Church subsequently develop into policies and procedures that are implemented. Reverend den Houting said that the framework was designed to complement and align synod and institution policies that have been tailored for the relevant settings and, in many instances, to comply with Commonwealth, state or territory legislation and accreditation requirements.¹²⁸

Reverend den Houting told us that, following the release of the Royal Commission's work on child safe organisations in August 2016, the Uniting Church commissioned a review of its framework. The aim of the review was to 'assess the framework for alignment with these documents released by the Royal Commission, most particularly the advice contained in *Creating Child Safe Institutions*'.¹²⁹ The opportunity was also taken to review the framework against lessons learned since its initial implementation.¹³⁰

In March 2017 a revised framework, which addresses the Royal Commission's Child Safe Standards, was approved by the Uniting Church Assembly Standing Committee. The President of the National Assembly of the Uniting Church, Mr Stuart McMillan, gave evidence that the improvements in the revised framework included a stronger emphasis on children and family and their involvement in processes and policies of the Uniting Church, and on equity and diversity.¹³¹

The General Secretary of the National Assembly of the Uniting Church, Ms Colleen Geyer, told us that the assembly's most important ongoing work is:

to implement the revised national framework and to see how that is promulgated in a consistent way throughout the Church's work in all its synods and councils and agencies and institutions, so that that consistency can be brought to the level that we will now understand in this new way that we've looked at in the revised framework. That is very important.¹³²

During our *Institutional review of Uniting Church in Australia* hearing we received evidence that the Uniting Church has audited compliance with its National Child Safe Policy Framework in its institutions. Ms Geyer told us that the Uniting Church has undertaken two national audits since the commencement of the Royal Commission. The first was in relation to the implementation of its initial national framework, to see where it had been implemented and to look at consistency in implementation. The Uniting Church carried out a more specific audit the following year. Ms Geyer said that at the moment the Uniting Church is looking at how its framework is being implemented, what is happening across its institutions and councils and how those institutions and councils are committed to the framework, including training. She told us the Uniting Church expects to revise the audits as time goes on.¹³³

We received evidence that the first Uniting Church audit found gaps specifically in relation to the development and publication of resources, particularly for external audiences, that explicitly state and explain agencies' commitment to child safety. The way in which children and their families are engaged in the continual improvement of services, particularly through the use of feedback and complaint mechanisms, was also an area identified for further focus.¹³⁴

20.3.5 Australian Christian Churches and affiliated Pentecostal churches

During the *Institutional review of Australian Christian Churches* hearing, we received evidence that in December 2015 the ACC implemented the Safer Churches Strategy.¹³⁵ The Safer Churches Strategy represents a shift to a national model of child safety for the ACC. Previously each ACC-affiliated church adopted its own approach based on the relevant legislation in its state or territory.¹³⁶

The National President of the ACC, Pastor Wayne Alcorn, the National Secretary and Treasurer of the ACC, Pastor Sean Stanton, and the Director of Safe Ministry Resources, Mr Peter Barnett, gave evidence about the initiative. Mr Barnett was engaged to assist the ACC in developing its child protection policy and framework. Pastor Alcorn, Pastor Stanton and Mr Barnett told us that the ACC's National Executive developed and implemented the Safer Churches Strategy in order to:

ensure that child safety (and safety of all vulnerable people) is considered and implemented from the highest level of leadership in the ACC movement ... and then disseminated consistently across the entire national affiliate.¹³⁷

The Safer Churches Strategy contains a number of initiatives, the primary one of which is a new national child protection policy which the ACC requires its affiliated churches to adopt or use as a 'minimum standard'. The child protection policy states that its purpose is, among other things, to: 'provide for and promote a child safe culture that is understood, endorsed and put into action by all the individuals who work for, volunteer or access an ACC program, service or managed facility'.¹³⁸

The Safer Churches Strategy also includes a new national hotline for receiving complaints or concerns about abuse, called the ACC Safer Churches Hotline. The hotline was established and is operated by Safe Ministry Resources. Pastor Stanton told us that the purpose of the national helpline is that it allows anybody in any ACC-affiliated church, including pastors, who has a query or a concern to call an independent person for advice. The independent person makes an assessment of the query and can also give advice on reporting.¹³⁹

In addition, the Safer Churches Strategy establishes a range of support mechanisms, including training workshops, officers who assist in the implementation of the strategy at a state level, and a panel which meets regularly to review policies, guidelines, processes and reported abuse.¹⁴⁰

During our *Institutional review of Australian Christian Churches* hearing, Pastor Alcorn gave evidence that the ACC makes the adoption of the policy by affiliated churches a condition of their accreditation by the ACC. Pastor Alcorn explained:

Quite simply, if you want to remain a pastor at any level within the Australian Christian Churches, or you want your church to remain affiliated with us, there is no option, other than to accept our policy.¹⁴¹

Discussing how this requirement is enforced in practice, Pastor Stanton told us that a senior pastor of a local church is required, at the point of renewal of affiliation, to fill in a form confirming that the board of that church has adopted the policy.¹⁴² Pastor Stanton said that awareness of compliance occurs when leaders at the regional, state or national level visit churches. He advised, however, that there is no formal audit process in place to ascertain whether affiliate churches are in fact complying with the policy.¹⁴³ Pastor Stanton identified this as a potential area to consider, but said it would be ‘an ability to resource [auditing] that would be the challenge for us’.¹⁴⁴

20.3.6 Conclusions about child safe initiatives in religious organisations

We welcome the commitment and work undertaken to date by religious organisations to develop better and consistent standards in relation to child safety.

Consistent with Recommendations 16.32–35, the religious organisations discussed in this section should adopt the Child Safe Standards as part of their existing frameworks and use them to guide their continuous improvement.

The religious organisations discussed in this section have told us they intend to measure, and in some cases promote, compliance with existing standards in different ways. For example, the Catholic Church has indicated it will, through Catholic Professional Standards Limited, audit institutions against its standards and make public the results of those audits. The Anglican Church is proposing a similar model of public auditing. The Uniting Church has undertaken audits of the implementation of its framework, but we did not receive any information about whether the results of those audits will be made public as a matter of course. The Australian Christian Churches requires its national policies and procedures to be adopted by affiliated churches, but has not yet developed a mechanism to audit implementation.

In Section 20.2.3 we said that religious organisations could play a role in promoting ongoing compliance with the Child Safe Standards for affiliated institutions, including through existing audit mechanisms. As noted in that section, measuring compliance in institutions across sectors and jurisdictions can provide unique insights into institutional approaches to child safety and allow the organisation to strategically address gaps and build capacity where required. Making the results of those audits public is a powerful accountability mechanism for individual institutions to implement and achieve better standards in relation to child safety.

We encourage religious organisations to implement a process of measuring compliance with the Child Safe Standards in their affiliated institutions and to work closely with state and territory oversight bodies in those audits. Each religious organisation should also give consideration to making public the results of any internal audit of their affiliated institutions with respect to child safety and compliance with the Child Safe Standards for the purposes of transparency and accountability.

20.4 Addressing child safety in religious institutions

In this section we discuss each of the Child Safe Standards in more detail, and drawing on our case studies, consultations, private sessions, and examples of policies and procedures we received during our institutional review hearings, make recommendations to all religious institutions about improving child safety. Our recommendations focus on factors that we identified as potentially contributing to failures to prevent child sexual abuse and to inadequate institutional responses in religious institutions.

20.4.1 Leadership, governance and culture

Leadership

As we outline in Volume 6, *Making institutions child safe*, Child Safe Standard 1 is ‘Child safety is embedded in institutional leadership, governance and culture’. A core component of this standard is that leaders create and maintain an institutional culture where children’s best interests, respect for their rights, and their protection from harm are at the heart of the institution’s operation and the responsibility of all staff at all levels. Commissioned research suggests that leaders should espouse a positive child safe culture by conveying the values, beliefs and practices that they adhere to and, by implication, the values, beliefs and practices that staff and volunteers within an institution are expected to ascribe to.¹⁴⁵

As we outline in Chapter 19 ‘Common institutional responses and contributing factors across religious institutions’, our inquiry has demonstrated critical failures of leadership in preventing and responding to child sexual abuse in religious institutions. We have heard about leaders of religious institutions who supported cultures in which children were dehumanised and not valued, who allowed perpetrators to continue to have access to children and to hold positions of authority within the institution, and most notably, who prioritised the reputation of the institution above the needs of children in order to avoid reputational damage. We have also found various other systemic issues that contributed to the occurrence of child sexual abuse and inadequate responses which arose as a result of poor leadership.

In this section, we consider and make recommendations about improving leadership in religious institutions, including increased training and education for religious leaders, improved consultation on matters relating to child safety, and how leaders can develop their institution’s commitment to child safety.

Training and education for leadership

Leaders of religious institutions have a significant role to play in creating and maintaining child safe cultures. Throughout our inquiry we heard that as a consequence of both their leadership roles and their status as people in religious ministry, religious leaders hold positions of considerable power, authority and influence in both their institution and the community more broadly. Their values, beliefs and practices in relation to child safety can have a significant impact on the culture of an institution.

Speaking in relation to the Catholic Church during our *Institutional review of Catholic Church authorities* public hearing, Dr David Ranson, theologian and Vicar General of the Catholic Diocese of Broken Bay, told us:

the leadership of a diocese has enormous influence ... a person who has a leadership that is inclusive and accountable can create a very different culture within his diocese than the bishop who is of the diocese beside him who might have a very different capacity for leadership and not be able to create such a culture.¹⁴⁶

Similarly, in the *Institutional review of Anglican Church institutions* public hearing, member of the General Synod of the Anglican Church of Australia, Dr Muriel Porter OAM, told us that in the Anglican Church ‘fundamentally, it’s the bishop who has the position of the spiritual leadership and can really influence the way that synod operates to a very great degree’.¹⁴⁷

It is evident to us that leaders of those religious institutions we examined were not adequately prepared for what was required of them in preventing and responding to child sexual abuse. Some lacked the capacity to function as effective leaders and were unprepared and unsupported in their role. For example, in *Case Study 42: The responses of the Anglican Diocese of Newcastle to instances and allegations of child sexual abuse (Anglican Diocese of Newcastle)* we found that Bishop Roger Herft’s response to complaints of child sexual abuse against senior clergy was weak and ineffectual, and showed no regard for the need to protect children from the risk that they could be preyed upon. It was ultimately a failure of leadership.¹⁴⁸

Major David Eldridge, a retired Salvation Army officer, told us that in The Salvation Army ‘there was a strong tendency for leaders to never admit that they were wrong or seek advice from outside their immediate leadership growth’.¹⁴⁹

Mr Peter Johnstone OAM, President of Catholics for Renewal, gave evidence that bishops, priests and clergy in the Catholic Church are not adequately prepared for what is required of them in leadership.¹⁵⁰ He said there is little recognition in the Catholic Church – in comparison to civil society – of the need for those in leadership to know how to manage an organisation, lead the people in it and bring resources together in a way that builds culture.¹⁵¹

During our *Institutional review of Catholic Church authorities* hearing, the Catholic Archbishop of Perth, Archbishop Timothy Costelloe SDB, gave evidence that the high incidence of sexual abuse of minors by Catholic Church personnel can be primarily attributed to a ‘catastrophic failure of leadership’.¹⁵² The archbishops of Adelaide, Sydney, Brisbane and Melbourne agreed with Archbishop Costelloe’s assessment.¹⁵³

We acknowledge that in many religious institutions, the training and education provided to leaders in the area of child safety has improved in recent years. As we discuss below in Section 20.4.7, positive initiatives designed to better equip leaders to prevent and respond to child sexual abuse in their institutions are emerging.

However, given the unique position of authority, trust and responsibility that religious leaders hold, and the impact that they can have on the culture of an institution, there is a need for those individuals to be appropriately trained and supported for their leadership role. We consider that religious leaders should receive training both before their appointment and throughout their time in the position. This will develop their capacity to lead and foster a child safe culture.

Recommendation 16.36

Consistent with Child Safe Standard 1, each religious institution in Australia should ensure that its religious leaders are provided with leadership training both pre- and post-appointment, including in relation to the promotion of child safety.

Consultation on matters relating to child safety

Throughout our inquiry we heard about religious leaders who acted unilaterally in their responses to child sexual abuse, without appropriate consultation and without appropriate concern for the welfare of the victim and the safety of children. As outlined in Chapter 19, some religious leaders told us they lacked an understanding of child sexual abuse, including whether or not it was a crime. Some also told us they lacked an understanding of the appropriate way in which to respond to allegations of child sexual abuse.

Archbishop Costelloe, told us he believed an issue in the past in the Catholic Church was bishops tended to be regarded ‘like a little monarch’ who ‘could make whatever decisions he wanted irrespective of what advice he might seek or not seek’.¹⁵⁴ The then Bishop of the Diocese of Wagga Wagga, Bishop Gerard Hanna, told us:

The management of child sexual abuse matters in the past was inadequate. The inadequate management was due to the diocesan authority acting independently of any effective consultative body, with a disproportionate concern for the Church and its reputation, and with less concern for the wellbeing of the victim.¹⁵⁵

In our view, these factors were at times compounded by the significant independence with which some leaders in the Catholic Church operated.

Discussing how to address the risk of child sexual abuse in primary and secondary schools, the New South Wales Ombudsman told us that ‘there is a need for the [Catholic] Church to adopt a system that encourages stronger peer review and where necessary, obtaining independent expert assistance’ particularly in relation to ‘the Church balancing its pastoral care for priests with managing risks to children’.¹⁵⁶

Some Catholic archbishops told us that in recent years they have adopted a more consultative style of leadership and engaged in much broader consultation on matters relating to child safety.¹⁵⁷

There are some existing mechanisms in the Catholic Church by which bishops and religious superiors, that is those that lead religious institutes, can consult both internal and external expertise in relation to allegations of child sexual abuse. Since 2003,¹⁵⁸ Towards Healing has set out that Catholic Church authorities should ‘have, or have access to’ a ‘Consultative Panel’ to ‘provide the necessary expertise, experience and impartiality for advising the Church Authority in relation to allegations of abuse’.¹⁵⁹ The panels are to be consulted in a range of circumstances, including where a priest or religious is charged with a criminal offence in relation to a complaint of abuse, where a complaint is considered to be substantiated under Towards Healing, or in responding to a victim.¹⁶⁰ A survey conducted by the National Committee for Professional Standards in 2010 revealed a ‘variable’ approach to the establishment and use of consultative panels by ‘religious institutions’.¹⁶¹

During the *Institutional review of Catholic Church authorities* hearing, some Catholic religious leaders told us they have either recently established consultative panels¹⁶² or broadened the scope of existing panels that were established under the Towards Healing protocol.¹⁶³ However, it appears there is variance in the scope and composition of these panels. Some authorities only maintain them for matters under Towards Healing,¹⁶⁴ whereas others have broadened their scope to advise on all matters relating to child safety, including prevention, policies and procedures, and responses.¹⁶⁵

Some Catholic Church authorities have also included professional lay women as members of consultative panels. Archbishop Costelloe told us that he believed he needed the advice of professional lay women and men ‘in order to achieve a higher level of objectivity in making decisions about those who had been accused and/or found guilty of abuse of minors’.¹⁶⁶ The De La Salle Brothers told us they have expanded the membership of their external consultative committee to include three female expert members.¹⁶⁷ We discuss issues with respect to leadership in the Catholic Church in Australia further in Section 13.11.5, ‘Leadership’.

The issue of leaders appropriately consulting on matters relating to child sexual abuse also arose in evidence we received in relation to other religious organisations.

During our *Institutional review of The Salvation Army* hearing, Major David Eldridge, a retired Salvation Army officer, told us that, in his opinion, ‘too many decisions’ about developing and responding to children and young people at risk, or those who had been abused in the organisation’s care, were made without reference to external professional input. He gave evidence that the absence of ‘legal and child advocacy professionals’ in complex decision-making in The Salvation Army may limit its capacity to make informed and just decisions.¹⁶⁸

In *Case Study 29: The response of the Jehovah’s Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse (Jehovah’s Witnesses)*, we heard that the principle of male headship means that, scripturally, ‘men make the final decisions’.¹⁶⁹ Only men can be elders and only elders can investigate and preside over judicial hearings involving allegations of serious sin, including child sexual abuse.¹⁷⁰ The effect of this is that women cannot participate in making decisions in the investigation or determination of allegations of child sexual abuse. In Chapter 15, ‘Jehovah’s Witnesses’, we recommend that the Jehovah’s Witness organisation revise its policies so that women are involved in processes related to investigating and determining allegations of child sexual abuse (see Recommendation 16.28).

We received evidence that in the Anglican Church, the professional standards framework mandates that each diocese should have a professional standards committee. The membership of the committee will be constituted to provide, among other things, ‘experience and appropriate professional qualifications in child protection, social work or counselling’.¹⁷¹ The model states that there should be, so far as it is reasonably practicable, an equal number of men and women, as well as at least one non-church member.¹⁷²

We consider that for religious leaders, appropriate consultation on matters relating to child sexual abuse and child safety is an important aspect of Child Safe Standard on leadership, governance and culture. Consultation on matters relating to child safety can also be seen as an important governance mechanism designed to enhance the good judgement of those running an institution. Leaders of religious institutions should take advice from individuals with professional expertise on matters relating to child safety, including lay men and women, to enhance their decision-making and ensure they drive prevention and response initiatives in their institution.

The involvement of lay people in decision-making was also highlighted by a survivor, ‘Damion’, during a private session. ‘Damion’ told us he hoped the religious organisation which managed the institution in which he was abused would ‘be honest and say we stuffed up’. He recommended it involve lay people in deciding what needs to be done about child sexual abuse within its institutions.¹⁷³

Recommendation 16.37

Consistent with Child Safe Standard 1, leaders of religious institutions should ensure that there are mechanisms through which they receive advice from individuals with relevant professional expertise on all matters relating to child sexual abuse and child safety. This should include matters in relation to prevention, policies and procedures, and complaint handling. These mechanisms should facilitate advice from people with a variety of professional backgrounds and include lay men and women.

Committing to child safety

One of the important, but by no means only, ways in which religious leaders can ensure their institution is committed to child safety is by embedding such commitments in publicly available statements, policies and procedures. In addition to signalling expectations to the staff and volunteers of the institution, commitments create a standard by which the community can expect the institution to conduct itself. Many leaders of religious institutions we examined throughout our inquiry have, in recent years, made such commitments.

While the Catholic Church in Australia has made a number of commitments to child safety over time,¹⁷⁴ since the commencement of our inquiry they have become stronger and more comprehensive. In September 2013, the leaders of the Catholic Church authorities in Australia released a statement which, in part, said:

The leaders of the Catholic Church in Australia commit ourselves to endeavour to repair the wrongs of the past, to listen to and hear victims, to put their needs first, and to do everything we can to ensure a safer future for children.¹⁷⁵

Our review of child protection policies and procedures for the *Institutional review of Catholic Church authorities* hearing indicates that many Catholic Church authorities have embedded a commitment to child safety in their policies and procedures, the majority of which are available online. Some Catholic Church leaders have also released public statements which highlight their commitment. Notable among these is one provided by the Bishop of the Diocese of Maitland–Newcastle, Bishop William Wright. Bishop Wright created a video message that is available on the diocese’s website and played as part of the introduction to the diocese’s child protection training. In the video, Bishop Wright highlights his expectations of staff and acknowledges his role in creating a child safe environment. He states:

As the Bishop of Maitland-Newcastle, I have clear expectations; I expect you to promote the safety, wellbeing and welfare of all children. Child protection is about the mundane rather than the sensational, it’s about each one of us being alert to the indicators of abuse, the unsafe behaviours of those around us. Child protection is about you finding the courage to intervene if you see unsafe behaviour or you identify indicators of abuse. Child protection is about us taking some small personal and professional risks to ensure that the vulnerable don’t suffer terrible harm.¹⁷⁶

Bishop Wright's statement articulates the key message that child safety, and cultural change to that end, are responsibilities shared by all Catholic Church personnel, at all levels of the institution. We consider his message to be a strong example of a public commitment to child safety by a religious leader.

At its 2004 General Synod, the Anglican Church at a national level adopted and affirmed a Safe Ministry policy statement committing to 'the physical, emotional and spiritual welfare and safety of all people'.¹⁷⁷ In 2014, the General Synod adopted the *Charter for the safety of people within the churches of the Anglican communion*, which included the same commitment, but especially for 'children, young people and vulnerable adults'.¹⁷⁸ During the *Institutional review of Anglican Church institutions* public hearing, Ms Anne Hywood, General Secretary of the General Synod of the Anglican Church of Australia, reiterated an apology made in 2004, and stated that 'the commitments in this apology from 2004 still guide our work to deliver a child safe culture'.¹⁷⁹

Our review of documents received as part of our *Institutional review of Anglican Church institutions* hearing indicates that almost all dioceses have a commitment to child safety expressed in their policies. Often this commitment is in the form of recognising that child safety is part of the 'mission' of the Anglican Church.

Both The Salvation Army Southern Territory and The Salvation Army Eastern Territory have also adopted commitments to be child safe,¹⁸⁰ as have the Australian Christian Churches, Hillsong Church,¹⁸¹ and some of the institutions associated with Yeshiva Bondi and Yeshivah Melbourne.¹⁸²

During our *Institutional review of Uniting Church in Australia* hearing, Mr Stuart McMillan, President of the National Assembly of the Uniting Church, told us that the Uniting Church has pledged to continuously seek improvement to ensure that its policies and practices reflect the best practice for the care, service and support of children. Importantly, the Uniting Church's pledge includes a commitment to ensure that child safety is integrated into its organisational culture.¹⁸³

Consistent with our Child Safe Standard on institutional leadership, governance and culture, leaders of religious institutions should take steps to ensure their institution is committed to child safety. An important, but by no means only, way to develop a culture of child safety is by embedding strong commitments to child safety in publicly available statements, policies and procedures.

Governance

As outlined in Volume 6, *Making institutions child safe*, governance encompasses the systems, structures and policies that control the way an institution operates, and the mechanism by which the institution, and its people, can be held to account.¹⁸⁴ Governance strongly influences an institution's practices and decision-making processes. It is embedded in the good behaviour and the good judgment of those responsible for running an institution.¹⁸⁵ Integrity, transparency and accountability, risk management, culture and ethics are all important elements of good governance and can help an institution meet its objectives.¹⁸⁶

In Chapter 19, we conclude that the governance arrangements of particular religious organisations may have contributed to the high incidence of child sexual abuse in religious institutions and inhibited effective institutional responses to child sexual abuse. In some cases they acted as barriers to a consistent national approach to responding to allegations of child sexual abuse.

In this section, we consider and make recommendations about the governance of religious institutions, including the accountability of religious leaders, governance standards, conflicts of interest, and the governance of some religious schools.

The accountability of religious leaders

Our inquiry has revealed how an institution's governance structure can have an impact on the level of accountability of individuals within it, and the institution's ability to identify and appropriately respond to child sexual abuse. A particular issue that arose during our inquiry was the accountability of religious leaders within governance structures, particularly for the decisions they made with respect to child safety.

Among the wide variety of religious institutions we examined, some are hierarchical and nationally-based, while others are independent and locally-based, or organised as federations. Each governance structure has strengths and weaknesses in relation to responding to child sexual abuse and providing for child safety.

Some religious organisations we examined, including the Catholic Church, the Anglican Church, the Uniting Church, and the Australian Christian Churches, have largely decentralised governance structures. Individual institutions, and their leaders, can have limited actual accountability to the broader organisation or even to a relevant body, such as a board of management.

The structure and governance of the Catholic and Anglican churches are in certain respects characterised by the limited actual accountability of leaders. This is particularly so in the ecclesiastical arms of those churches – that is, those led by the clergy. While there are mechanisms to facilitate input, and in some cases decision-making, by collective bodies such as councils, we have heard that those bodies have limited actual power in oversight and holding leaders to account. We consider the structure and governance of the Catholic and Anglican churches in Section 13.11, 'Contributing factors in the Catholic Church', and Section 12.6, 'Contributing factors in the Anglican Church', respectively.

As outlined in Section 13.11, Dr Thomas P Doyle OP, American Dominican priest, canon lawyer and survivor advocate, has written that the consequence of the individualised nature of authority in the Catholic Church is that, 'there is no separation of powers, hence no checks and balances and no true accountability for Church leaders'.¹⁸⁷

During our *Institutional review of Catholic Church authorities* hearing, Mr Francis Sullivan, chief executive officer of the Truth, Justice and Healing Council, explained the need for Catholic Professional Standards Limited (CPS) as follows:

The real problem is that the Church leadership was never held to account. You have seen this in your own case studies. That's why our Council wanted to go down this pathway of trying to put something in place that could hold Church leaders to account, because, in reality, a bishop is basically, in a technical sense, accountable to the pope.¹⁸⁸

The accountability to which Mr Sullivan refers is the ability of CPS to audit compliance with particular standards and publish the results. In Section 13.11.5, we recommend that the Catholic Church in Australia conduct a national review of the governance and management structures of dioceses and parishes, including in relation to issues of transparency, accountability, consultation and the participation of lay men and women (see Recommendation 16.7).

As outlined in Section 12.6, the Anglican Archbishop of Brisbane, and former primate of the Anglican Church of Australia, Archbishop Phillip Aspinall, told us that Anglican bishops do not exercise monarchical power. He said that authority in the Anglican Church is dispersed at every level, so it is the bishop, in conjunction with the synod, who governs a diocese.¹⁸⁹ We received evidence during our *Institutional review of Anglican Church institutions* hearing that depending on how they are run, synods in the Anglican Church can be key mechanisms for collective decision-making and an opportunity for discussion, particularly for the laity.¹⁹⁰

However, we also heard that the governance structure of Anglican dioceses 'effectively gives a bishop a veto'¹⁹¹ and that bishops can influence the way the synod operates to a 'very great degree'.¹⁹² Archbishop Aspinall, for example, accepted that, if a bishop were inclined to be authoritarian, he or she could prevent a proper discussion about issues of importance, such as responding to child sexual abuse.¹⁹³ He told us that there are channels that you can use to try to persuade a bishop to act differently, but 'they are not processes of formal accountability'. Archbishop Aspinall said that there is 'a kind of informal collegial accountability'.¹⁹⁴ He explained that, when he was primate of the Anglican Church of Australia, he had been involved in a number of attempts to persuade bishops to take a different approach, largely without success.¹⁹⁵

At the time of the *Institutional review of Anglican Church institutions* hearing in March 2017, the question of the accountability of bishops in the Anglican Church had not yet been resolved. Archbishop Aspinall told us that there had been several attempts during his time as primate to put in place 'uniform episcopal standards legislation' – that is, standards to govern the conduct of bishops. He said that there needs to be grievance processes or complaints processes where people can raise issues about a bishop.¹⁹⁶

He explained some impediments to achieving such reform:

One key issue is that – there is quite a body of feeling in the church that bishops must be held accountable by a body external to their own diocese ... But there are others in the church who say there is no way we are going to give an external body power over our bishop. So we have this impasse, really, which has prevented the implementation of a uniform episcopal standards regime.¹⁹⁷

Following our *Institutional review of Anglican Church institutions* hearing, the Anglican Church of Australia adopted the *Episcopal Standards (Child Protection) Canon 2017*. That canon sets out a narrowly defined episcopal standards regime related to complaints against current and former bishops in respect of how they responded to child sexual abuse.¹⁹⁸

The *Episcopal Standards (Child Protection) Canon 2017* must be adopted by all 23 dioceses in order for there to be a consistent national approach to the accountability of leaders in the Anglican Church with respect to child safety.¹⁹⁹ We encourage the 23 dioceses to adopt and implement the canon. In Section 12.6, we recommend the Anglican Church of Australia adopt a uniform episcopal standards framework that ensures that bishops and former bishops are accountable to an appropriate authority or body in relation to their response to complaints of child sexual abuse (see Recommendation 16.1).

Our inquiry has revealed that even where there are mechanisms to provide accountability within broader structures, there is a need for that accountability to be effective.

In *Case Study 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions (Yeshiva Bondi and Yeshivah Melbourne)*, we heard that the leadership and governance of Yeshivah Melbourne revolved around the head rabbi and a Committee of Management.²⁰⁰ Mr Don Wolf, who was Chairman of the Committee of Management from 1998 to 2014, told us that the Committee of Management had a legal responsibility to oversee the activities of Rabbi Yitzchok Dovid Groner.²⁰¹ Despite these formal governance arrangements, we heard that in practice the Committee of Management did not oversee Rabbi Dovid Groner.²⁰² We found that the relationship between the head rabbi and the Committee of Management was one of deference to the rabbi rather than oversight and control.²⁰³

During the *Institutional review of Yeshiva/h* hearing, Rabbi Chaim Tsvi Groner, rabbi at the Yeshivah Centre Melbourne, told us that Yeshivah Melbourne underwent a governance review process in 2015 following the *Yeshiva Bondi and Yeshivah Melbourne* case study. Rabbi Tsvi Groner gave evidence that governance of the centre and its activities had since been spread across three different boards – the Yeshivah Centre Limited, Chabad Institutes of Victoria Limited, and Yeshivah–Beth Rivkah Schools Limited (YBRSL).²⁰⁴

We received evidence that as part of its governance review in 2015, Yeshivah Melbourne invited and received submissions from the public on proposed governance structures. It also engaged in consultation with stakeholder groups and individuals. Yeshivah Melbourne told us that the process was not without friction between different groups within its community but that ultimately its new structure was representative of that community.²⁰⁵ The new boards of management at Yeshivah Melbourne, mentioned above, now include some community elected positions.²⁰⁶

Rabbi Tsvi Groner described the boards as a ‘totally different structure with much more transparency and accountability’.²⁰⁷ Rabbi Yehoshua Smukler, Principal of the Yeshivah–Beth Rivkah Colleges, told us that the YBRSL board is ‘completely independent’ of the Yeshivah Centre in Melbourne.²⁰⁸ However, we also heard that Rabbi Tsvi Groner sits on all three boards associated with the centre.²⁰⁹

The role of boards of management in oversight of religious leaders is particularly important where a religious leader has limited accountability to an external authority within their religious organisation. For example, during our *Institutional review of Yeshiva/h* public hearing, we received evidence that, in the context of complaints about responses to child sexual abuse, there is no external accountability or oversight within Yeshiva Bondi and Yeshivah Melbourne institutions and within the wider Jewish community of rabbinical leaders, other than to and by their board of directors.²¹⁰ We heard that ordinarily a rabbi is answerable to their board of directors²¹¹ but that, as we describe above, where a board operates in deference to a rabbi, that role of oversight can be compromised.

We heard that the recently established Rabbinic Council of Australia and New Zealand has developed a new complaints procedure which would enable complaints against rabbis, ‘outside questions of criminality’, to be investigated by independent figures.²¹² Rabbi Moshe Gutnick, Senior Dayan (a judge) of the Sydney Beth Din (a rabbinical court), told us that it is more than likely that the Rabbinic Council was established as a direct result of our *Yeshiva Bondi and Yeshivah Melbourne* case study.²¹³ The following statement about the new procedure is available on the Rabbinic Council of Australia and New Zealand’s website:

We have created a mechanism which will allow us to review and to consider the conduct of any member who might arguably have acted in a manner unbecoming a religious representative of Australasian Jewry in the most transparent and fair manner. The intention is for the organisation to embark upon a fair and properly constituted process to consider problems of this kind, and to enable us to exclude from membership or otherwise deal with any person whose presence would have an adverse affect [sic] on the reputation of our members. In this way we will be able to present to our communities that our Organisation is one which promotes the highest ideals in accordance with our Jewish faith.²¹⁴

We acknowledge that the structure of some religious organisations, and by extension the accountability of leaders within it, has historical and sometimes theological roots. We also acknowledge that, in some cases, there are specific barriers to altering these structures. However, there is sufficient evidence before us to conclude that the lack of accountability of religious leaders was a factor that enabled inadequate institutional responses and contributed to circumstances in which children were unsafe.

In light of the different, and at times deeply rooted, governance structures of those religious organisations we have examined, we do not propose to recommend specific changes to enhance the accountability of religious leaders in each instance. However, there is a need for each religious institution in Australia to consider and implement mechanisms to ensure that religious leaders can be held accountable for the decisions they make with respect to child safety. That may be to an external body, a board of management or a council.

Recommendation 16.38

Consistent with Child Safe Standard 1, each religious institution should ensure that religious leaders are accountable to an appropriate authority or body, such as a board of management or council, for the decisions they make with respect to child safety.

Governance standards in religious institutions

Our inquiry has highlighted occasions where governance standards in religious institutions have been inadequate. Accountability and transparency within some institutions has been poor, internal supervision and oversight has been lacking, and internal governance mechanisms have been non-existent or not child focused.

Poor governance standards in religious institutions is not only an historical issue. We have heard that some religious institutions still have inadequate governance in particular areas. For example, in the *Anglican Diocese of Newcastle* case study, representatives from the Diocese of Newcastle told us the diocese commissioned a review of its governance structures and processes.²¹⁵ The full report concerning the diocese's governance structures and processes was made public in May 2017. It identified the following key areas of concern:²¹⁶

- unclear accountabilities, interrelationships and reporting lines
- lack of clear business advice
- representative rather than skills-based governance
- nomination process not defined and constrained.

Additionally, the report found that the governance structure of the diocese 'bestows significant power on the elected Bishop' and the number of roles, together with the religious aspects of the diocese, may be 'too onerous for one individual to perform effectively'.²¹⁷

During the *Anglican Diocese of Newcastle* case study the Bishop of Newcastle, Bishop Greg Thompson, told us about the impact of poor understandings of conflict and duties regarding governance in the Diocese of Newcastle:

I've witnessed at the highest level people who played multiple roles and had conflicting duties of responsibility. As they sat among the trustees, as they sat on Diocesan Council, they clearly didn't disclose those conflicts at those meetings and then chose to reveal confidential information or bleed information out. People seem to be unaware of their responsibilities at the highest level about how to make wise and good decisions.²¹⁸

In Section 20.4.5 below we discuss the oversight and professional supervision of people in religious ministry. As outlined in that section, we have heard in our case studies and consultations that accountability and professional supervision and support of people in religious ministry have not been common.

We have also heard that some religious institutions are not subject to external frameworks and obligations that facilitate good governance practices.

For example, many religious institutions, particularly those that provide unregulated services to children, exist as unincorporated or voluntary associations. Under these arrangements, leaders of institutions are not subject to the same legal and fiduciary responsibilities as, for example, a board of management in a basic proprietary limited company.

During our *Institutional review of Catholic Church authorities* hearing we received evidence from Dr Maureen Cleary OAM, a governance and management consultant who has worked extensively with Catholic religious institutes and dioceses in reorganising their governance and management structures. Dr Cleary explained that the focus of directors in incorporated, or proprietary, companies is their legal and fiduciary duties. She said that this 'inevitably leads to systems of compliance, placing a high value on accountability, making sure there are accurate information systems that provide transparency'.²¹⁹

Dr Cleary added that, in terms of child sexual abuse, their duty of care and fiduciary obligations mean that 'child protection is a focus for the boards of these organisations in a very real way'.²²⁰ She said:

I'm talking about exercising the highest standard of care for the organisation and its clients and participants – because they are the aspects of governance that they are personally responsible for in law.²²¹

As we outline in Section 13.11, many bodies in the education and community services arm of the Catholic Church are incorporated and are subject to particular government regulations. In her evidence, Dr Cleary suggested that the Catholic Church should look to these services when considering how structure and governance in the clerical arm might be improved.²²² In

that section we recommend that the Australian Catholic Bishops Conference conduct a national review of the governance and management structures of dioceses and parishes, and that the review draw on approaches to governance of Catholic health, community services and education agencies (see Recommendation 16.7).

During our *Institutional review of Anglican Church institutions* hearing, we received evidence from Reverend Professor Peter Sandeman, Chief Executive Officer of Anglicare SA – an incorporated out-of-home care service provider operating under the auspices of the Anglican Church. Reverend Professor Sandeman explained that the governance standards of Anglicare SA were having a positive influence on the Diocese of South Australia, which is an unincorporated entity, as a consequence of their connection. He said:

The other areas where Anglicare I think is already influencing diocese structures, certainly in Adelaide, is adoption of good corporate governance. The diocese has just put their Diocesan Council through [Australian Institute of Company Directors] training.

I think that's a good thing. So that corporate governance approaches that companies have to have, dioceses are beginning to adopt, and that's a real sense of responsibility for the functioning of the organisations.²²³

Reverend Professor Sandeman also told us about the impact good governance can have on culture:

Modern community service agencies have a developed clinical and social care governance process that is part of our audit and risk appetite process. That's very important. But above all, it's culture. Culture eats everything else for breakfast, as somebody who was wise said, so that getting the culture right is really, really important. We and other Anglicares deliberately go through a values and culture management process and then we measure it ... culture is one of the best protections for vulnerable people engaging with an organisation.²²⁴

In addition, we note that many religious institutions are exempt from particular governance standards ordinarily imposed on charities by the Australian Charities and Not-for profits Commission (ACNC). Many religious institutions registered with the ACNC fall into a particular class of charity called 'basic religious charities'.²²⁵ There are more than 7,000 basic religious charities in Australia, ranging from small local institutions to large regional institutions.²²⁶ Basic religious charities are exempt from certain obligations ordinarily imposed on charities by the ACNC,²²⁷ including external governance standards like ensuring that there is appropriate accountability to members, and ensuring that people responsible for the charity meet certain duties. This includes, in part, the duty to:²²⁸

- act with reasonable care and diligence
- act honestly in the best interests of the charity and for its purposes
- disclose any actual or perceived conflict of interest.

While we have not consulted widely on this issue, the ACNC may consider whether exemptions to governance standards should still apply to basic religious charities that engage with children where those institutions are subject to our Child Safe Standards. The ACNC could provide appropriate advice to the Australian Government on this issue in due course. We note that any changes to the exemption from external governance standards for basic religious charities would require legislative amendment.²²⁹

Managing conflicts of interest

We have heard that in some religious institutions, conflicts of interest can arise in responding to complaints of child sexual abuse. Particularly in smaller or close-knit institutions, personal or familial connections of those in leadership roles can give rise to conflicts of interest, which can contribute to poor overall governance. A policy addressing actual or perceived conflicts of interest in these circumstances is a critical internal governance mechanism.

During *Case Study 18: The response of the Australian Christian Churches and affiliated Pentecostal churches to allegations of child sexual abuse (Australian Christian Churches)*, we heard that in the leadership of the Australian Christian Churches it is common for those in senior positions to have personal or familial connections with other members of the church or other members who hold a leadership role.²³⁰ Similarly, we heard in our *Yeshiva Bondi and Yeshivah Melbourne* case study that there can be powerful relationships, family bonds and loyalties in the Yeshiva/h and broader Jewish community.²³¹ We concluded in both case studies that the relevant institutions failed to recognise and respond to perceived and actual conflicts of interest.²³²

Conflicts of interest can also arise from the nature of the close relationship a person in religious ministry may have with a religious community. During the *Institutional review of Anglican Church institutions* hearing, the former Bishop of Newcastle, Bishop Gregory Thompson, told us that:

Conflicts of interest arise around friendships, where alleged clergy who have offended have been afforded a lot of protection at various levels, either at a committee level or in the local parish – people refuse to accept that their loved priest has been an offender.²³³

We also heard that in the Anglican Church, where there is no oversight or external body responsible for bishops, it can be difficult to find appropriate individuals to consider complaints against bishops. The Anglican Archbishop of Brisbane, Archbishop Phillip Aspinall, told us:

most of the key people within a diocese are either personally known to the bishop, so there are conflicts of interest, or have been appointed by the bishop, so there are conflicts of interest.²³⁴

In the *Institutional review of Australian Christian Churches* public hearing, we heard that the ACC and Hillsong Church have recognised the importance of ‘avoiding any actual, apparent or potential conflicts between personal interests and pastoral responsibilities’.²³⁵ Both the ACC and Hillsong Church have amended their policies and procedures to identify and appropriately manage conflicts of interest.²³⁶ In the *Institutional review of Yeshiva/h* hearing, Rabbi Tsvi Groner told us that Yeshivah Melbourne has also developed a conflict of interest policy, which coincided with the development of the new governance structure.²³⁷ We heard similar evidence in relation to Yeshiva College Bondi.²³⁸ In contrast, Rabbi Pinchus Feldman, Head Rabbi of Yeshiva Centre Bondi, told us that he did not feel that conflicts of interests were an issue in the Yeshiva Bondi community²³⁹ and that, as a result, no policies have been implemented to address actual and perceived conflicts of interest at the Yeshiva Centre in Bondi.²⁴⁰

In the *Anglican Diocese of Newcastle* case study, we heard that the Diocese of Newcastle had taken steps to adopt a conflict of interest policy. The policy comprises a set of guidelines to assist members of the diocesan council and other governance bodies in determining when and how declarations of interest should be made in situations involving competing interests. The policy was updated in 2015 to include a range of definitions of conflicts of interest, with examples of how to determine when a conflict exists.²⁴¹

We consider that, as a matter of good governance, each religious institution should have a policy on managing actual or perceived conflicts of interest that may arise in relation to complaints of child sexual abuse.

Recommendation 16.39

Consistent with Child Safe Standard 1, each religious institution should have a policy relating to the management of actual or perceived conflicts of interest that may arise in relation to allegations of child sexual abuse. The policy should cover all individuals who have a role in responding to complaints of child sexual abuse.

Governance of religious schools

We heard during our case studies that governance arrangements between some religious schools and religious institutions have presented a barrier to achieving consistency in child safety, and in some cases, contributed to inadequate responses to child sexual abuse.

Some religious schools are closely tied to their operating or umbrella religious institution. For example, in Section 13.11.4, ‘Organisational structure and governance’, we discuss how the governance structure of diocesan Catholic schools centralises authority in the bishop of the diocese, who often delegates this authority to a Catholic education office. Some Catholic schools are operated by religious institutes or orders, with separate governance arrangements; however, these schools often have links to diocesan Catholic education offices.²⁴²

Some religious schools may bear the name of a religious organisation but not be directly accountable to that organisation or an institution within it. For example, during our *Institutional review of Anglican Church institutions* hearing, we heard that schools associated with the Anglican Church have a range of governance structures. While some Anglican schools are owned and operated by a diocese,²⁴³ others are separately incorporated,²⁴⁴ owned through subsidiary corporations,²⁴⁵ or owned by an Anglican schools commission.²⁴⁶ A national body, Anglican Schools Australia, has no authority to require schools to adopt particular policies.²⁴⁷

During our *Institutional review of the Uniting Church in Australia* hearing, we received evidence that the Uniting Church exercises more of a 'relational and moral influence'²⁴⁸ in its governance of affiliated schools that are independently incorporated, through appointments on school boards. Mr Stuart McMillan, President of the National Assembly of the Uniting Church in Australia, told us that there has been 'significant conversation since the beginning of the Royal Commission between Uniting Church board members appointed to those schools that are separately incorporated around matters like frameworks and policies and practices'.²⁴⁹ When asked whether the 'community could be more assured that there is, in fact, a unified approach across those 48 schools',²⁵⁰ Mr McMillan replied, 'No, I think it is a work in progress. I wouldn't say at this point that there is consistency across all of those schools'.²⁵¹

In Section 20.2.3 above, we recommend that religious organisations mandate our Child Safe Standards for each of their affiliated institutions (see Recommendation 16.32). This includes schools affiliated with religious organisations. In Volume 13, *Schools*, we recommend that all schools implement the Child Safe Standards (see Recommendation 13.1). We also recommend that the school regulator in each state and territory independently monitor and enforce the Child Safe Standards in schools (see Recommendation 13.2).

Our recommendations have the practical effect of establishing common child safe standards across all religious schools irrespective of their governance arrangements. However, we remain concerned that some affiliated independent schools bear the name of a particular religious organisation, but otherwise have no effective accountability to that organisation, or any institution within it, on matters relating to child safety.

Some of our case studies have highlighted that these schools can operate in a manner contrary to the approach, advice or recommendations of their religious organisation with respect to child safety.

One example of this was *Case Study 20: The response of The Hutchins School and the Anglican Diocese of Tasmania to allegations of child sexual abuse at the school*, which is discussed in detail in Section 12.5. The Hutchins School promotes itself as an independent Anglican school, but it is not operated by the Anglican Diocese of Tasmania. All staff are required to understand and embrace the Anglican tradition.²⁵²

In that case study, a former student of The Hutchins School, AOA, gave evidence that he was sexually abused by the headmaster of the school, David Lawrence, in the mid-1960s. AOA disclosed his experience of abuse to the school in the early 1990s and subsequently sought an apology. The board of management of The Hutchins School repeatedly refused to apologise to AOA. We found that in doing so, the board of management of the school was motivated by a concern to avoid damaging publicity that it perceived might result from an apology.²⁵³ Some years after first disclosing the abuse to the school, AOA approached the then Bishop of the Diocese of Tasmania, Bishop John Harrower, in the hope that the bishop might be able to facilitate an apology from the school and would be able to influence the school and hold it accountable.²⁵⁴ Bishop Harrower told us that he had some power of influence and moral authority over the school but not structural power to compel the school to take particular steps.²⁵⁵ Bishop Harrower took steps independently of the school to apologise to AOA.²⁵⁶ The Hutchins School apologised to AOA some 12 years later.²⁵⁷

To the general public, and particularly to parents who look to send their children to a religious school, affiliated independent schools may be indistinguishable from those schools that have a close governance relationship with, and some accountability to, a religious organisation. Given they operate under the name of a religious organisation, the public is entitled to expect that those independent schools will act in accordance with the approach of, and have the same standards as, that organisation with respect to child safety. Under existing arrangements, independent affiliated schools are not always accountable to the religious organisation with which they are affiliated.

In Section 20.2.3 above, we recommend that religious institutions in existing highly regulated sectors, such as schools and out-of-home care service providers, report their compliance with the 10 Child Safe Standards, as monitored by the relevant sector regulator, to the religious organisation to which they are affiliated (see Recommendation 16.35). We believe this recommendation will increase the accountability of affiliated independent schools to their relevant religious organisation and allow for greater oversight of their approach with respect to child safety.

Culture

Child safety must be embedded in the culture of the [Catholic] Church.²⁵⁸

Mr Francis Sullivan, Chief Executive Officer of the Truth, Justice and Healing Council

We understand organisational culture to consist of the collective values and practices that guide the attitudes and behaviour of staff and volunteers in institutions.²⁵⁹ It guides ‘the way things are done’ and the way issues are managed, dealt with and responded to. A positive child-focused culture can help protect children from sexual abuse and facilitate the identification of and proper response to child sexual abuse.²⁶⁰

Throughout our inquiry, we have heard about organisational cultures in religious institutions that have placed the protection of an institution's reputation above the interests of children. As discussed in Chapter 19, we have heard about responses to child sexual abuse that aimed to avoid or limit damage to an institution's reputation, including by failing to follow up or investigate, moving perpetrators to other jurisdictions, or failing to report abuse to the appropriate authorities. Throughout our case studies, we have heard that hierarchical structures and cultures of obedience in some religious institutions can contribute to an institutional culture that stifles effective responses to child sexual abuse.

Survivors in private sessions also told us about ways in which organisational culture played a part in child sexual abuse.²⁶¹ One survivor, 'Mathew', said the priest who abused him:

is a product of a system that's wrong, a system that has erred from scriptural truth and because it's erred from scriptural truth and it's valued its own good judgment and tradition, it's found itself in a situation where the system produces people who have opportunity and inclination to do these sort of acts.²⁶²

Below, we examine what we heard about improving culture in religious institutions.

Prioritising the best interests and safety of children

Some of the religious institutions we examined have acknowledged that, in order to be child safe, their culture must shift from one of secrecy and protecting their reputation to one that prioritises the best interests and safety of children. During our *Institutional review of The Salvation Army* public hearing, National Commander of The Salvation Army Australia, Commissioner Floyd Tidd, told us:

The Salvation Army has come to terms with the reality that our reputation does not need to be protected; children need to be protected; and, in doing so, the reputation of The Salvation Army will take care of itself. Doing that which is right for survivors and for children, creating safe environments, will look after the reputation. We don't start with the reputation. We start with the child.²⁶³

The Bishop of Parramatta, Bishop Vincent Long Van Nguyen OFM Conv, told the *Institutional review of Catholic Church authorities* hearing that 'if the [Catholic] Church is a good global citizen, then it has to show that the safety and protection of the innocent children must be of paramount interest'.²⁶⁴

We note that in Volume 6, *Making institutions child safe*, we recommend that all institutions uphold the rights of the child and that, consistent with Article 3 of the *United Nations Convention on the Rights of the Child*, all institutions should act with the best interests of the child as a primary consideration (see Recommendation 6.4, set out in Appendix A).

Addressing clericalism

We have heard that a culture of ‘clericalism’ has been a significant contributing factor to child sexual abuse and inadequate responses in some religious institutions.

In simple terms, clericalism is the idealisation of clergy and the idea that they have a special and revered status. In our *Institutional review of Anglican Church institutions* hearing, Professor Patrick Parkinson AM, professor of law at the University of Sydney, referred to clericalism as:

a theological belief system that the clergy are different from the laity; the clergy are in some sense brothers, in a male sense, have responsibilities to each other, and there is a distinction between the clergy and the laity.²⁶⁵

Clericalism is not particular to any one religious institution, though it has manifested in particular in the Catholic and Anglican churches. Anglican Archbishop Aspinall told us that in the Anglican Church ‘it can take an Anglo Catholic form where the priest is seen as having some kind of changed status and, there to be revered and deferred to’. He said that in the evangelical tradition, it ‘takes a different form, where the priest is seen as the qualified teacher, the one with the specialist knowledge, and is therefore to be deferred to and can exercise power’.²⁶⁶ In the *Institutional review of The Salvation Army* hearing, Commissioner Tidd agreed that elements of clericalism may have applied within The Salvation Army, which meant that officers were seen as powerful and authoritative, and that children and the congregation were taught that the officers were beyond wrongdoing.²⁶⁷

In Part D, ‘Institutional responses to child sexual abuse in religious institutions’, we consider the role that clericalism may have played in enabling child sexual abuse and contributing to inadequate institutional responses to child sexual abuse. As we explain in that part, we have received evidence that suggests that in both the Catholic and Anglican churches a culture of clericalism:

- provided clergy who had an inclination to abuse children with opportunities to do so
- discouraged survivors and others from reporting instances of child sexual abuse, including reporting to the police
- placed the reputation of clergy and the church above the welfare of survivors, where reports were made to the institution or where leaders otherwise became aware of instances of abuse
- allowed perpetrators to continue offending, for the reasons set out above.

Addressing a culture of clericalism in religious institutions is a complex question. Throughout our inquiry, we heard from a range of witnesses, both internal and external to religious institutions, about how to break down such cultures. While their suggestions were at times specific to particular religious institutions, commonalities included:

- increased accountability and transparency²⁶⁸
- greater involvement of laity, and in particular women, in the governance of religious organisations²⁶⁹
- better formation and training of candidates for religious ministry.²⁷⁰

For a detailed discussion of clericalism and recommendations about how it could be addressed, see Section 13.11 in relation to the Catholic Church, and Section 12.6 in relation to the Anglican Church.

Improving leadership and governance

As outlined above, leaders of religious institutions have a pivotal role to play in shifting to and promoting a child safe culture. Many acknowledged this point during our institutional review hearings into particular religious institutions.²⁷¹ Our discussion above highlights how some religious leaders and institutions are taking steps to improve leadership and governance in their institutions in order to develop a culture of child safety.

We have also heard that governance plays a critical role. As representatives of the Australian Christian Churches told us, they believe a single national child protection policy and strategy has allowed them to develop like-mindedness among their personnel, which in turn has helped them establish ‘a strong institutional culture concerned with protecting the best interests of every child and of holding child safety as paramount’.²⁷² Mr Anton Block, President of the Executive Council of Australian Jewry, told us that accountability is key in embedding child protection in the culture of an institution.²⁷³

Dr Gerry O’Hanlon SJ, Adjunct Associate Professor of Theology at the Loyola Institute, Trinity College Dublin, gave evidence that in ensuring checks and balances in the governance of the Catholic Church ‘outside help would be very important’, as ‘culture eats strategy for breakfast’.²⁷⁴ He told us:

it is very easy to bring in new rules and new structures and so on ... there is a constant need to monitor whether the new rules are actually being implemented and whether the culture hasn’t proved more resistant than would be proper. So I do think some kind of external review would be a very appropriate way of ensuring that the best interests of survivors, and ultimately, of course the best interests of the Catholic Church, are safeguarded.²⁷⁵

He agreed that the publication of standards and their auditing would be an appropriate mechanism to monitor a change of culture.²⁷⁶

Sharing accountability for child safety

As we acknowledge in Volume 6, *Making institutions child safe*, institutional cultures must be shared by all members of the institution. They are built from the bottom up as well as from the top down. In large religious organisations, cultural change can occur slowly or sporadically, particularly where accountability mechanisms for people in religious ministry are weak or non-existent.

This point was highlighted by the Bishop of Broome, Bishop Christopher Saunders, during our *Institutional review of Catholic Church authorities* hearing. Bishop Saunders told us that he believed that in the Catholic Church there were clergy who had not been won over in such a way that they wanted to cooperate and ‘be part of the new way of being a church’.²⁷⁷ He told us: ‘it’s sometimes difficult, very difficult, to implement the sort of change that you want to implement because really it means changing people’s attitudes’.²⁷⁸ Colonel Mark Campbell, Chief Secretary in Charge of The Salvation Army Eastern Territory, similarly emphasised the need for new employees and officers within the organisation to understand and participate in The Salvation Army’s approach to child safety.²⁷⁹

During the *Institutional review of Anglican Church institutions* hearing, Ms Audrey Mills, member of the Professional Standards Commission and Chancellor to the Bishop of Tasmania, told us about the ongoing challenge of culture change in the Anglican Church:

It needs to be accepted that these issues are not just for leaders or for disciplinary bodies or for committees, it is actually an issue for everyone in our church and we all have a responsibility to play in that area and I think that is the ongoing challenge which we will continue to work through so that that can be properly understood.²⁸⁰

During our *Institutional review of The Salvation Army* hearing, Commissioner Tidd told us he believed that The Salvation Army’s hierarchical structure provided a strong mechanism for cultural change, because a directive can be given and policy must be followed.²⁸¹ However, we also heard that accountability in relation to child safety, and leadership response to it, still needed to be strengthened within the organisation.²⁸² Ms Nici Lhuede, Coordinator and Policy Consultant, Territorial Professional Standards Unit, The Salvation Army Southern Territory, told us that, at times, officer compliance with particular child safety policies is not strongly enforced by leadership. Her comments were echoed by Major David Eldridge, a retired Salvation Army officer.²⁸³ Commissioner Tidd acknowledged some problems with a minority of officers and the ongoing need to shift culture in The Salvation Army.²⁸⁴

The need for shared accountability for child safety was also illustrated by the evidence we received with respect to religious schools. Our case studies have shown that the hierarchical structure of Catholic dioceses and some religious institutes meant that people in religious ministry involved in schools, including school leaders, sometimes did not take responsibility for following up on allegations, as they saw this as beyond their role or status. Although they may have been leaders within their school, they held little authority within their respective religious

institute or diocese, and may not have been responsible for decision-making about ongoing risks posed by an alleged perpetrator who was also a member of their religious organisation.²⁸⁵ We discuss responses to child sexual abuse in Catholic schools further in Section 13.10, ‘Catholic Church responses to child sexual abuse in schools’.

Enhancing the role of women

We heard that the role of women in decision-making within the Anglican Church of Australia helped develop a child safe culture. In our *Institutional review of Anglican Church institutions* case study, Dr Muriel Porter OAM, member of the General Synod, told us how in dioceses where women were accepted as priests and bishops there was a ‘huge culture change’.²⁸⁶

Bishop Greg Thompson, former Bishop of the Diocese of Newcastle, told us that ‘generational nurturing of offending’ has been broken, with part of the change being the inclusion of women in the clergy. It has provided the diocese with ‘a new perspective, a new way of thinking about ministry, but also it broke the power of older men mentoring younger boys’.²⁸⁷

In the Anglican Diocese of Melbourne, a third of the members of the diocesan council were women and there is a rule that 50 per cent of committee members must be women.²⁸⁸ At a national level, both the Professional Standards Commission and the Royal Commission Working Group have over 50 per cent women members.²⁸⁹

Some within the Catholic Church have also spoken about the need to enhance the role of women in the church, and the effect it would have on its culture.

As outlined in Section 13.11.3, ‘Clericalism’, retired Auxiliary Bishop of the Archdiocese of Sydney, Bishop Geoffrey Robinson, has written that a ‘true equality between male and female in the Church would – by itself – change the entire culture dramatically’. He stated:

It is surely reasonable to assume that, if women had been given far greater importance and a much stronger voice, the church would not have seen the same level of abuse and would have responded far better to this overwhelmingly male problem.²⁹⁰

Brother Peter Carroll, the Australian Provincial of the Marist Brothers, told us during our *Institutional review of Catholic Church authorities* hearing that:

I believe we have to bring women much more into the power structures of the Church. It can’t just afford to lie at the tokenistic level, which it generally does. It has to be real and it has to be deep seated and embedded.²⁹¹

Embedding a culture of child safety through policies and procedures

During our institutional review hearings, we received evidence that some religious institutions have specifically targeted the issue of culture in their policies and procedures. For example, during our *Institutional review of Catholic Church authorities* hearing, we received evidence that in 2016 the Marist Brothers introduced the *Child protection standards: A framework for Marist Association of St Marcellin Champagnat (Marist standards)*.²⁹² The *Marist standards* are a set of principle-based obligations designed to be applied flexibly in each Marist ministry in recognition of the variety of activities carried out by Marist Brothers across different states and territories.²⁹³

Brother Carroll, told us that the *Marist standards* aim to “develop a culture” within each MSA school [and] Marist Ministry wherein protecting children from abuse is embedded in the everyday thinking and practice of leaders, staff and volunteers’.²⁹⁴

Brother Carroll told us that Standard 2 in the *Marist standards*, ‘Strategies to Embed a Child Protection Culture’, has been developed as a best-practice principle and protocol to embed and enhance the culture of child protection. MSA schools and Marist ministries can provide evidence of meeting this standard if they:²⁹⁵

- employ a child protection officer (or similar) who is trained and supported to promote a child protection culture within the school or agency and to effectively manage any child sexual abuse incidents that occur
- provide induction training to all staff, direct-contact volunteers and direct-contact contractors regarding professional boundaries in adult–child interactions, and how to recognise and respond to child sexual abuse
- provide induction training and refresher training to all staff in relation to mandatory reporting requirements in their jurisdiction
- provide adequate training to child protection officers, or equivalently named personnel, for the discharge of their responsibilities
- maintain adequate records of child protection issues and responses to child protection incidents
- develop and implement strategies to embed or improve on a culture of child protection that meet their (MSA schools’ and Marist ministries’) own circumstances (for example, in an MSA boarding school, specific strategies for managing residential child protection issues)
- periodically review the effectiveness of strategies and, if considered appropriate, revise them.

In our view, the Marist Brothers’ emphasis on embedding a culture of child protection, as set out in Standard 2 of the *Marist standards*, is a commendable approach. It provides practical and straightforward examples of how institutions within the Marist Brothers can work towards a culture of child safety.

Understanding the impacts of child sexual abuse

During our *Institutional review of Anglican Church institutions* hearing, Bishop Tim Harris, then Administrator of the Diocese of Adelaide, identified that recent cultural changes within the Anglican Church had occurred where survivor narratives have been told and senior Anglican Church personnel have ‘heard and listened and felt the pain and the damage that has been done to survivors’.²⁹⁶ He said:

So part of my own personal hope, and we will take some initiatives of this in Adelaide, is to invite survivors, if they are willing, to provide us with some narrative that we will use as part of our ongoing education and including those at levels of leadership need to continue to hear those stories and not to set them aside as, ‘We have heard those, now we move on’.²⁹⁷

20.4.2 Children’s participation and empowerment

Children’s participation and empowerment is the second of our 10 Child Safe Standards. In Volume 6, *Making institutions child safe*, we highlight that children are safer when institutions acknowledge and teach them about their right to be heard, listened to, and taken seriously. Article 12 of the *Convention on the Rights of the Child* details the right of a child to express their views and participate in decisions that affect their lives.²⁹⁸ Enabling children and young people to understand, identify and raise their safety concerns with a trusted adult and to feel safe within the institution is important.²⁹⁹ The importance of involving children and young people in program development was highlighted in research we commissioned with children and young people into safety in institutions.³⁰⁰

In Part C, ‘Nature and extent of child sexual abuse in religious institutions’, we outline what survivors told us in private sessions about disclosing abuse to a religious institution. While many aspects of disclosure appeared to be common across various institution types in which children experienced sexual abuse, we heard that there were some distinctive aspects for those who were abused in religious institutions. From a victim’s perspective, these included fear of disclosing to their devout religious family, fear of being ostracised by their religious community, and reluctance to ‘bring shame’ on their religious community. Some survivors told us they felt they had no one to confide in, particularly when they were part of a ‘closed’ religious community.

Many of our case studies revealed that religious institutions did not listen to children or engage with them about their safety. For example, we heard of many children who disclosed at the time of the abuse and were often disbelieved, ignored or punished, or in some cases were further abused.³⁰¹ We suggest that many of these issues stemmed from a cultural lack of trust in children, which may have been a product of societal culture, but was marked in religious institutions.

Provisions for children's participation and empowerment

Several of the religious institutions we examined as part of our institutional review hearings acknowledged the need for children's participation and empowerment in matters relevant to them in institutions.

In its submission to our issues paper on child safe institutions in 2013, the Truth, Justice and Healing Council stated that:

Openness to the views of children and young people themselves is an essential part of the creation of child safe institutions. Listening and responding to children across the spectrum of program design, service delivery, complaints and feedback create the necessary and empowering conditions for child safety.³⁰²

Similarly, in our *Institutional review of The Salvation Army* hearing, Major David Eldridge, a retired Salvation Army officer, reflected that churches need to engage with the issues concerning young people today, including issues of sexuality and gender. Major Eldridge advised institutions to improve children's safety by listening to the concerns of young people.³⁰³

During our institutional review hearings, we heard that some religious institutions have developed mechanisms to facilitate children's participation and empowerment in matters relating to their safety. For instance, Archbishop Philip Wilson, Catholic Archbishop of Adelaide, told us during our *Institutional review of Catholic Church authorities* hearing that the Archdiocese of Adelaide's Safe Environment For All program includes: 'Goal 1 Empowerment of Children and Young People'. Parishes in the archdiocese are required to nurture the active and respectful participation and young people in masses and child-focused activities'.³⁰⁴ In fulfilment of this goal parishes must, for example, 'include children, as much as practically possible, in dialogue regarding activities of the church that involve them; for example children's liturgy and the Sacrament Program'.³⁰⁵

Other Catholic Church authorities include specific suggestions on how to facilitate children's participation and empowerment in institutions. Standard 9 of the *Marist standards* is titled: 'Strategies to Promote Child Empowerment and Participation'. Successful implementation of the Marist standard by ministries would be demonstrated by, among other things:³⁰⁶

- training relevant staff on methods of empowering children and encouraging children's participation
- gathering feedback from children about whether they would feel safe and be taken seriously if they were to raise concerns, and implement improvements based on this feedback.

The Australian Christian Churches *Child protection policy*, which is required to be adopted by all its affiliated churches, states that it will ‘facilitate opportunities for children and young people to tell us their views and feedback about the services we provide to them’.³⁰⁷ The ACC told us that it is paramount that children are taken seriously, in order for the organisation to have an effective response to reports of child sexual abuse, and that it ‘has greatly considered’ how best to include children in the decision-making process.³⁰⁸

In one of our private sessions, ‘Miller’, a survivor of child sexual abuse, told us it was important to him that religious institutions listen to children’s views. He said, ‘We need to take more time listening to children ... Have a bit more trust in children’.³⁰⁹

Child sexual abuse prevention programs and information

An important aspect of our Child Safe Standard on children’s participation and empowerment is ensuring children have access to sexual abuse prevention programs and information, and that they know where and how to complain if they feel unsafe. Child sexual abuse prevention education aims to provide children with the knowledge and skills to help protect themselves from potentially abusive situations and to be aware of how to seek help in the event of abuse or attempted abuse.³¹⁰ In Volume 6, *Making institutions child safe*, we discuss what prevention education in early childhood centres, schools and other institutional settings might involve.

During our *Institutional review of Catholic Church authorities* hearing, we were told about the importance of children being able to access sexual abuse prevention programs and information in religious institutions. Ms Andrea Musulin, Safeguarding Project Coordinator for the Archdiocese of Perth, gave evidence that:

Coming from a child protection background, one thing that has become quite obvious to me is that we haven’t provided children with enough education and knowledge on this subject. So when I say ‘this subject’, I mean child protection generally speaking ...³¹¹

Some Catholic Church authorities provide useful information about sexual abuse prevention to children in their care, or place obligations on those subject to their policies, including schools, to ensure children have appropriate education in matters relating their safety. For example, successful implementation of Marist Standard 9 (discussed above), includes:

Providing children with age appropriate education about:

- what child abuse is
- a child’s right to make decisions about their body and their privacy
- the fact that no one has a right to injure them
- how they can raise concerns about abuse.³¹²

The Archdiocese of Melbourne's *May our children flourish: Code of conduct for caring for children (May our children flourish)* requires adults to:

Discuss the Children's Code of Conduct with children and familiarise them with its contents. Ensure they know how and to whom they can report anything about which they are concerned ... Children should be made aware of the standard of behaviour they are entitled to expect from supervising adults and from other children participating in the activity.³¹³

The ACC's *Safer churches guidelines* make the recommendation that:

ACC People actively assist children and young people to:

- trust their feelings
- say 'no' when they feel unsafe
- understand when to be confidential and when to talk to others about their concerns
- find safe people to talk to
- know when they feel vulnerable, and
- have a say in the activities and programs in which they participate, as far as is practical.³¹⁴

We heard that some Anglican Church dioceses have taken steps to include both parents and children within Anglican Church communities in training initiatives about child protection issues. Mr Lachlan Bryant, Director of Professional Standards in the Diocese of Sydney, told us that his diocese has introduced protective behaviours training for children and for parents of children across the diocese. He described the training as 'very important' to 'help raise awareness and resilience in children to abuse'.³¹⁵ Mr Bryant told us that all church members, from children to bishops, would be required to undergo the protective behaviours training which will be administered across parishes, theological colleges and other Anglican Church institutions in an effort to establish a 'common language' about child sexual abuse.³¹⁶ He said:

We have lots of mechanisms in place to protect children and reduce opportunity for them to be abused, but if all of those fail, then we're left with the child themselves, and if they can have an enhanced resilience and a self-protective mechanism to recognise if they are being abused or groomed or mistreated in some way, and they have a place to go, I think that could make a lot of difference in our parishes.³¹⁷

Some religious institutions we have examined, however, acknowledge that they have more work to do in terms of providing children access to sexual abuse prevention programs and information, and appropriate avenues to make complaints. Hillsong Church for example, acknowledged that they have more work to do in communicating with children about how

they can make complaints in their institution.³¹⁸ Representatives told us that the Hillsong Church was in the process of developing a brochure, which will be available to families and children, that will indicate how the Safe Church Framework operates and how to bring a complaint or an allegation if problems arise.³¹⁹ The Salvation Army Eastern Territory also told us they require further development in terms of children having access to programs in relation to the prevention of child sexual abuse.³²⁰

We understand that in some religious communities there can be tension between providing children with sexual abuse prevention programs and information, and the particular beliefs or morals of that community relating to sex. For example, during our *Institutional review of Yeshiva/h* hearing, Rabbi Benjamin Elton, Chief Minister and Rabbi of The Great Synagogue, Sydney, told us:

There are obviously concerns, because that can sometimes be in tension with a Jewish moral code around sexual, such as, for example, refraining from having sex until marriage, let's say. However, there is no reason why sex education which is designed to protect safety and give people the information they need to be safe in all sorts of ways cannot be delivered alongside a moral curriculum which also places appropriate stress on the Jewish values around sex.³²¹

Similarly, Rabbi Eli Cohen, immediate past president of the Rabbinical Council of New South Wales, gave evidence that:

it is important that there is some type of sex education so that children can know what it means to be safe and can know what is considered to be inappropriate and private zones ... So I would advocate for it, but there has to be a way to be able to do it in a way that's considered appropriate by the community.³²²

Yeshiva College Bondi told us that it holds annual workshops for students, who are taught the language to communicate if they feel unsafe and how to understand appropriate and inappropriate touch and privacy.³²³ Yeshivah Melbourne told us its colleges conducted a series of workshops for students which focused on 'empowering children' and had recently redeveloped its curriculum in relation to student education with respect to sexuality, intimacy and healthy relationships.³²⁴

Given the information we received about barriers to disclosure in religious institutions, we consider that whenever a religious institution has children in its care (that is, when children engage in activities without their parent/s or guardian/s) those children should be provided with age-appropriate guidance on practical and effective ways to protect themselves, and information about where and how they can complain if they feel unsafe. In particular institutional settings, such as schools and out-of-home care, it is appropriate to provide more in-depth educational programs on prevention and sexual education.

A further consideration for religious institutions in providing child sexual abuse prevention programs and information is addressing the power and status of people in religious ministry. As we outline in Part C, often it was the status associated with the role of ministering in religion that gave perpetrators unfettered access to and authority over children, in a way that was different to non-religious perpetrators. While the nature of this authority may have differed between religious organisations, often people in religious ministry were considered to be representatives of God, which set them apart from the rest of the religious community. Commissioned research also suggests that the authority of people in religious ministry and the unquestioned power that was granted to them by their religious community meant they were trusted implicitly.³²⁵

During our *Institutional review of Catholic Church authorities* hearing, Father Thomas P Doyle OP, American Dominican priest, canon lawyer and survivor advocate, said that priests were able to use their stature to seduce and groom the victims.³²⁶ In his academic writing, Dr Doyle explained that the relationship between a victim and a cleric is forged by a trauma bond and by the power differential that exists between the two:

This bond, based on the sacred and trusted image of the priest, is nurtured and strengthened over time by the implicit and explicit influences of the institutional church through its teaching and preaching. It is especially re-enforced by the person's parents and by the environment experienced while growing up.³²⁷

We consider that prevention education provided by religious institutions should specifically address the power and status of people in religious ministry, and highlight for children that no one has a right to invade their privacy or make them feel unsafe.

Empowering children was particularly important for survivor 'Rochelle', who told us during a private session that she had been sexually abused by a priest. 'Rochelle' suggested children should be given the vocabulary to speak about sex and made aware of what kinds of touching are appropriate.³²⁸

Recommendation 16.40

Consistent with Child Safe Standard 2, wherever a religious institution has children in its care, those children should be provided with age-appropriate prevention education that aims to increase their knowledge of child sexual abuse and build practical skills to assist in strengthening self-protective skills and strategies. Prevention education in religious institutions should specifically address the power and status of people in religious ministry and educate children that no one has a right to invade their privacy and make them feel unsafe.

20.4.3 Family and community involvement

there should be transparency, so that, therefore, as a community, people who are protecting an organisation can actually see ... when was education taken, who was involved in the education, what policies were put in place, when they were updated, when was the last time there was an audit of the facilities ...³²⁹

Rabbi Mendel Kastel, Chief Executive Officer of Jewish House

Child Safe Standard 3 is that families and communities are informed and involved. A child safe institution observes Article 18 of the *Convention on the Rights of the Child*, which states that parents, carers or significant others with caring responsibilities have the primary responsibility for the upbringing and development of their child.³³⁰ Families and caregivers are engaged with the child safe institution's practices and are involved in decisions affecting their children. A child safe institution also engages with the broader community to enhance the protection of children within its care.

As outlined in Part D, some religious institutions we examined effectively operated as closed societies in relative isolation from the broader community. Information relevant to child safety was not provided to the religious community or the wider external community. In our case studies, we have heard how religious institutions kept substantiated complaints confidential and did not disclose them to staff or the broader community. In at least one of our case studies, we were told that a disclosure from a child in a religious institution was actively kept from the child's parents.³³¹ Some leaders of religious institutions have recognised that secrecy in relation to complaints of child sexual abuse stemmed, in part, from a desire not to inform the community of particular failures.³³²

In Volume 6, *Making institutions child safe*, we outline the role that parents can play in keeping children safe and preventing child sexual abuse. Parents are generally the most readily available source of information for their children.³³³ However, research suggests that parents often do not have the knowledge and resources to educate their children effectively about sexual abuse and about harmful sexual behaviours of other children and young people.³³⁴ Prevention education should aim to equip them with the knowledge and skills to help them protect their children from sexual abuse. It could encourage them to start and continue conversations with their children. Schools and other activities that parents engage in with their children can be important settings for delivering prevention information to parents.

As we outline in Part C, we heard that in religious institutions perpetrators were often able to groom or manipulate a child's family in order to increase trust and ensure access to children. In some cases, this included gaining access to children in private spaces such as family homes, or in other unsupervised situations. Increased prevention education for parents can help parents and families be more aware of the nature of child sexual abuse, including grooming behaviours used by perpetrators.

Provisions for family and community involvement in religious institutions

In recent years, and particularly since the commencement of our inquiry, many religious institutions have taken steps to be more transparent with families and communities in matters relating to child safety. As we discuss above, it has become common for institutions to publish their key child protection policies on their website or publish statements highlighting their commitment to child safety and where information about the topic can be found.

Some of the religious institutions we examined as part of our institutional review hearings told us they have established mechanisms to keep families and communities better informed about child safety in their institution.

The Catholic Archbishop of Perth, Archbishop Timothy Costelloe SDB, told us that the Archdiocese of Perth has established the parish Safeguarding Project. A component of the project is to have least two ‘safeguarding officers’ in each parish who are the point of contact and referral at the local parish level for anyone, child or adult, who is concerned about child safety. Archbishop Costelloe told us that the role is proactive in that it raises ‘the awareness of the whole parish community as to its own responsibility to ensure that the parish is a safe place for children’.³³⁵ Archbishop Costelloe said that the Safeguarding Project provides training workshops for parents in relation to age-appropriate education of children about personal safety.³³⁶

The Catholic Archdiocese of Adelaide’s Safe Environment for All program requires its parishes to undertake practical activities to promote awareness of child protection and facilitate community involvement. Parishes are required to promote and participate in ‘child protection week’ and ‘child protection Sunday’, and to have a monthly child protection section in their parish bulletin.³³⁷ Parishes are also required to ‘build relationships with local community organisations engaged in supporting the care, wellbeing and protection of children, young people and the vulnerable’.³³⁸

Hillsong Church told us that it plans to keep its members informed about its Safe Church Framework through a range of media including presentations at large group events, information brochures and parent meetings.³³⁹ We also received evidence that the Yeshivah–Beth Rivkah *Child protection policy commitment statement*³⁴⁰ and the *Yeshivah synagogues child protection policy*³⁴¹ include commitments to support parents and carers to protect their children, to communicate ‘openly and honestly’, to be transparent in decision-making, to involve parents whenever possible in the decision-making process, and to provide opportunities for debriefing and/or counselling’.³⁴²

The Salvation Army Eastern Territory told us that it has informal avenues within the context of the local church corps, but that more formal avenues for communication are still being developed.³⁴³ We heard evidence in our *Institutional review of the Jehovah’s Witnesses* hearing that some written policies of the Jehovah’s Witnesses relating to child safety have not been adequately communicated to members of that organisation.³⁴⁴

A key component of our Child Safe Standard on family and community involvement is that families and communities can have a say in the institution's policies and practices. Our review of policies and procedures received as part of our institutional review hearings suggests that religious institutions across the board could improve in this area.

Nevertheless, we did receive evidence from some religious institutions in the education sector about practical ways in which families can be involved in and provide input to their policies and practices. Sacred Heart College in Adelaide, operated by the Marist Brothers, engages in a process of 'self-audit' on an annual basis in order to monitor the effectiveness of its child protection policy and how it meets its 'standards on making children safe'. The college provides a sample of the school community with a questionnaire focusing on six areas of child protection.³⁴⁵ Catholic Education Melbourne has established a Student Wellbeing Information Line which is designed to 'act as a conduit between the school and the family to promote effective communication and resolution of enquiries'.³⁴⁶

Given the issues we have identified in relation to secrecy and isolation, family and community involvement in matters relating to child safety is vital for religious institutions. Religious institutions are often closely connected to their communities and both need to work together to enhance the safety of children.

Recommendation 16.41

Consistent with Child Safe Standard 3, each religious institution should make provision for family and community involvement by publishing all policies relevant to child safety on its website, providing opportunities for comment on its approach to child safety, and seeking periodic feedback about the effectiveness of its approach to child safety.

20.4.4 Equity and diversity

Child Safe Standard 4 requires institutions to promote equity and recognise and respect the diversity of children. A child safe institution pays attention to equity by taking into account children's diverse circumstances and responding effectively, making adjustments so that all children have access to equal protection. Institutions should demonstrate their recognition that some children encounter circumstances which heighten their vulnerability to sexual abuse or face additional barriers to participation in protective strategies and being heard. A child safe institution will tailor standard procedures to ensure all children have fair access to the relationships, skills, knowledge and resources they need in order to be safe, in equal measure with their peers.

Historically, religious institutions have actively sought to serve diverse populations of children. This has included children with heightened vulnerability, such as children living in out-of-home care, children with disability, Aboriginal and Torres Strait Islander children, and children from diverse communities. However, religious institutions have not always safeguarded these children from the harms of child sexual abuse. In our case studies we heard evidence of failures of particular religious institutions to properly respond to the sexual abuse of particularly vulnerable children in their care.³⁴⁷

Over the course of our inquiry we heard from survivors of child sexual abuse from a diverse range of backgrounds. In Part C, we provide quantitative information gathered from private sessions held with survivors of child sexual abuse in religious institutions, including Aboriginal and Torres Strait Islander survivors, survivors from culturally and linguistically diverse backgrounds, and survivors with disability. We also reflect what we heard in private sessions and public hearings about the experiences of such survivors.

Today, religious institutions continue to serve and interact with children with heightened vulnerabilities through their ministerial and professional services. For example, in our *Institutional review of Catholic Church authorities* hearing, Bishop Eugene Hurley of the Catholic Diocese of Darwin, told us that a third of his diocese are Aboriginal and Torres Strait Islander people and communities, and that a vast number of other people in the diocese are from culturally diverse backgrounds.³⁴⁸ Many of the welfare organisations affiliated with religious organisations provide disability, out-of-home care, housing, and youth services.³⁴⁹ Since 2003 the number of Aboriginal and Torres Strait Islander children attending Catholic schools in Australia has doubled.³⁵⁰ Since 2004 similar increases can be seen in the number of students with disability attending Catholic schools in Australia.³⁵¹

Provisions to promote equity and safeguard all children

In our institutional review hearings, some religious institutions told us about how they are recognising and addressing the needs of all children in their policies and procedures.

Some religious institutions explicitly direct attention to be paid to the needs of children with heightened vulnerabilities in their overarching child protection frameworks. For example, the Uniting Church in Australia has created a standalone element in their child protection framework, ‘respect diversity and promote equity’, where they commit to promoting equity for all children, and considering and paying attention to the needs of their circumstances. The standard explicitly identifies children from Aboriginal and Torres Strait Islander communities, children from culturally and linguistically diverse communities, children with disability and those who have experienced previous trauma.³⁵²

Equity and diversity is also included in The Salvation Army Southern Territory policy. As part of a guiding principle on 'recognition of the rights of children' in its child safe standards, the Salvation Army Southern Territory states that it:

recognises that some groups of children, for example Aboriginal and Torres Strait Islander, those living with a disability or living in isolated areas, are particularly vulnerable to human rights violations.³⁵³

The Salvation Army Southern Territory identifies the increased risk and varying needs of children with disabilities, children from linguistically and culturally diverse backgrounds and Aboriginal and Torres Strait Islander children in its overarching standard on supporting and encouraging the participation and empowerment of children and youth.³⁵⁴ The standard states that children will have access to opportunities to express their views, and to information about their rights, child safe practices and how to raise concerns about abuse.³⁵⁵ As a key requirement of its child safe standards, the Salvation Army Southern Territory will endeavour to use language and communication strategies that are inclusive, culturally sensitive and appropriate to these groups of children.³⁵⁶

In contrast to the approach of the religious institutions above, others address this element minimally, or do not include reference to equity and diverse backgrounds and needs. Lieutenant Colonel Christine Reid, Secretary for Personnel of The Salvation Army Eastern Territory, told us that although the Salvation Army Eastern Territory's child protection policy has tips on keeping children from different cultures safe, they do not have a framework as such.³⁵⁷

Likewise, there is limited reference to cultural diversity within national Anglican Church frameworks. The Bishop of the Anglican Diocese of the Northern Territory, Bishop Gregory Anderson, provided a statement in preparation for the *Institutional review of Anglican Church institutions* hearing in which he told us that cultural diversity was one of the greatest challenges faced by the diocese.³⁵⁸ Bishop Anderson told us that:

The issue is compounded by the number of languages and different cultural attitudes as they vary across the communities. The diocese provides regular safe ministry training for Aboriginal Church leaders which is dependent on strong relationships with the trainers who earn the right to pass information on. The diocese is constantly seeking to refine our practices through greater understanding of Aboriginal culture.³⁵⁹

Bishop Anderson told us that this challenge has not been well understood by the broader Anglican Church. He told us that:

The level of English used in the Faithfulness in Service code of conduct, for example, makes it incomprehensible to remote area non-English-speaking-background Aboriginal people; and the concepts expressed in it are not readily translated into Aboriginal languages.³⁶⁰

The Anglican Church of Australia has acknowledged that accessibility to policies and processes is an important priority. In 2007 the General Synod resolved to prepare a version of *Faithfulness in service* in plain English to 'make professional standards concepts available to a much wider cross section of the Church, including Aboriginal and Torres Strait Islander people'.³⁶¹

Hillsong Church provided us with an overview of their Safe Church Framework model, outlining its eight key elements.³⁶² Children who are experiencing circumstances of heightened vulnerability are not explicitly mentioned in the overview and explanation of these elements.³⁶³ Similarly, the Australian Christian Churches does not mention children with heightened vulnerabilities, or note diverse groups, in the ACC *Child protection policy* or the *Safer churches guidelines*.³⁶⁴ The ACC *Safer churches manual*, does however, contain a requirement to respect diversity in relation to Aboriginal and Torres Strait Islander people and other cultural groups.³⁶⁵

In devising policies that address the heightened vulnerability of children, some religious institutions recognised the need to consult directly with the children and groups that these policies concern. For example, Father Brian McCoy SJ, Provincial of the Australian Province of the Society of Jesus stated that relevant policy development must be run by remote communities, so that 'they can make demands on us to lift our game when we come in to work with them'.³⁶⁶

In our institutional review hearings, we heard about the ongoing challenges some religious institutions face in engaging with children and families from diverse backgrounds about child safety.

Bishop Hurley of the Catholic Diocese of Darwin gave evidence about the difficulty he has in informing all the Aboriginal and Torres Strait Islander and other culturally diverse communities within his diocese about matters related to protecting children.³⁶⁷ He told us that articles appear in every issue of the diocesan magazine advising parents and communities about safeguarding, what to expect for their children and how to respond if elements of safety are not observed.³⁶⁸ Bishop Hurley also told us that he was not sure how to evaluate how effective these measures are for keeping diverse communities within his diocese informed.³⁶⁹ He also told us that he is not always sure how to best relate to some cultures within his diocesan community.³⁷⁰

Archbishop Philip Freier, Primate of the Anglican Church of Australia and Archbishop of Melbourne, acknowledged the cultural reform required in respect of clericalism, or abuse of power by those in leadership, was not just an issue for 'Anglo-Celtic Australia'.³⁷¹

So I think that, as I observe clergy in my diocese, who come and have Anglo-Celtic congregations, they would be highly questioned in those things, that kind of clericalism. The society has moved very greatly.

However, my diocese is certainly one which is highly multicultural and I observe that we need, and we are doing, a lot of education of these principles in people groups who come with, as I observe it, a very high deference to leadership generally, but leadership within the church and leadership within their cultural group.³⁷²

Consistent with our Child Safe Standard on equity and diversity, religious institutions should make provision for addressing the needs of all children in their policies and procedures. Obligations for staff training on recognising and responding to circumstances of heightened risk and vulnerability encountered by children should also be included. Religious institutions should equip leaders and people in ministry in all the services that they provide with the knowledge and resources to recognise and respond to the heightened vulnerability of children to child sexual abuse.

20.4.5 Human resource management

Child Safe Standard 5 is 'People working with children are suitable and supported'. Human resource management, through screening, recruitment and ongoing performance review, can play an important role in protecting children from harm. Child-focused human resource practices help screen out people unsuitable for working with children, or discourage their applications. Such practices make sure child safety is prioritised in advertising, recruitment, employment screening, and the selection and management of all staff and volunteers. Child safe institutions recognise that Working With Children Checks can detect only a subset of people who are unsuitable to work with children, and that these checks must be part of a suite of screening practices.

Ensuring that people in religious ministry are both suitable for their position and supported in their work involving children raises some distinct considerations.

Religious ministry is often considered a vocation, or a 'calling', to serve a particular religious denomination, faith or doctrine. It can be a lifelong commitment that takes the form of both a vocation and a working career. Candidates for ministry often begin education and training shortly after finishing their schooling and can go on to work their entire life in the one religious organisation. In some cases, the person in religious ministry will become the leader or spiritual head of an institution with attendant responsibilities. Some people in religious ministry are required to adhere to particular doctrine that controls the way they live their lives. They can also inherit a trusted and even revered status in the community by virtue of their role.

In addition, some religious institutions are subject to the internal laws of their particular denomination or faith, which regulate how people in religious ministry operate within the institution. Internal laws can affect the way in which candidates for religious ministry are chosen, their accountability and professional supervision within an institution, and how they can be disciplined in the event of misconduct. There is never a simple employer–employee relationship between the person and the institution.

In our view, the nature of religious ministry requires that there should be more rigorous screening, selection, training and management processes for people in religious ministry than for other employees in order to ensure that these individuals are suitable for and supported in their roles.

As we outline in Chapter 19, the selection, screening, training, and management of people in religious ministry has been inadequate in a number of religious organisations. In our view, there is a nexus between deficiencies in these areas, child sexual abuse and inadequate institutional responses.

As discussed in Section 13.11.8, ‘Selection, screening and initial formation’, Senior Professorial Fellow with the Catholic Theological College, University of Divinity, Victoria, Professor Francis Moloney SDB AM, told us that he believes ‘poor formation’³⁷³ was one of the reasons why there have been so many allegations of child sexual abuse against members of the Salesian order. He said:

I think insufficient investigation into the quality of the people as they came in; insufficient intellectual formation and human formation in their formation period; and insufficient supervision of their lives after ordination ... We took it for granted that once people took this life on, they were going to do good things, not bad things, and that was a mistake.³⁷⁴

Writing about the link between poor selection and formation practices, and child sexual abuse in the Catholic Church, clinical psychologist and former Clinical Director of Encompass Australasia, Dr Gerardine Robinson explained:

Until recently (and perhaps to date) poor or non-existing screening procedures allowed for the selection of candidates who were relatively immature psychosexually and psychologically. Furthermore, formation systems were typically characterised by rigid, formal, hierarchical relationships that inhibited healthy psychological development and precluded opportunities for healthy psychosexual development.³⁷⁵

Bishop Tim Harris, former Administrator of the Anglican Diocese of Adelaide, told us that ‘significant failures’ and a ‘lack of accountabilities’ in the selection and screening of potential candidates for ordination contributed to child sexual abuse in the Anglican Church.³⁷⁶ Reverend Archie Poulos, Head of Ministry at Moore Theological College, Sydney, gave evidence that ‘you would have to say that those concerns about selection and training have had a significant impact, because why do we have offenders?’³⁷⁷

Issues relating to the appropriate selection, screening and/or management of people in religious ministry also arose in our case studies in relation to The Salvation Army,³⁷⁸ Australian Christian Churches,³⁷⁹ the Jehovah's Witnesses,³⁸⁰ and Yeshiva Bondi and Yeshivah Melbourne.³⁸¹

While Child Safe Standard 5 is relevant to all employees and volunteers, in this section we consider particular aspects of human resource management as they relate to people in religious ministry. These aspects we focus on are selection and screening, initial training (sometimes referred to as 'formation') and oversight and professional supervision.

This discussion links closely with sections in Part D specific to particular religious organisations:

- Section 12.6, which considers factors that may have contributed to child sexual abuse and inadequate institutional responses in the Anglican Church
- Section 13.11, which considers factors that may have contributed to child sexual abuse and inadequate institutional responses in the Catholic Church.

Selection and screening of candidates for and people in religious ministry

In Volume 6, *Making institutions child safe*, we outline what we heard through our consultations about the components of effective recruitment and screening. Stakeholders suggested that institutions utilise a range of processes, including:³⁸²

- Working With Children Checks
- police checks
- international police checks (where applicable)
- identity checks
- qualification verifications
- work history checks
- value-based or behavioural-based interviews
- verbal reference checks.

In the context of religious institutions and the nature of religious ministry, additional mechanisms such as psychological screening may be necessary as part of the range of processes used to select and screen candidates to ensure they are suitable to work with children. Below we outline what we heard about critical areas of screening for people in religious ministry.

Working With Children Checks

Making sure relevant staff and volunteers have Working With Children Checks is a core component of our Child Safe Standard on human resource management. At the time of the release of our *Working With Children Checks* report in 2015, there were inconsistencies in the application of WWCC requirements under the different state and territory schemes with respect to candidates for and people in religious ministry.³⁸³

During our institutional review hearings we received evidence about the approaches taken by various religious institutions as to whether they required their candidates for religious ministry and people already in religious ministry to hold WWCCs. Some religious institutions rely on the individual state or territory WWCC law to determine whether those people are required to hold a WWCC. Others encourage or require those individuals to hold a WWCC, irrespective of whether the state or territory law requires it or whether the person engages in substantive child-related work. The position of these latter institutions no doubt reflects the fact that many candidates for and people in religious ministry can come into contact with children through their work in a diverse set of circumstances.

Catholic Church authorities have adopted various approaches to whether they require clergy, religious, seminarians, and people otherwise exercising ministry to hold WWCCs. The Archdiocese of Melbourne explicitly requires clergy, religious and seminarians to hold a current WWCC and undergo a national police record check.³⁸⁴ Similarly, the Archdiocese of Sydney requires persons providing 'religious services' to obtain a WWCC. That includes a 'minister, priest or other like religious leader or spiritual officer of the organisation'.³⁸⁵ The Diocese of Cairns requires 'all employees', including priests, religious and deacons, of the diocese who are likely to or may have contact with children during the course of their employment, regardless of the frequency of that contact, to have a WWCC.³⁸⁶ Others only require their employees to hold WWCCs if their role technically involves working with minors.³⁸⁷

In the *Institutional review of Anglican Church institutions* hearing we received evidence that the majority of Anglican Church dioceses require people who are licenced to minister in a diocese to maintain a valid WWCC as a condition of their licence.³⁸⁸ In September 2017, the General Synod of the Anglican Church adopted the *Safe Ministry to Children Canon 2017*.³⁸⁹ The canon prescribes a WWCC or police check as a minimum standard for the screening of clergy and church workers in all Anglican dioceses.³⁹⁰

The Salvation Army Eastern Territory provides that all 'those working with children' will be screened using the New South Wales or Queensland WWCC or the ACT working with vulnerable people check.³⁹¹ The Salvation Army Southern Territory requires all officers, envoys, cadets, 'aux-captains' and retired officers undertaking active duties to have a relevant WWCC.³⁹²

During our *Institutional review of Australian Christian Churches* hearing, we heard that all credentialed ACC ministers must hold WWCCs from the relevant state or territory government.³⁹³

During our *Institutional review of Yeshiva/h* hearing, Yeshiva Bondi told us that any person who is involved in supervising, teaching or otherwise interacting with children as part of services at its synagogue or Chabad Youth is required to undergo a WWCC.³⁹⁴ At Yeshiva College Bondi all staff are required to hold a valid WWCC.³⁹⁵ Yeshivah Centre Melbourne told us of similar requirements.³⁹⁶ Neither Yeshiva Bondi nor Yeshivah Melbourne gave evidence as to whether rabbis are required to hold a WWCC.

Our *Working with Children Checks* report, released in 2015, found that the WWCC schemes in different states and territories operated independently from one other, and were inconsistent and complex.³⁹⁷ We proposed a national model for WWCCs, recommending state and territory governments introduce consistent standards and establish a centralised WWCC database to facilitate cross-border sharing.³⁹⁸ Relevantly, we recommended that all state and territory governments amend their WWCC laws to define ‘activities or services provided by religious leaders, officers or personnel of religious organisations’ as ‘child-related work’.³⁹⁹ This would require that all candidates for and people in religious ministry hold a current WWCC. We discuss the implementation of the recommendations in our *Working With Children Checks* report by state and territory governments in *Volume 17, Beyond the Royal Commission*.

We commend those religious institutions that have already taken the policy approach of requiring all candidates for and people in religious ministry in their institution to hold a WWCC. These checks are an essential, but by no means the only, way of screening relevant individuals to determine whether they are suitable for work involving children. In our view, until nationally consistent WWCC schemes are achieved, religious institutions should require that all candidates for and people in religious ministry hold a WWCC, whether or not they engage in child-related work as defined by the relevant WWCC scheme.

Psychological screening

During our institutional review hearings, we heard that a number of religious institutions use psychological screening, including various forms of psychosexual assessment, as part of their processes to determine whether a person is suitable for ministry and work involving children.

During the *Institutional review of Catholic Church authorities* hearing, we received evidence that, to varying degrees, almost all candidates for Catholic seminaries in Australia undertake psychological assessments, including testing and interviews, before they are accepted into the seminary and/or before their admission.⁴⁰⁰ This requirement reflects the Catholic Church’s *Ratio nationalis institutionis sacerdotalis: Programme for priestly formation in Australia (Programme for priestly formation)* – a national document outlining ‘overall principles, guidelines and practices necessary for the sound formation of candidates preparing for the priesthood’.⁴⁰¹ The *Programme for priestly formation* states that before admission, ‘the bishop should seek an assessment by competent practitioners of the applicant’s physical and psychological health’.⁴⁰²

During our *Institutional review of Anglican Church institutions* hearing, we received evidence that most, but not all, Anglican dioceses require their candidates for ordination to undertake some form of psychological screening and spiritual screening.⁴⁰³ In 2012, the Anglican Church of Australia Professional Standards Commission released a *Process for the comprehensive psychological assessment of candidates for ordination*. The process is for use in dioceses and provides a method for conducting and reporting a comprehensive psychological assessment (including psychosexual assessment). The process is conducted by a psychologist, who is required to furnish a report assessing a range of factors about the candidate, including the candidate's 'potential risk of sexual misconduct'.⁴⁰⁴

Primate of the Anglican Church of Australia and Archbishop of Melbourne, Archbishop Freier, told us that in 2016 the *Garos sexual behavior inventory* was included in the required set of assessments that are completed by candidates in the Diocese of Melbourne. He told us the inventory is an empirically derived measure that is designed to detect disorders of sexual 'frequency and control, in relation to what would be regarded as "deviant", "impulsive", "compulsive" or "addictive" sexual behaviours'.⁴⁰⁵

During our *Institutional review of Uniting Church in Australia* hearing Reverend Heather den Houting, General Secretary of the Uniting Church Queensland Synod, told us that the Uniting Church recognises that its process of ordination – the 'setting apart of baptised women and men' – gives a person new status in the community and that there are expectations around the role as a result. The Uniting Church selection process for candidates for ministry includes, among other things:⁴⁰⁶

- medical and psychological assessments
- consideration of spiritual maturity and motivation.

During our *Institutional review of Australian Christian Churches* hearing, we received evidence about the process by which individuals can become pastors within the ACC movement. Pastor Wayne Alcorn, National President of the ACC, gave evidence that churches are very reliant on the observation of a person coming through their system over a prolonged period of time in order to ensure their pastors are appropriate and do not have particular attitudes that might be difficult or dangerous. At the time of the hearing, he told us that the ACC did not engage in any psychological testing or any other testing of candidates but that it would be something they were prepared to look at.⁴⁰⁷

As we outline in Section 13.11.8, during our *Institutional review of Catholic Church authorities* hearing, we received evidence about the effectiveness of psychological testing or screening by witnesses with a background in and experience of the topic in relation to preventing child sexual abuse.

We heard that, while psychological screening of candidates is useful in many respects, ‘the assumption that it will pick up those men who might come to be accused of the sexual abuse of children is not borne out by the available research and clinical experience’.⁴⁰⁸

Clinical psychologist Dr Gerardine Robinson was a co-founder and clinical director of the Encompass Australasia program established by the Australian Catholic Bishops Conference in 1997 to treat clergy with psychosexual and other disorders. She told us that no amount of experience, screening or psychological testing ‘is going to pick up every offender’. However, she said it is critical that the selection and screening of candidates for formation uses a multidisciplinary approach, which has a better chance of picking up patterns.⁴⁰⁹ She explained that the patterns that can be picked up are those that are likely to occur if a person is placed in a particular environment that will exacerbate those patterns.⁴¹⁰

At the time of our *Institutional review of Catholic Church authorities* hearing, Dr Robinson told us she worked in this area. She said that a best practice multidisciplinary assessment should include the following components:⁴¹¹

- medical assessment
- neuropsychological assessment
- comprehensive psychosocial interview
- comprehensive structured psychosexual assessment
- psychiatric assessment
- psychological testing
- spiritual assessment.

We have considered whether all candidates for religious ministry should be required to undergo psychological testing, including psychosexual assessment, prior to becoming a person in religious ministry.

We agree that psychological testing will not, of itself, pick up every potential perpetrator of child sexual abuse. However, as part of a suite of screening mechanisms, including WWCCs, identity and experience checks, and values-based or behavioural interviews, a multidisciplinary assessment, such as that proposed by Dr Robinson, can provide the religious institution with an indication of any problem areas or patterns that may suggest that the person is not suitable for work involving children.

Given the nature of religious ministry, in our view religious institutions should require candidates undergo external psychological testing, including psychosexual assessment, for the purposes of determining their suitability to be a person in religious ministry and to undertake work involving children. The best-practice multidisciplinary approach suggested by Dr Robinson is commended.

The evidence before us suggests that some larger religious organisations already conduct forms of psychological assessment prior to accepting candidates for religious ministry, and in some cases prior to the time they receive their status as a person in religious ministry.

Recommendation 16.42

Consistent with Child Safe Standard 5, each religious institution should require that candidates for religious ministry undergo external psychological testing, including psychosexual assessment, for the purposes of determining their suitability to be a person in religious ministry and to undertake work involving children.

Initial training of candidates for religious ministry

The initial training of candidates for religious ministry can be part of a broader process of education, referred to as ‘formation’ in some religious organisations. Formation can occur over an extended period of time and is designed to prepare the candidates to live out their ministry. In some cases it is also designed to prepare the candidates for the realities of their future life. This includes particular aspects of tradition or doctrine that may control or impact the way they live in the community once they become a person in religious ministry.

As we outline above, inadequate formation of candidates for religious ministry has, in our view, contributed to child sexual abuse and inadequate institutional responses in some religious institutions. A detailed consideration of formation practices, however, is beyond the scope of this section. Our consideration of and recommendations about specific formation processes, namely those in the Catholic and Anglican churches, are set out in other sections of this volume (see sections 13.11.8 and 12.6). In this section we consider and make recommendations about initial training for candidates for religious ministry insofar as it relates to child safety. We acknowledge that this training may occur as part of a broader formation process.

During our institutional review hearings, we received evidence that many religious institutions provide or mandate training on matters relating to child safety for candidates for religious ministry. The nature of the training they provide, however, varies.

We received evidence during our *Institutional review of Catholic Church authorities* hearing that Catholic seminaries provide varying levels of training on child sexual abuse and child safety to candidates for the priesthood. There is no consistency in the nature and level of training provided.⁴¹² The Bishop of the Diocese of Ballarat, Bishop Paul Bird, told us that Corpus Christi College provides formation in accordance with *Integrity in ministry: A document of principles and standards for Catholic clergy & religious in Australia (Integrity in ministry)* and *Towards Healing*, as well as the Archdiocese of Melbourne’s code of conduct, *May our children flourish*, and archdiocesan professional standards. Bishop Bird told us that particular attention is given to the conduct of clergy with regard to children, including formation in expected behavioural

standards and respect for boundaries.⁴¹³ Father John Hogan, Rector of the Holy Spirit Seminary Parramatta, told us that their program includes a two-day workshop at the beginning of every year on professional standards and safeguarding.⁴¹⁴ Sister Lydia Allen rsm, member of the Religious Sisters of Mercy and Director of Human Formation at the Seminary of the Good Shepherd, said that their seminarians receive training from the national professional standards office every year.⁴¹⁵

Father Peter Thompson CM, Rector of Vianney College, Seminary for the Diocese of Wagga Wagga, and Father Brendan Kelly SJ, Provincial Delegate for Jesuit Formation, told us they support the idea of a consistent syllabus in relation to child safety in all Catholic seminaries in Australia.⁴¹⁶

During the *Institutional review of Anglican Church institutions* hearing we received evidence that the *Safe ministry training benchmarks*⁴¹⁷ developed by the Anglican Professional Standards Commission, are the minimum standards that apply to training of candidates for the priesthood in a number of Anglican dioceses. This includes some of the theological colleges attached to particular dioceses.⁴¹⁸ The benchmarks recommend that training address certain key concepts, including the Anglican Church's responsibility for safe ministry; pastoral relationships, boundaries and use of power; children and vulnerable adults; safe environments; recruitment and supervision; identifying suspected abuse and risk of harm; and responding to abuse.⁴¹⁹

We received evidence that the Safe Ministry modules taught at Moore Theological College, which is attached to the Anglican Diocese of Sydney, include:⁴²⁰

- 'Safe Ministry Essentials'
- the effects of child sexual abuse
- pastoral responses to child sexual abuse
- self-care for church workers
- healthy sexuality
- 'Safe Churches for Children'
- 'Consequence of Abuse on a Parish'
- 'People who Abuse – Pastoral Management'.

Commissioner Floyd Tidd, National Commander of The Salvation Army Australia, and Lieutenant Colonel Christine Reid, Secretary for Personnel at The Salvation Army Eastern Territory, gave evidence during our *Institutional review of The Salvation Army* hearing that in the Salvation Army Eastern Territory, Safe Salvos workshops are held for Salvation Army officers in training. The workshops entail nine hours of face-to-face child safety training over the two years candidates are in theological college prior to their appointment as a minister of a church.⁴²¹

During our *Institutional review of Australian Christian Churches* hearing, we received evidence about the process by which individuals can become pastors within the ACC movement. Pastor Wayne Alcorn, National President of the ACC, told us that candidates must meet certain criteria in order to apply. This includes theological training, character references, training in the area of prevention of child sexual abuse, and a police check.⁴²² We understand that the training to which Pastor Alcorn refers is the ACC Safer Churches Awareness Workshops, which is a requirement for all ACC credential and certificate holders.⁴²³ The training is delivered on the basis of the ACC *Safer churches manual*, which covers protecting vulnerable people, understanding abuse, indicators of child sexual abuse, responding to concerns, and how to develop safety in different programs.⁴²⁴

We received evidence in our *Institutional review of Yeshiva/h* hearing that the process for the initial training of rabbis within the Jewish faith is generally informal. Rabbi Gutnick, Senior Dayan (a judge) of the Sydney Beth Din (a rabbinical court), told us that, in general terms, a rabbi is a teacher and not like priest, who is consecrated. He gave evidence that candidates for becoming a rabbi need to be examined by an existing rabbi and that if they pass these exams they can call themselves a rabbi.⁴²⁵ We did not receive any further information about how rabbis are trained. We note that in the *Yeshiva Bondi and Yeshivah Melbourne* case study we heard that members of Chabad-Lubavitch communities look to their rabbi for authoritative guidance and leadership.⁴²⁶ Rabbis had significant influence upon the thinking and conduct of members of the Yeshiva Bondi and Yeshivah Melbourne communities (particularly the responses of those communities to the issue of child sexual abuse).⁴²⁷

Throughout our inquiry we have heard that many people in religious ministry failed to identify and appropriately respond to incidents of child sexual abuse. We have heard that the initial training and education of people in religious ministry was inadequate, such that they lacked the necessary skills to keep children safe.

We acknowledge that education and ‘formation’ of candidates for religious ministry will vary in nature and extent depending on the religious organisation and the nature of the ministry candidates will hold. However, approaches with respect to minimum initial training on child safety appear to vary considerably among those religious organisations we examined.

We are satisfied that, given the nature of religious ministry as described above, particularly the role that many people in religious ministry play in leading an institution, there is a need for comprehensive initial training on matters relating to child safety.

Recommendation 16.43

Each religious institution should ensure that candidates for religious ministry undertake minimum training on child safety and related matters, including training that:

- a. equips candidates with an understanding of the Royal Commission's 10 Child Safe Standards
- b. educates candidates on:
 - i. professional responsibility and boundaries, ethics in ministry and child safety
 - ii. policies regarding appropriate responses to allegations or complaints of child sexual abuse, and how to implement these policies
 - iii. how to work with children, including childhood development
 - iv. identifying and understanding the nature, indicators and impacts of child sexual abuse.

We outline our considerations and recommendations about ongoing training for people in religious ministry in Section 20.4.7 below.

Oversight and professional supervision of people in religious ministry

As outlined in Volume 6, *Making institutions child safe*, submissions to our issues paper on child safe institutions indicated that management and staff supervision aims to:

- ensure staff are well supervised and provided with performance reviews⁴²⁸
- establish the clear chain of authority, reporting and accountability for each position⁴²⁹
- ensure compliance with child safe policies and procedures is an integral part of staff performance⁴³⁰
- provide effective processes to supervise staff working in isolated settings⁴³¹
- manage allegations or incidents.⁴³²

We have heard in our case studies and consultations that oversight and professional supervision of people in religious ministry have not been common. People in religious ministry often had limited actual accountability to superiors and did not receive performance reviews. We have also heard that people in religious ministry had limited ongoing training and support both in a broad sense and specifically for their role in ministry.

The link between a lack of oversight and professional supervision and the risk of child sexual abuse, at least in the Catholic Church, was articulated by the Australian Catholic Bishops' Conference National Director of Clergy Life and Ministry, Father Gregory Bourke, during our *Institutional review of Catholic Church authorities* hearing. He told us that ongoing formation, support for and supervision of working priests and religious had:

not been provided and so inadvertently created a weaker environment for human, intellectual, professionally skilled and spiritual development and therefore deviant behavioural tendencies remained unchallenged and/or unrecognised.⁴³³

We heard similar evidence in relation to the Anglican Church. Mr Garth Blake SC, Chair of the Anglican Professional Standards Commission, told us during the *Institutional review of Anglican Church institutions* hearing that:

there has been another category of abuser who has, through being unwell, really broken boundaries progressively and incrementally and often through stress and burnout and without adequate supports in their ministry have ultimately ended up abusing children.⁴³⁴

A link between a lack of oversight and professional supervision and inadequate institutional responses to child sexual abuse is also evident. Dr Gerardine Robinson has written that in the Catholic Church:

the quality of responses by Church leaders to complaints of sexual abuse and professional boundary violations was solely dependent on the commitment of individual Church leaders to practice accountability, justice, openness and due process.⁴³⁵

We heard similar evidence in *Case Study 5: Response of The Salvation Army to child sexual abuse at its boys' homes in New South Wales and Queensland* with respect to the authority of the managers of Salvation Army boys' homes.⁴³⁶ As discussed in Chapter 14, 'The Salvation Army', the absolute authority given to those in management positions meant they were not held accountable and subordinate officers did not challenge them.

During our institutional review hearings, we heard how some religious organisations, particularly the Catholic and Anglican churches, are attempting to improve the way that people in religious ministry are supervised and supported in their roles.

As we outline in Section 13.11.9, 'Oversight, support and ongoing training of people in ministry', the supervision and support of priests and religious in the Catholic Church is governed by several documents promulgated at a national level, including *Pastores dabō vobis* and *Integrity in ministry*. We note in that section that, while these documents represent a significant and appropriate culture shift in the emphasis of the importance of support and supervision, there is a gap between the intention and its implementation. In its 2014 activity statement, the Truth, Justice and Healing Council observed that 'There is a lack of relevant professional development for priests and other religious including ongoing assessment, accreditation and oversight'.⁴³⁷

During our *Institutional review of Catholic Church authorities* hearing, Father Bourke told us that when professional supervision was offered in the Catholic Church, it was ‘poorly constructed, under resourced and not systematic’, or it was ‘offered as a soft option’, meaning that it was open to noncompliance.⁴³⁸ A voluntary performance appraisal system for clergy has been developed by the Australian Catholic Bishops Conference.⁴³⁹ However, we heard that uptake of that system has been limited. Father Bourke told us that in the Archdiocese of Melbourne, approximately 20 of 200 priests undertook an appraisal over a five-year period.⁴⁴⁰

As we outline in Section 12.6, Mr Blake SC told us that in the Anglican Church ‘the idea of mentoring or supervision was not something commonly promoted, or, if promoted, was not taken up by clergy’.⁴⁴¹ The Anglican Church in Australia has been working towards a more appropriate model of supervision and support for some time. The need for professional supervision and support for clergy was raised at a national level in the 2004 report of the Child Protection Committee titled *Making Our Church Safe: A programme for action*. The report stated:

We are concerned that the direct relationship between unhealthy ministry practices and the abuse of others by clergy is not widely understood. We would encourage dioceses to continue to promote healthy ministry practices by their clergy.⁴⁴²

The report set out that each diocese should have a system of ministry support and that it should include:⁴⁴³

- peer support
- mentoring
- professional supervision or consultation
- ministry review.

In the same year as the report was released, the General Synod resolved that each diocese should adopt safe ministry policies and structures.⁴⁴⁴ In our *Institutional review of Anglican Church institutions* hearing, we heard that systems of ministry support which have the above elements are still being developed by dioceses. Bishop Tim Harris told us that his Diocese of Adelaide is working to:

[bring] that culture of accepting some supervision and accountability and transparency to those who have been trained in earlier times, and in some cases developing wider levels of peer accountability or, in some cases, reporting and debriefing on the practice in a more intentional way.⁴⁴⁵

Similarly, Bishop Gregory Thompson, former Anglican Bishop of Newcastle told us that in his diocese a shift was occurring towards a supervisory model. However, he stated that this had been ‘hard to introduce because priests, who have been self-determining on many matters,

question the idea that they need supervision’.⁴⁴⁶ In Bishop Thompson’s view, supervision will ‘allow clergy to recognise and become self aware of their own boundary breaches, their own sense of why they need further work and understanding of their own needs’.⁴⁴⁷

We heard evidence that other religious organisations have processes in place to ensure that their people in religious ministry receive effective oversight and professional supervision in their roles.

We heard, for example, that in the Uniting Church, ministers come under the oversight of a presbytery in ‘matters of faith and discipline’. Reverend Heather den Houting, General Secretary of the Uniting Church Queensland Synod, gave evidence in our *Institutional review of Uniting Church in Australia* hearing that there are numerous processes in place to ensure that a minister who is appointed into a role is appropriately fulfilling that role. For example, the presbytery has a function maintaining pastoral and administrative oversight of ministers, and ensuring they receive regular professional supervision and opportunities for training, and attending to any matters of counselling or discipline.⁴⁴⁸ According to the *Uniting Church in Australia regulations*, the counselling and discipline of ministers by the presbytery aims to:⁴⁴⁹

- provide encouragement and counsel for the enrichment of their ministry
- advise, admonish, correct and assist them where they appear to require guidance and support
- assist and encourage observance of the code of ethics
- advise and discipline ministers in relation to breaches of the code of ethics
- deal with any complaints made against them.

Reverend den Houting told us that both ministers and lay pastors are required to participate in regular training on the Uniting Church *Code of ethics* and child safe ministry practices.⁴⁵⁰

Reverend den Houting explained that the Uniting Church has initiated a review of its application of professional standards to provide ‘clearer expectations and responsibilities for oversight and accountability’.⁴⁵¹ The statement on the scope of the review tells us that ‘there is currently a lack of consistent clarity over the role of ministry, the relationship between the minister and the Church, and the nature of ministry as a profession’.⁴⁵² It appears a key aspect of this project is improving the role, responsibility and capacity of the presbytery in the oversight of ministry.⁴⁵³ The statement of the scope of the review states that ‘if oversight is about ensuring ministry agents are of good standing, then the approach taken must be nationally consistent, particularly regarding training and resourcing’.⁴⁵⁴

In our view, there is a clear relationship between effective oversight and professional supervision of personnel and child safety. In most professions, oversight and supervision serves to ensure that people within the institution are accountable, their performance is monitored, they have the required information and support to undertake their role, and they receive development relevant to their capacity. It is anomalous that in some religious organisations,

oversight and professional supervision of people in religious ministry is not common, and not mandatory, particularly given the nature of their roles. As Bishop Tim Harris, then Administrator of the Diocese of Adelaide observed during our *Institutional review of Anglican Church institutions* hearing:

There are significant pressures on clergy, and I believe growing pressures. One between the public and private life, and there is a disconnect between the way that people present themselves and have accountabilities publicly and what is happening in their own personal self. That is a significant pressure. That would be true of many other people in public life. But there is also a vulnerability that comes with fear of complaint and accusation, so that there is awareness of increasing requirements for compliance and so on that are stressful in case there are breaches within that, but I think that is also a question of balancing education and awareness together with provisions for further support.⁴⁵⁵

We recommend that all people who are engaged in active religious and pastoral ministry be subject to effective oversight and management in their roles. They should undertake regular performance appraisals which should include feedback from a broad range of sources, including lay people. We consider that a regular performance appraisal should be conducted, as in other professions, annually.

We heard from some survivors in private sessions whose suggestions regarding child safety reflect the importance of oversight for people in religious ministry.⁴⁵⁶ ‘Fergal’, a survivor of child sexual abuse by a Catholic priest, saw value in assessing the suitability of a person in religious ministry to perform community work. He suggested:

Get something on paper on a regular basis. How’s this priest going? ... They’re in the community. How are they performing [in] the community? Are they meeting the values of the Church?⁴⁵⁷

In addition, given the nature of religious ministry, we consider that people in active ministry should be provided with professional supervision.

As we outline in Section 13.11.9, we were told that the reflective practice of professional/pastoral supervision is employed in caring professions such as psychology and counselling as a constructive means of supporting practitioners to better their practice.⁴⁵⁸

Speaking about his experience of professional supervision in counselling, in which he had one-to-one supervision in addition to a weekly peer review process with his colleagues, Dr David Leary, Provincial Secretary of the Order of the Friars Minor, said:

So you build up a culture over time of accountability but also support. As time goes on and if those experiences are positive, the vision of the experience is less about accountability and more about support.⁴⁵⁹

We were told that professional/pastoral supervision also ameliorates the risk of abuse by assisting caring professionals to maintain healthy boundaries in their relationships with clients.⁴⁶⁰ Dr Robinson gave evidence that professional supervision is an essential means of navigating interpersonal and dual relationships in ministry, in ensuring clergy are conscious of their internal workings.⁴⁶¹

Sister Eveline Crotty rsm, Sister of Mercy and Co-ordinator of the Urban Ministry Movement, Sydney, said that a professional/pastoral supervisor has to be trained, registered and recognised as such within an association for the supervision to be appropriate.⁴⁶² Organisational psychologist Dr Michelle Mulvihill, agreed that supervision should be conducted by well-trained, professionally registered supervisors.⁴⁶³

We understand that in some religious organisations, lay people are playing an increasing role in religious works and pastoral ministry, including that traditionally undertaken by people in religious ministry. To reflect this reality, and because this section is focused on positive proposals aimed at enhancing support for, and the effectiveness, accountability and professionalism of all those in ministry in religious institutions in Australia into the future, the recommendations below will use the term ‘people in religious and pastoral ministry’, rather than just ‘religious ministry’.

Recommendation 16.44

Consistent with Child Safe Standard 5, each religious institution should ensure that all people in religious or pastoral ministry, including religious leaders, are subject to effective management and oversight and undertake annual performance appraisals.

Recommendation 16.45

Consistent with Child Safe Standard 5, each religious institution should ensure that all people in religious or pastoral ministry, including religious leaders, have professional supervision with a trained professional or pastoral supervisor who has a degree of independence from the institution within which the person is in ministry.

Recruiting personnel from overseas

During our institutional review hearings, we heard that some religious institutions are increasingly recruiting or sourcing personnel from overseas, including candidates for and people in religious and pastoral ministry. Overseas recruitment can raise difficulties for appropriate screening of those individuals. For example, WWCCs are of limited use because they do not capture crimes or charges from the overseas jurisdictions. Although checks may be done in the home country of overseas candidates, these checks may not meet Australian standards. Some countries have a different understanding of matters relevant to working with children. Candidates and people in religious or pastoral ministry from overseas may also not have the

same level of training as their Australian counterparts. They may also have different cultural understanding of the rights of children and to the problem of child sexual abuse to that prevalent in Australia today.

As outlined in Section 13.11.8, Catholic Auxiliary Bishop Anthony Randazzo, former seminary rector, gave evidence during our *Institutional review of Catholic Church authorities* hearing that, over a number of years, the Holy Spirit seminary at Banyo in Brisbane had been involved in a reciprocal arrangement with a diocese in Nigeria. This arrangement involved a number of Nigerian students who had already completed their philosophical studies coming to Brisbane to undergo further formation in theological, pastoral and human and spiritual formation. He explained that police checks were done in Nigeria on each of the potential candidates and when they arrived in Australia they underwent psychological examination in the same way as other seminarians in Brisbane.⁴⁶⁴

Father Gregory Chambers SDB, Provincial of the Salesians of Don Bosco, Australia Pacific Province, explained in the same hearing that, for overseas candidates, the Salesians 'ensure that they go through the proper certification of police checks in their own countries, Working With Children Checks, various training before they come' to Australia as well as obtaining 'the usual statement of Church authorities, declarations, et cetera, before they come'.⁴⁶⁵

Dr David Ranson, theologian and Vicar General of the Diocese of Broken Bay told us that, in his view, it was 'absolutely essential' that the Australian people were able to have confidence that seminarians and clergy brought to Australia from overseas were 'able to understand and also act appropriately' in the context of what has been learned about child sexual abuse.⁴⁶⁶

During our *Institutional review of Anglican Church institutions* hearing, Mr Blake SC, Chair of the Anglican Church Professional Standards Commission, gave evidence about a new protocol in the Anglican Church designed to help ensure people in religious ministry from overseas are suitable for work in Australia. Mr Blake SC told us that the Anglican Consultative Council, comprising the 39 provinces of the Anglican Communion internationally, recommended to the provinces that they implement a new protocol, the *Ministry suitability information protocol*. Mr Blake SC explained that if someone comes from overseas to Australia, the system would require the licensing bishop in Australia to make inquiries with the overseas Anglican authority to determine information that would be relevant to the appointment. The overseas authority would be bound to supply the information, and the Australian bishop not to appoint someone unless the information is taken into account. Mr Blake SC told us that he understands steps are being taken by provinces to implement the protocol.⁴⁶⁷

Rabbi Pinchus Feldman, Head Rabbi at Yeshiva Centre Bondi, told us during the *Institutional review of Yeshiva/h* hearing that Yeshiva Bondi had volunteers from a 'Yeshiva' in the United States come and assist at their institution, including in relation to activities involving children. Rabbi Feldman said that the volunteers had to undertake a WWCC and complete a youth worker training program.⁴⁶⁸

Religious institutions in Australia which receive people from overseas to work in religious or pastoral ministry, or otherwise within the institution, should have targeted programs to ensure those people are suitable and supported in their work that involves children. Having regard to our Child Safe Standard on human resource management and our discussion and recommendations in this section, religious institutions should ensure that people from overseas who seek to work in their institution are appropriately screened, receive initial training, and are supervised and developed in their role. Any targeted programs should include material covering professional responsibility and boundaries, ethics in ministry and child safety.

Recommendation 16.46

Religious institutions which receive people from overseas to work in religious or pastoral ministry, or otherwise within their institution, should have targeted programs for the screening, initial training and professional supervision and development of those people. These programs should include material covering professional responsibility and boundaries, ethics in ministry and child safety.

20.4.6 Child-focused complaint process

A child-focused complaint process is an important strategy for helping children and others in institutions make complaints. Child safe institutions respond to complaints by immediately protecting children at risk and addressing complaints promptly, thoroughly and fairly.

In Volume 6, *Making institutions child safe*, we outline why complaint handling is an essential standard of a child safe institution. Volume 7, *Improving institutional reporting and responding*, provides greater detail on this topic, including considering how the Child Safe Standards can be specifically applied to complaint handling and providing additional guidance on how institutions can implement these standards.

Due to the number of issues we heard about complaint handling by religious institutions, and the evidence we received during our case studies and consultations, we discuss improving responding and reporting by religious institutions in detail in Chapter 21.

20.4.7 Staff education and training

Child Safe Standard 7 is ‘Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training’. The standard is based on the premise that all staff and volunteers receive comprehensive and regular training, including induction on the institution’s child safe strategies and practices, as well as broader training on child protection. Child safe institutions are ‘learning institutions’ where staff and volunteers at all levels are continually building their ability and capacity to protect children from harm.⁴⁶⁹

Our inquiry has revealed failures by religious institutions to ensure that staff, including people in religious ministry were properly equipped with the skills and knowledge to protect children. We have heard evidence about religious institutions where those put in charge of looking after children were not trained to do so, and of situations where policies and procedures that had been put in place to protect children were not followed adequately, putting children's safety at risk. Training on child safety for people in religious ministry in particular has been at times poor or non-existent.

Ongoing education and training for people in religious ministry

In Section 20.4.5 above, we addressed the initial training of candidates for religious ministry. In this section we consider ongoing education and training for people in religious ministry.

In the Catholic Church, there are no overarching obligations on archbishops, bishops or religious superiors to undertake education and training on matters relating to child safety. There are also no specific requirements for those leaders to provide education and training on child safety to clergy or religious under their authority. Some national policy documents provide guidance to clergy and religious about appropriate behavioural standards, and create some general obligations on Catholic Church leaders to ensure support for their clergy and religious and make them aware of the issue of child sexual abuse.⁴⁷⁰

During our *Institutional review of Catholic Church authorities* hearing, we received evidence that various Catholic Church authorities have established policies and procedures for the education and training of their clergy and religious. The type and extent of training required by those policies varies between authorities. For example, the Bishop of Ballarat, Bishop Paul Bird, told us that the Diocese of Ballarat requires all those in parish leadership positions, including priests, to complete an online training module.⁴⁷¹ Brother Peter Carroll, Provincial of the Marist Brothers in Australia, told us the Marist Brothers have a clear focus on training, which requires all brothers, staff and volunteers to undergo ongoing training on child protection, including identifying the indicators of child sexual abuse.⁴⁷²

Some Catholic Church authorities told us they are still working towards providing appropriate ongoing training to clergy and religious. For example, Father Chambers, the Provincial of the Salesians of Don Bosco, Australia Pacific Province, gave evidence during our *Institutional review of Catholic Church authorities* hearing about the need for regular professional training within his institute for both religious and lay workers and told us that he believes that Salesian schools and centres need to be further 'developed and strengthened in the years ahead'.⁴⁷³

We also received evidence that some authorities have faced difficulty in ensuring clergy complete training. Archbishop Philip Wilson, the Catholic Archbishop of Adelaide, gave evidence that the response to a series of training courses in his archdiocese had not been as strong as he would have liked.⁴⁷⁴ The training consisted of an initial seven-hour course, and a three-hour update course every three years.⁴⁷⁵ He told us:

I think our efforts have not been as good as they should be. We need to have a much more professional approach to this. We should set standards and they ask people to do specific training in relationship to those, to help them in their ministry.⁴⁷⁶

Archbishop Denis Hart, the Catholic Archbishop of Melbourne and President of the Australia Catholic Bishops Conference, told us that, while he had insisted that clergy attend a briefing and formation on the requirements of safeguarding and child protection, he had not given consideration to annual or periodic training subsequently, but rather had left it to the clergy to seek out opportunities. He confirmed he would consider requiring annual and periodic training of clergy in his archdiocese.⁴⁷⁷

Archbishop Hart commented that he would welcome a mandatory standard for annual professional training of clergy and religious in the Catholic Church, because a standard:

spells out a clear understanding of our vocation and calling and the appropriate ways in which to relate, and I think this is tremendously important in the light of the awful failures and the wrongdoing of the past.⁴⁷⁸

Archbishop Hart and Archbishop Anthony Fisher OP of the Catholic Archdiocese of Sydney told us that they thought it would be helpful to have Catholic Professional Standards Limited (CPS) create a national standard that addresses initial and ongoing training for clergy.⁴⁷⁹ Archbishop Wilson agreed with this proposition.⁴⁸⁰

We heard evidence from Archbishop Mark Coleridge, the Catholic Archbishop of Brisbane and a member of the Supervisory Group of the Truth, Justice and Healing Council, during our *Institutional review of Catholic Church authorities* hearing that CPS plans to set standards for all Catholic Church authorities in staff education and training. The archbishop told us that the education standards will apply ‘across the board’, including clergy, bishops, major superiors, and ‘anyone else who is involved with young people’.⁴⁸¹

Similarly, during our *Institutional review of Anglican Church institutions* hearing, we heard evidence that training and education obligations in relation to child protection are not applied uniformly across the Anglican Church dioceses.⁴⁸²

As noted above, senior Anglican Church personnel told us that the *Safe ministry training benchmarks* promoted by the Anglican Church at a national level are regarded as the starting point in minimum standards for child protection across most dioceses.⁴⁸³ Each diocese is responsible for implementing the national benchmarks and administering safe ministry training through its professional standards framework. Mr Greg Milles, the Director of Professional Standards in the dioceses of Brisbane, Northern Territory, North Queensland and Rockhampton, told us that the level of training provided by directors of professional standards varies from diocese to diocese. Mr Milles told us that his role in the Diocese of Brisbane is much wider than in other Anglican dioceses in Queensland and the Northern Territory.⁴⁸⁴

In addition to internal safe ministry training, we heard that some Anglican dioceses have taken steps to provide clergy and other church workers with access to external training on safe ministry practices. Thirteen Anglican dioceses are members of the National Council of Churches in Australia *Safe church training agreement*.⁴⁸⁵ The *Safe church training agreement* provides nationally recognised interdenominational course content and benchmark standards for safe ministry, as well as training and accreditation for course presenters.⁴⁸⁶ Under the agreement, clergy and other church workers are required to attend training seminars in their first year of ministry and every three years thereafter.⁴⁸⁷

In contrast, the Bishop of the Anglican Diocese of Ballarat, Bishop Garry Weatherill told us that in the Diocese of Ballarat there is no requirement for regular formal training of lay staff and clergy in relation to child sexual abuse. He told us that clergy received training in 2014, and that the Diocese intends to make training mandatory for clergy and lay people in the next three years.⁴⁸⁸

As we outline above, the Anglican Church of Australia has told us it is introducing prescribed minimum child safe standards through the *Safe Ministry to Children Canon 2017*. This canon sets out that all bishops and licenced clergy and all church workers involved in ministry to children must have ‘accredited training’ prior to their appointment to the role. There is a requirement that they receive further training at intervals of not more than three years since their last training. Accredited training is training that meets the national benchmarks mentioned above and is accredited by a diocese.⁴⁸⁹

During our *Institutional review of The Salvation Army* public hearing, Lieutenant Colonel Christine Reid, Secretary for Personnel of The Salvation Army Eastern Territory, told us that The Salvation Army Eastern Territory requires anyone who works in child related role to attend its Safe Salvos workshop within their first three months of ministry and attend a refresher workshop every three years.⁴⁹⁰ Training consists of information on indicators of child maltreatment, including child sexual abuse.⁴⁹¹ Colonel Mark Campbell, Chief Secretary in Charge of The Salvation Army Eastern Territory, told us that all officers, whether they are working with children or not, are required to complete the training.⁴⁹² Commissioner Floyd Tidd, National Commander of The Salvation Army Australia, told us that in The Salvation Army Southern Territory all workers for the organisation, including officers, are required to complete the induction module.⁴⁹³

Reverend Heather den Houting, General Secretary of the Uniting Church Queensland Synod, told us during our *Institutional review of Uniting Church in Australia* hearing that child safe training is mandatory for those in congregation leadership or ministry roles, with refreshers required every three years. The content covered in the Uniting Church's Safe Church training reflects the National Council of Churches in Australia *Safe church training agreement* standards (mentioned above in the context of the Anglican Church), which cover child safety, child protection and/or child sexual abuse.⁴⁹⁴ Reverend den Houting told us that responsibility for training is shared between the synod and the presbytery. It is generally expected that presbyteries will roll out the training material provided by the synod. Further, it is expected that presbyteries will follow up those who do not attend training.⁴⁹⁵

Reverend den Houting also gave evidence that the Uniting Church is committed to providing education about matters relating to child sexual abuse. She said that training days, workshops and presentations have taken place across the Uniting Church on a range of topics. For example, at the Synod of Victoria and Tasmania's synod meeting in 2016, forensic psychologist Dr Danny Sullivan, from the Centre for Forensic Behavioural Science at Swinburne University of Technology gave a presentation on the 10 myths about sexual offenders.⁴⁹⁶

During our *Australian Christian Churches* case study, we heard that the ACC did not set out any requirements that its credential and certificate holders attend training on child protection.⁴⁹⁷ The training of ministers was considered a matter of management for affiliated churches.⁴⁹⁸ During our *Institutional review of Australian Christian Churches* hearing, representatives of the ACC gave evidence that the institution has recognised that it is important its staff receive training on the nature and indicators of child sexual abuse and that they are supported and equipped to develop skills in protecting children and responding to disclosures of abuse.⁴⁹⁹ We received evidence in that hearing that from 2016 onwards credential and certificate holders in the church, that is, those who minister, are required to attend regular child protection training as a condition of renewal of their credential or certificate.⁵⁰⁰

During our *Yeshiva Bondi and Yeshivah Melbourne* case study, training for rabbis on issues relating to child sexual abuse was identified as an issue of concern. Rabbi Pinchus Feldman and Rabbi Yosef Feldman of Yeshiva Bondi each told us that they had not undertaken any formal training in respect of child sexual abuse.⁵⁰¹ During our *Institutional review of Yeshiva/h* hearing, we received evidence that rabbis and leaders at Yeshiva Bondi have since attended a number of child protection courses provided by external authorities.⁵⁰² Nevertheless, Rabbi Pinchus Feldman told us that he was not familiar with the details of the child protection policy of Chabad Youth at the Yeshiva Centre in Bondi. He conceded that a leader of an institution should be aware of the details of their child protection policies.⁵⁰³

We believe that all people in religious ministry, should receive regular training and education on matters relating to child safety. This should include the institution's child safe practices and policies.

We consider that religious leaders in particular should be required to receive training on their institution's child safe practices, as well as seek out opportunities to learn about best practice approaches to child safety in order to inform their approach in their own institution.

As noted above we understand that in some religious organisations, lay people are playing an increasing role in religious works and pastoral ministry, including that traditionally undertaken by people in religious ministry. To reflect this reality, the recommendation below will use the term 'people in religious or pastoral ministry', rather than just 'religious ministry'.

Recommendation 16.47

Consistent with Child Safe Standard 7, each religious institution should require that all people in religious or pastoral ministry, including religious leaders, undertake regular training on the institution's child safe policies and procedures. They should also be provided with opportunities for external training on best practice approaches to child safety.

20.4.8 Physical and online environments

Child Safe Standard 8 is 'Physical and online environments minimise the opportunity for abuse to occur'. As we outline in Volume 6, *Making institutions child safe*, a child safe institution designs and adapts its physical environment to minimise opportunities for abuse to occur.⁵⁰⁴ The institution finds a balance between visibility and children's privacy and their capacity to engage in creative play and other activities.⁵⁰⁵ It consults children about physical environments and what makes them feel safe.⁵⁰⁶

Child safe institutions also address the potential risks posed in an online environment, educating children and adults about how to avoid harm and how to detect signs of online grooming.⁵⁰⁷ The institution articulates clear boundaries for online conduct, and monitors and responds to any breaches of these policies.

Our inquiry has highlighted that the risk of child sexual abuse can increase where an institution's physical environment allows perpetrators to isolate children or operate without scrutiny. As outlined in Part C, we heard that some children were sexually abused when alone with alleged perpetrators in places of worship or while they were participating in religious activities. Some survivors told us they were abused as Catholic Church or Anglican Church altar servers while spending time alone with the priest in a church. Some survivors told us they were sexually abused by a Catholic priest during confession, which was often held in a 'confessional' or a dedicated room within a church. We also heard that child sexual abuse occurred in a ritual bathhouse (the mikveh) operated by the Yeshivah Centre Melbourne.

As outlined in Part C, we heard that devout religious families held people in religious ministry in such high regard that often they allowed their children to take part in such activities without parental supervision. Some survivors told us that they were permitted or encouraged by their parents to spend time alone with people in religious ministry. We heard that some parents actively encouraged their children to become involved in church activities, particularly as altar serves. In addition, children were alone with priests during religious confession.

We did not examine issues associated with the online environment and religious institutions in our case studies. However, as outlined in Volume 6, *Making institutions child safe*, there are emerging risks to children online. Several witnesses from religious institutions told us that they are increasingly aware of the risk posed by the online environment and are taking steps to address this risk.⁵⁰⁸

Mitigation risks associated with the physical environment in religious institutions

For many religious institutions, managing risks in the physical environment will differ depending on the activity the institution undertakes. Religious institutions need to judge the risk associated with the activity and consider modifications as to how or where the activity is conducted in order to mitigate those risks. For example, Ms Karen Larkman, the Director for Safeguarding and Ministerial Integrity in the Archdiocese of Sydney gave evidence in our *Institutional review of Catholic Church authorities* hearing that her archdiocese undertakes comprehensive risk assessments in relation to the camps it undertakes involving altar servers and volunteers.⁵⁰⁹ The Catholic Archdiocese of Melbourne's *May our children flourish*, provides guidance on aspects that should be considered when providing a safe physical environment for children to undertake activities within the archdiocese.⁵¹⁰

Likewise, the Anglican Church's code of conduct *Faithfulness in service* provides guidelines for ministry with children that include specific advice for managing risks in different environments, such as when providing ministry in the context of individual or small groups; when the event involves sleeping over, such as camps; and for transporting children. These guidelines are specific child safety guidelines and are separate from health and safety standards.⁵¹¹

Religious confession

A religious confession is a confession that a person makes to a member of the clergy in the member's professional capacity according to the ritual of the church or religious denomination involved. As we discuss in Section 13.11.10, 'The sacrament of reconciliation', in the Catholic Church, confession is part of what is referred to as the sacrament of reconciliation. Confession is also practiced by the Orthodox churches and the Anglican, Lutheran and Uniting churches. In some of these churches, such as the Anglican and Uniting churches, confession mostly occurs within the context of worship with a congregation, rather than individually and in isolation with a member of clergy in a confessional.⁵¹²

In the Catholic Church, children usually undertake the sacrament of reconciliation in a school context.⁵¹³ Some dioceses have a parish school-based approach to preparation for the sacrament. Others opt for a parish-based approach supported by the school.⁵¹⁴

We have received evidence and information about children who were abused by a member of the clergy in connection with their participation in the sacrament of reconciliation in the Catholic Church, which we discuss in Part C. The significance of the sacrament of reconciliation and the way it may have contributed to the occurrence of child sexual abuse and to the Catholic Church's inadequate response to such abuse is considered in Section 13.11.10.

The Catholic Church in Australia has no specific national written protocol on how the sacrament of reconciliation is to be conducted for children. *Integrity in ministry* states that priests should ensure wherever reasonably possible that another adult is present or close by when 'providing pastoral ministry to a minor', but it does not specify that this includes during confession.⁵¹⁵ *Integrity in ministry* separately provides that clergy should celebrate the sacrament of reconciliation in ways that 'respect penitents' right' to a 'safe environment', including options for 'openness and visibility for those who desire them', but it does not mention any requirements regarding children.⁵¹⁶

The Truth, Justice and Healing Council (the Council) noted in its submission to our *Institutional review of Catholic Church authorities* hearing that:

In the case of children, the custom in most parishes today is for confessions to be heard not in a reconciliation room, but in an open place in the church which is clearly visible to teachers, parents and others in the congregation, while distant enough to allow the penitent to speak confidentially to the priest.⁵¹⁷

This is consistent with the 'second rite' of reconciliation, which, as discussed in Section 13.11.10, involves confession as part of communal liturgical celebration. The Council stated that most dioceses note that this form of the sacrament 'best meets the needs and abilities of the young child'.⁵¹⁸ However, the Council also stated in its submission that 'other dioceses note that the confessional, with the door open or closed, is an option'.⁵¹⁹

During our *Institutional review of Catholic Church authorities* hearing we received evidence that several Catholic Church authorities have taken steps to mitigate risks associated with children's participation in the sacrament of reconciliation.

For example, the Archbishop of Melbourne, Archbishop Denis Hart, told us:

I issued a directive to parish priests and principals of primary and secondary schools in the Archdiocese on 10 November 2016, that in light of the special circumstances arising from the implementation of the Child Safe Standards in Victoria, the Sacrament of Reconciliation in schools is to be celebrated in a Church in an open setting in the full view of all participants, who are supervised by staff. The parish priest and the school staff responsible for the school students are to ensure that there is a direct line of sight to the individual penitent.⁵²⁰

The archdiocese's *May our children flourish* confirms:

Activities ... (such as the Sacrament of Reconciliation), should be conducted in a manner and space in clear view of other people. This creates an environment that safeguards both the child's wellbeing and the adult's integrity.⁵²¹

Archbishop Philip Wilson of the Archdiocese of Adelaide gave evidence that his archdiocese has 'done exactly the same as Archbishop Hart'.⁵²² The Council, in its submission to our *Institutional review of Catholic Church authorities* hearing, noted that other Catholic bishops have provided directions to their priests in their dioceses that the sacrament should be celebrated in an open setting.⁵²³

During the *Institutional review of Catholic Church authorities* hearing, a number of other archbishops and bishops gave evidence that it is the general policy in their dioceses that the sacrament of reconciliation is celebrated by children in an open setting.⁵²⁴ Further, Father Brian McCoy SJ, Provincial of the Australian Province of the Society of Jesus, told us that 'it is usual practice ... in our schools for Jesuits to conduct Reconciliation out in the open, in front of others in the congregation, so that they and the students are clearly visible throughout the time of confession'.⁵²⁵

It appears many Catholic Church authorities have updated their practices on the sacrament of reconciliation for children to ensure that it is held in an open place, with clear visibility, under the supervision of a teacher or parent/guardian. However, we understand that some dioceses retain the option of hearing confessions from children in the confessional with the door closed. We also understand that while some Catholic Church authorities have updated their practice, they are yet to formalise that practice in a policy.⁵²⁶

In our view, children's participation in the religious confession, either in a 'confessional' or a room alone with a member of clergy, represents an unacceptable risk to children.

We note that the Independent Review on Child Protection in the Catholic Church in England and Wales (the Nolan Review) in its final report recommended that the sacrament of reconciliation for children 'should wherever possible be administered in a setting where both priest and child can be seen but not heard'.⁵²⁷

During our *Institutional review of Catholic Church authorities* hearing, the Catholic archbishops of Sydney, Melbourne, Adelaide, Brisbane and Perth told us that they would support a national standard which mandated that children are only to receive the sacrament of reconciliation in the open and subject to supervision.⁵²⁸

Accordingly, we consider that the Catholic Church should establish a national standard which mandates that all children should only receive the sacrament of reconciliation in an open space within a clear line of sight of another adult. The policy should specify that, if another adult is not available, the rite of religious confession for the child should not be performed. This policy should also be adopted by any other religious institutions that have a practice of religious confession.

Recommendation 16.48

Religious institutions which have a rite of religious confession for children should implement a policy that requires the rite only be conducted in an open space within the clear line of sight of another adult. The policy should specify that, if another adult is not available, the rite of religious confession for the child should not be performed.

Children's participation in worship or religious activities

A further consideration for religious institutions is the involvement of children in worship services. As noted above, many survivors told us they were abused as Catholic Church or Anglican Church altar servers while spending time alone with the priest in the church. While the use of altar servers in the Catholic Church has declined since the period examined by our case studies, during our *Institutional review of Catholic Church authorities* hearing, we heard that in some parishes they are still used.⁵²⁹

As noted above, we also heard about children being abused in ritual bathhouses associated with Yeshivah Melbourne. We heard that Yeshiva Bondi runs a similar bathhouse. Rabbi Pinchus Feldman told us that at Yeshiva Bondi, children 12 years and under can attend the mikveh if they are accompanied by an adult, with parental consent. Young people between the ages of 13 to 17 can attend with parental consent.⁵³⁰ During our *Institutional review of Yeshiva/h* hearing, we received evidence that, apart from some rules about entry and parental accompaniment for children 12 years and under, neither Yeshiva Bondi nor Yeshivah Melbourne has specific policies designed to mitigate risks in the physical environment at the mikveh.⁵³¹

Consistent with Child Safe Standard 8, religious institutions need to consider and take steps to address the risks associated with children's participation in worship and religious activities, particularly where they may be alone with adults, including people in religious ministry. Religious institutions should develop policies that outline how any identified risks will be mitigated and managed.

Access to schools

In some religious organisations, such as the Catholic Church, there is an intersection and, at times, a close relationship between a parish and a school, and they can be situated on the same grounds. A particular issue in relation to child safety in religious schools is the extent to which people who are not staff members have access to the school grounds and to children who attend the school. As set out in Section 13.10, in some Catholic schools, priests with access to Catholic parish schools have sexually abused children who attended these schools.

Many people who are not staff members visit schools. This might include regular visitors who work with children on specific programs or individuals providing a one-off service to children. In religious schools regular visitors may also include people in religious ministry.

Consistent with Child Safe Standard 8, school leaders should supervise and manage visitors to a school with a focus on child safety, including visitors who are people in religious ministry. School principals should have the authority to restrict a visitor's access to children in the school, or to prevent their access to the school grounds altogether, if they have a concern that the visitor's presence might compromise child safety.

We also consider that a school's code of conduct should apply to people who regularly visit the school grounds. People in religious ministry who are visiting schools will also be bound by their religious institution's code of conduct (see Recommendation 7.8, set out in Appendix A).

Mitigation risks associated with online environments in religious institutions

In Volume 6, *Making institutions child safe*, we discuss the emerging risks to children in the online space. We acknowledge that for children and young people the majority of online interactions are positive and support their social development, relationships and education. However, digital media has been associated with a range of behaviours and activities that can have an impact on children's and young people's safety and wellbeing, including:

- the use of online communications for grooming purposes by adult perpetrators
- the use of digital technologies and platforms to produce, distribute, broadcast and traffic child exploitation materials, including images, video and live-streaming of sexual abuse of children
- image-based abuse, including non-consensual sharing or publishing of sexual images of children for blackmail, humiliation, payback or trafficking purposes.

As part of our Child Safe Standard on the physical and online environment, child safe institutions should identify and mitigate risks in the online environment, without compromising a child's right to privacy and healthy child development, and their positive use of digital technologies for social and educational purposes. The institution should articulate clear boundaries for online conduct, and monitor and respond to any breaches of these policies.

In our institutional review hearings, some religious institutions acknowledged the emerging risks present in the digital and online environment. Mr Kirk Morton, Risk and Compliance Coordinator at Hillsong Church, told us that online abuse, in the form of sexual abuse or otherwise, is becoming more prevalent.⁵³² This risk is reflected in the *Hillsong safe church training manual*, which explains the connection with and increased risk of grooming and sexual abuse through the use of electronic communication.⁵³³ The training manual states that internet and telecommunication-based abuse can involve the perpetrator using these platforms to 'sexually groom, bully, suggest an inappropriate relationship be formed, or engage a child in sexual language or behaviours'.⁵³⁴ Hillsong Church also notes in its policy that in some cases these interactions can lead to a criminal charge of grooming and are considered sexual misconduct by the New South Wales Office of the Children's Guardian.⁵³⁵ Mr Morton told us that, as a method of mitigating risk, communication through online methods by Hillsong Church is centralised, eliminating the need for individual leaders to engage with individual program participants and individual children.⁵³⁶ This is reflected in the general principles for the use of electronic communication.⁵³⁷

In a similar way, Commissioner Floyd Tidd, National Commander of The Salvation Army Australia, told us that the online environment is the new norm for communicating with young people.⁵³⁸ Without explicitly connecting online and digital communication with grooming, The Salvation Army Southern Territory's *Keeping children safe code of conduct* mandates that all workers are to 'engage in respectful and transparent use of electronic communications and social media'.⁵³⁹ All workers in The Salvation Army Southern Territory are required to ensure that any electronic communication with a child or their family, regardless of the communication means, is conducted in a 'team' context.⁵⁴⁰ The code of conduct states that no Salvation Army Southern Territory worker is to seek to make contact or to spend time alone with any child outside of usual ministry or program times or outside of their stated role and responsibilities.⁵⁴¹ This includes through personal social media networks, face-to-face and phone contact without prior consent of a parent or guardian, and without the knowledge and consent of a line manager or senior representative.⁵⁴²

The policies of some other religious institutions identify online and digital conduct as a risk but do not provide extensive guidance. For example, the Uniting Church commits to ensuring that the online environment is used in accordance with codes of conduct and policies and procedures.⁵⁴³ Ms Anne Cross, Chief Executive Officer of UnitingCare Queensland, told us that the Uniting Church is in the process of examining appropriate conduct for staff in the online environment.⁵⁴⁴

The Anglican Church of Australia has encouraged its 23 dioceses to adopt policies in respect of the use of technology in pastoral communications.⁵⁴⁵ It has also set out in its *Safe ministry training benchmarks* that the appropriate use of technology in communications should form part of the training provided to clergy and lay persons.⁵⁴⁶

In addition to identifying the types of risks associated with using technology to communicate with children, the Anglican Church's *Faithfulness in service* outlines that 'Clergy and church workers can assist children to stay safe' by:⁵⁴⁷

- educating children and their parents or guardians about the risks associated with the use of this technology
- encouraging children to exercise care in disclosing personal information about themselves and others, such as their contact details
- encouraging children to talk about anything that worries them with their parents or guardians, older siblings, friends, and clergy and church workers with whom they have a pastoral relationship instead of posting their problems in a chat room or blog
- encouraging children to talk about anything they see or experience online that worries them.

With the growing use of digital and online media and its potential as a tool for grooming children, we consider that religious institutions should clearly identify and mitigate the risks of the online environment. In doing so, religious institutions should recognise in their policies the connection of the online and digital environment with grooming and the sexual abuse and exploitation of children, so personnel understand its importance. Commitments to risk management in this area should be supported by policies and codes of conduct that clearly determine the boundaries for using the digital and online environment to communicate with children attending religious institutions. Policies and training should categorise the use of the digital and online environment for the purpose of grooming and child pornography as criminal and reportable behaviour so personnel are aware of the law in this area.

20.4.9 Continuous review and improvement

Child Safe Standard 9 is 'Implementation of the Child Safe Standards is continuously reviewed and improved'. As outlined in Volume 6, *Making institutions child safe*, a child safe institution knows it is a significant challenge to maintain a safe environment for children in a dynamic institution. Leadership maintains vigilance by putting in place systems to monitor and improve performance against the Child Safe Standards. An open culture encourages people to discuss difficult decisions and identify and learn from mistakes. Complaints are an opportunity to identify the root cause of a problem and improve policies and practices to reduce the risk of harm to children.

Our inquiry has highlighted the failure of religious institutions to review and improve their policies and practice over time.⁵⁴⁸

During our institutional review hearings, we received evidence that some religious institutions have sought to implement and undertake processes that monitor and improve performance on child safety. The Catholic Archbishop of Brisbane, Archbishop Mark Coleridge, told us that his archdiocese engages in both internal and external auditing of the implementation of policies and procedures in its parishes.⁵⁴⁹ According to its policy, the archdiocesan safeguarding officer conducts ‘annual internal monitoring and reporting with each parish to ensure policy objectives and strategies are being achieved’. An independent external audit of the policy objectives and strategies is also undertaken annually. The findings of these audits are reportedly published on the archdiocesan website along with a media release.⁵⁵⁰

The Archdiocese of Adelaide’s *Safe environments for all checklist tool* states that the Child Protection Unit conducts an external review in parishes of the implementation of the program.⁵⁵¹ The Archdiocese of Adelaide’s implementation procedures states that continuous improvement operates at two levels:⁵⁵²

- at the level of individual church agencies or communities, where improvements are sought in the practices within the agency or community
- at the broader diocesan level, where improvements are sought across the wider church community in South Australia.

Standard 11 of the *Marist standards* is designed to ‘provide governance assurance on the overall effectiveness of the child protection programme established and implemented within each office, institution or program’. It outlines that the executive officer of the association annually conducts an internal audit of the implementation of the *Marist Standards* across the offices, institutions and programs of the association. The officer also submits an annual written report to the Professional Standards Committee of the Marist Association Council on the overall effectiveness of the child protection programs.⁵⁵³

In the *Institutional review of Anglican Church institutions* hearing, we received evidence that some Anglican dioceses incorporated compliance functions as part of their professional standards frameworks. However, audit functions were not adopted uniformly among the dioceses.

Mr Lachlan Bryant, Director of Professional Standards in the Diocese of Sydney, told us that for the past three years a Safe Ministry representative consultant in his team has attended between six and 12 parishes per year to conduct compliance audits in relation to professional standards policies and procedures.⁵⁵⁴ Conversely, Mr Michael Elliott, Director of Professional Standards in the dioceses of Newcastle and Grafton, told us that his office has no audit role.⁵⁵⁵

While other religious institutions do not employ audit mechanisms, some have signalled an intention to review the operation and effectiveness of their policies regularly. For example, Bishop William Wright told us that the Catholic Diocese of Maitland–Newcastle continues to review its protection policies and procedures to ensure they remain effective and current. Bishop Wright referenced the diocese’s *Reporting concerns for children policy* as an example of a policy that has undergone three significant revisions from 2013 to 2015 so it remains up to date with the most recent developments in child safety.⁵⁵⁶

In the Archdiocese of Melbourne, *May our children flourish* states it ‘is intended to be a living, working document’ and that the archdiocese will review the document regularly and welcomes any comments or suggestions for improvement.⁵⁵⁷ Some Catholic Church authorities such as the Priestly Society of the Holy Cross and the Prelature of Opus Dei have told us they undertake reviews of their policies and procedures internally and they do not give a time frame for how often these reviews are performed.⁵⁵⁸

Representatives of Hillsong Church told us that it updates its policy and procedures as often as required, but that at a minimum they are reviewed annually.⁵⁵⁹ Other religious institutions, such as Yeshivah Centre Melbourne, told us that their accreditation with the Australian Childhood Foundation represents an ongoing process requiring them to continually review their policies and procedures to ensure they are in line with ‘current research and best practice’.⁵⁶⁰

As we set out in Section 20.2, we encourage religious organisations to implement a process of measuring compliance with the Child Safe Standards in their affiliated institutions and to work closely with state and territory oversight bodies in those audits.

However, the requirement for implementation of the Child Safe Standards to be continuously reviewed and improved is relevant to all religious institutions, whether they are part of a religious organisation or not. Ongoing self-review and critical analysis monitor how well a child safe institution is implementing the Child Safe Standards. All religious institutions should periodically assess and challenge their risk mitigation practices to ensure that they deliver better outcomes for children in their care.

20.4.10 Policies and procedures

As outlined in Volume 6, *Making institutions child safe*, a child safe institution has localised policies and procedures that set out how it maintains a safe environment for children. Policies and procedures should address all aspects of the Child Safe Standards. The proper implementation of child safe policies and procedures is a crucial aspect of facilitating an institution’s commitment to child safe practices.

Our review of policies and procedures received as part of our institutional review hearings suggests that many religious institutions have made significant progress in the development of new, or the improvement of existing, policies and procedures relating to child safety. However, there remains more to do.

During our *Institutional review of Yeshiva/h* hearing in March 2017, for example, Head Rabbi Pinchus Feldman told us that the Yeshiva Centre Bondi does not have formalised child protection policies and procedures, other than for the youth activities (Chabad Youth).⁵⁶¹ Rabbi Feldman said that Yeshiva Bondi had been applying the Chabad Youth policies across its activities involving children, including the synagogue. Rabbi Feldman told us that just prior to the hearing, the Yeshiva Centre Bondi identified deficiencies in applying the policies of its youth activities directly to the synagogue. He told us, that Yeshivah Centre Bondi decided to engage a consultant to ensure that the policies and procedures it has for its youth activities apply to the Yeshiva Centre synagogue, with any changes that need to be made.⁵⁶²

At the time of our *Jehovah's Witnesses* case study in July 2015, we heard that the policies of the Jehovah's Witnesses for dealing with an allegation of child sexual abuse were outlined in six separate documents, including the Bible and the *Watchtower* magazine article entitled 'Let us abhor what is wicked', published in January 1997.⁵⁶³ During the *Institutional review of the Jehovah's Witnesses* public hearing in March 2017, we heard that the Jehovah's Witnesses organisation had developed one standalone policy, but that it had not yet been released to its congregations.⁵⁶⁴

20.5 Legal responsibilities of religious institutions and their personnel

The potential for institutions as legal entities and their personnel as individuals to be held legally accountable for damage occasioned by child sexual abuse has potential to drive cultural change and motivate institutions to take child safety more seriously.

In the following sections, we outline our recommendations to make institutions, including religious institutions, and their personnel more responsible for preventing and reporting child sexual abuse through the application of civil and criminal law.

20.5.1 Civil liability

We have made a number of recommendations to reform aspects of civil litigation. These reforms are intended to make civil litigation a more effective means of providing justice for survivors, particularly for those who are victims of institutional child sexual abuse in the future. They are set out in our *Redress and civil litigation* report, published in 2015.

Most states and territories have already implemented the recommended reforms to remove limitation periods for personal injury claims resulting from institutional child sexual abuse (see Volume 17, *Beyond the Royal Commission* and Chapter 22, ‘Redress and civil litigation for survivors of child sexual abuse in religious institutions’, for more information).

This will facilitate damages claims by victims of institutional child sexual abuse, even if it takes years for them to be able to disclose the abuse and seek compensation.

In relation to the liability of institutions for institutional child sexual abuse, we recommended reforms in two areas. The difficulty of imposing liability on institutions has arisen because, while institutions are liable for the negligence of their members or employees, Australian courts have been reluctant to accept that they should be liable for deliberate criminal acts – such as sexual abuse – committed by their members or employees.

First, we recommended that states and territories introduce legislation to impose a non-delegable duty on some types of institutions for child sexual abuse committed by members or employees of the institution, broadly defined. A non-delegable duty would impose liability on the institution without requiring proof that it was negligent. Thus these types of institutions would be liable for damage occasioned by child sexual abuse committed by their members or employees against children who are in the care, supervision or control of the institution, without requiring proof that the institution failed to exercise reasonable care.

We recommended that this non-delegable duty be placed only on certain types of institutions, including any facilities or services operated or provided by religious institutions, including activities or services provided by religious leaders, officers or personnel of religious organisations but not including foster care or kinship care.

Second, we recommended that the onus of proof be reversed for claims in negligence against any institution relating to child sexual abuse committed by the institution’s members or employees so that the institution bears the onus to prove that it exercised reasonable care to prevent abuse. This means that if a survivor could prove that they were abused in an institution, it would be for the institution to prove that it took reasonable steps to prevent the abuse. We recommend that the reverse onus of proof apply to all institutions, including those that we recommend be excluded from the non-delegable duty.

We recommended that these changes to the duty of institutions apply only prospectively. That is, they should apply only to damages claims in relation to institutional child sexual abuse committed after the reforms are made.

These recommendations were intended to provide those who suffer child sexual abuse in an institutional context in the future with a more effective avenue to obtain compensation for the abuse through civil litigation. Our recommendations on a non-delegable duty and onus of proof can be extracted in Appendix A.

However, the recommendations were also intended to prevent child sexual abuse in an institutional context by encouraging leaders of institutions to facilitate a child safe environment, at the risk of the institution being liable for the abuse if they do not. An aspect of facilitating a child safe environment would be implementation of the national Child Safe Standards in institutions. Institutions that take steps to prevent abuse will reduce their potential liability. The more effective those steps are at preventing abuse, the more the institution's potential liability will be reduced.

Some states have taken steps to implement or further develop these recommended reforms (see Volume 17, *Beyond the Royal Commission* for more information).

We also made recommendations designed to assist survivors and their legal advisers to identify the proper institutional defendant; and we made recommendations for government and non-government institutions to adopt guidelines for responding to claims for compensation concerning allegations of child sexual abuse. The extent to which religious institutions have addressed these issues is discussed in Chapter 22.

The reforms already made in response to our recommendations in relation to civil litigation, and any further reforms to implement our recommendations, are likely to make civil litigation a far more effective means of providing justice for survivors, particularly for those who are victims of institutional child sexual abuse in the future.

See our *Redress and civil litigation* report for more information.

20.5.2 Criminal law

In our *Criminal justice* report we recommended two new criminal offences that are targeted at the reporting and prevention of institutional child sexual abuse. The offences are ‘third-party’ offences, in that they apply to persons other than the perpetrator of the abuse. In each case, the offence can be committed by an adult in the institution, rather than the institution itself.

The ‘failure to report’ offence would require adults in the institution to report to police in circumstances where they know, suspect, or should have suspected that another adult associated with the institution was sexually abusing or had sexually abused a child. We discussed this offence in detail in Chapter 16 of the *Criminal justice* report.

The ‘failure to protect’ offence would require an adult in the institution who knows there is a substantial risk that another adult associated with the institution will commit a child sexual offence, and who has the power or responsibility to reduce or remove the risk. If they negligently fail to do so, they commit the offence. The ‘failure to protect’ offence that we recommend is based on an offence introduced in Victoria in 2015. We discussed this offence in detail in Chapter 17 of the *Criminal justice* report.

For each offence, we recommended that relevant institutions be defined to include institutions that operate facilities or provide services to children in circumstances where the children are in the care, supervision or control of the institution. Foster and kinship care services should be included, as should facilities and services provided by religious institutions. However, individual foster carers or kinship carers should not be liable for the offences (see Appendix A for the relevant recommendations from our *Criminal justice* report).

We believe that these offences will reinforce rather than compete with regulatory and other measures designed to require institutions to be safe for children. They are designed to require adults within institutions to take responsibility for reporting and preventing child sexual abuse in institutional contexts.

See our *Criminal justice* report for more information.

Endnotes

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21 Improving responding and reporting by religious institutions

Through our case studies and private sessions, we heard from hundreds of victims and survivors who made a complaint of child sexual abuse to a religious institution. Some described their experience of making a complaint to an institution when they were still children, at or close to the time that the abuse occurred. A significant number described making a complaint years later to either the institution in which the abuse occurred or to the religious organisation that was associated with the institution.

Our inquiry has revealed many common failings of religious institutions in their response to complaints of child sexual abuse, detrimentally affecting the lives of survivors, their families and the broader community. In Part D, 'Institutional responses to child sexual abuse in religious institutions', we discuss in detail the responses of particular religious institutions to complaints of child sexual abuse. In Chapter 19, 'Common institutional responses and contributing factors across religious institutions', we examine some of the failures of complaint handling common to religious institutions.

In this chapter, we outline recommendations for improving responses to child sexual abuse in religious institutions. We examine some current approaches to and issues in complaint handling by religious institutions and discuss how to improve complaints processes. We also discuss measures that would enhance obligatory reporting and provide greater oversight of institutional complaint handling.

Throughout this chapter we draw on Volume 7, *Improving institutional responding and reporting*, which makes recommendations and provides guidance to all institutions in Australia with respect to responding to and reporting child sexual abuse.

21.1 Common problems with complaint handling by religious institutions

In Volume 7, *Improving institutional responding and reporting*, we outline the common problems with institutional complaint handling that we identified through our case studies, private sessions and research.

In this section, we briefly summarise common responses to child sexual abuse across religious institutions. We use this to guide our discussion later in this chapter on how religious institutions can improve their approaches to complaint handling.

As we set out in Chapter 19, despite structural and theological differences between the religious institutions we examined, we have found remarkable similarities in the institutional responses to child sexual abuse across religious institutions.

As outlined in Chapter 11, 'Disclosure of child sexual abuse in religious institutions', we heard that children in religious institutions faced significant barriers to disclosing the abuse they suffered. While some of these barriers were common to all institutions, some were unique to religious institutions. Some survivors told us they felt they could not disclose the abuse because they either had no one to confide in within the institution, or there were no formal avenues that allowed them to make a complaint. Many survivors who were abused in a religious institution told us that as children they could not disclose the abuse because they did not feel they could speak out against a person who they saw as God's representative on earth.

As outlined in Chapter 19, the leaders of religious institutions frequently failed to recognise or treat child sexual abuse as a crime. Leaders and other people in positions of authority in religious institutions typically did not report incidents to police or other external authorities. The effect of this was that many people in ministry, who were the subject of allegations of child sexual abuse did not come to the notice of police or the criminal justice system. The failure to notify police increased the likelihood that people in ministry accused of child sexual abuse could remain a risk to children.

The leaders of religious institutions were often reluctant to remove alleged perpetrators from involvement with children and positions in ministry after suspicions had been raised, or allegations had been received. Leaders of religious institutions commonly allowed alleged perpetrators to continue in religious ministry with little or no risk management or monitoring of their interactions with children. In many cases, supervisory arrangements were either not put in place, or were ineffective in preventing further abuse from occurring.

After receiving suspicions or allegations, religious institutions often failed to appropriately investigate. This included circumstances where the religious institutions did not initiate an investigation at all, or did, but the investigation was not thorough or found prematurely that the suspicions or allegations were unsubstantiated. Leaders of some religious institutions demonstrated a willingness to accept denials from alleged perpetrators when they were confronted with allegations.

Where complaints against people in religious ministry were substantiated by internal investigations, or where those people were convicted of child sexual abuse offences, inadequate disciplinary processes meant that they remained associated, and in some cases involved, with the religious institution. Our inquiry has revealed that across religious institutions, the lack of workable internal disciplinary systems and the limited use of disciplinary measures meant that some alleged perpetrators were not disciplined at all; some were disciplined but in a minimal way; and others were disciplined, but only many years after allegations of child sexual abuse were first reported or convictions for abuse had been obtained. This had the result that perpetrators retained their religious titles, or remained connected to religious institutions, in circumstances where it was plainly inappropriate for them to do so.

Our inquiry has also repeatedly demonstrated that the leaders of religious institutions showed insufficient consideration for victims and survivors at the time they disclosed allegations of child sexual abuse and during investigation and/or redress processes. Victims and survivors have been personally vilified and criticised for coming forward with allegations that they or others had experienced child sexual abuse within religious institutions.

21.2 Complaint handling by religious institutions

As outlined in Volume 6, *Making institutions child safe*, complaint handling and response is an essential standard of a child safe institution. Child Safe Standard 6, ‘Processes to respond to complaints of child sexual abuse are child focused’, aims to ensure that institutions have in place a child-focused complaint handling system that is understood by children, staff, volunteers and families. In particular, an effective complaint handling policy should clearly outline roles and responsibilities, approaches to dealing with different types of complaints, and obligations to act and report.

Each of the Child Safe Standards discussed in Volume 6, *Making institutions child safe*, are equally important and interrelated. While institutional complaint processes are the focus of the Child Safe Standard 6, the standards all work together to articulate what makes a child safe institution. An institution’s complaint process should be informed by all the Child Safe Standards to create an environment where children, families and staff feel empowered to raise complaints and these complaints are taken seriously, informing improvements in safety across the institution. The extent to which the other Child Safe Standards are implemented will affect the strength of an institution’s complaint handling.

Volume 7, *Improving institutional responding and reporting*, provides further guidance on how institutions should handle complaints about child sexual abuse. In that volume we discuss how institutions should implement the Child Safe Standards from a complaint handling perspective. We recommend that institutions have a child-focused complaint handling policy and procedure and outline the key components of this policy and procedure (see Recommendation 7.7, set out in Appendix A of this volume). The components include making a complaint, responding to a complaint, investigating a complaint, providing support and assistance, and achieving systemic improvements following a complaint.

Consistent with Recommendation 7.7, each religious institution in Australia should have a clear, accessible and child-focused complaint handling policy and procedure that sets out how the institution should respond to complaints of child sexual abuse.

In Chapter 20, ‘Making religious institutions child safe’ we recommend that religious organisations adopt the Child Safe Standards as nationally mandated standards for each of their affiliated institutions (see Recommendation 16.32). We also recommend that they drive a consistent approach to the implementation of the Child Safe Standards in their affiliated institutions, and work with oversight bodies in each state and territory to support implementation and compliance in their affiliated institutions (see Recommendations 16.33 and 16.34). Complaint handling and response, as an essential standard of a child safe institution, should be part of this approach.

We acknowledge that some religious organisations have already developed national approaches to child safety, which include, or plan to include, nationally applicable standards in relation to complaint handling.¹ For example, during *Case Study 50: Institutional review of Catholic Church authorities (Institutional review of Catholic Church authorities)*, Catholic Church authorities highlighted the role that the new body Catholic Professional Standards Limited could play in setting standards for complaint handling and measuring authorities’ performance against those standards.² They also acknowledged the need for consistency in the Church’s response to complaints of child sexual abuse.³

When formulating standards, policies and procedures to be adopted and implemented, religious organisations and their institutions should take into account the general guidance set out in Volume 7, *Improving institutional responding and reporting*, and the specific guidance and recommendations set out in this chapter.

In addition, we understand that several factors can affect complaint handling by religious institutions. These factors are unique to those institutions’ structures and governance and their existing protocols for responding to child sexual abuse.

First, some religious organisations have internal legal processes for investigating and determining allegations against people in religious ministry, including allegations of child sexual abuse. Some of these processes are underpinned by theology, doctrine, scripture or tradition and cannot be altered by individual religious institutions in Australia. For example, Catholic Church institutions in Australia are subject to canon law as promulgated by the pope. The Jehovah’s Witnesses are required to apply scripturally-based policies and processes as determined by the governing body in the United States.

Second, some religious organisations have in place national protocols for responding to complaints brought by adults who were abused as children in particular institutions. These protocols largely focus on providing redress to survivors, although they include some aspects of complaint handling and response.

We have considered the implications of these two issues for complaint handling by religious institutions in the following discussion and in developing our recommendations.

21.3 Complaint handling and redress

One of the ways in which a person may seek a response to a complaint of child sexual abuse is through an established redress scheme or process. As noted above, some religious organisations have in place protocols which largely focus on providing redress to survivors of abuse but include aspects of complaint handling as well.

A process for complaint handling and a process for providing redress may have similarities, but they have different purposes. The purpose of a complaint handling process is to investigate a complaint to determine whether an incident has occurred, so that the institution can make decisions about what protective and/or disciplinary measures need to be put in place and what the institution can do to better prevent similar incidents from occurring in the future. The purpose of a redress process is to determine if a person is eligible to receive redress for the abuse they experienced. The elements of redress are a direct personal response (an apology) from the institution, access to therapeutic counselling and psychological care, and a monetary payment.⁴

Following recommendations we made in our *Redress and civil litigation* report in 2015, in November 2016 the Australian Government announced a national redress scheme for victims of child sexual abuse in institutional contexts. Any state, territory or institution will be able to opt in to the scheme.⁵ The Australian Government's proposed national redress scheme will have implications for how religious institutions that opt in to the scheme respond to complaints made by adults who were victims of child sexual abuse. However, it is important to note that the national redress scheme will not replace the need for religious institutions to ensure they respond to complaints through complaint handling processes which align with the guidance and recommendations set out in Volume 7, *Improving institutional responding and reporting*, and in this chapter.

We discuss the national redress scheme in more detail in Chapter 22, 'Redress and civil litigation for survivors of child sexual abuse in religious institutions'. For the purposes of this chapter, it is relevant to note that, in announcing the scheme, the Hon. Christian Porter MP, Minister for Social Services, stated that the scheme will deviate in 'very few' ways from the recommendations in our *Redress and civil litigation* report.⁶

In that report, we made a number of recommendations about what a national redress scheme should look like. For the purposes of this chapter, key aspects of a national redress scheme as recommended include the following:

- The scheme should only be open to those who suffered abuse prior to the commencement of the scheme, referred to in the report as 'past abuse'.⁷
- The scheme should rely primarily on completion of a written application form.⁸

- The scheme should apply the standard of proof of ‘reasonable likelihood’ when determining applications.⁹
- The scheme should not make any ‘findings’ that any alleged abuser was involved in any abuse.¹⁰

In addition, we made a number of comments and recommendations with respect to the interaction of a national redress scheme with the investigation and disciplinary processes of institutions. All of these recommendations are relevant to religious institutions. In summary:

- An institution may be informed by the redress scheme of allegations of child sexual abuse against a person associated with the institution. This may occur at any point in the redress scheme’s process. We recommended that a redress scheme should inform the institution that is named in an application for redress about the allegations made in the application.¹¹
- If an institution receives an allegation about person who is still involved with the institution, the institution should engage its complaint handling process.¹²
- A redress scheme may request that the institution provide the scheme with relevant information, documents or comments.¹³
- A redress scheme may decide to defer the determination of an application for redress while the institution conducts its investigation of the complaint. A scheme may also have the discretion to consider the outcome of the disciplinary process, if it is provided by the institution, in determining the application.¹⁴ However, the focus of the redress scheme must be to make a determination of eligibility for redress and calculation of monetary payments in a timely manner.¹⁵ If waiting on an institution’s disciplinary process would significantly delay the provision of redress, it may be appropriate for the redress scheme to proceed with the determination of the application.
- A redress scheme should report any allegations to the police if it has reason to believe that there may be a current risk to children.¹⁶ We addressed this issue further in our *Criminal justice* report. The discussion of the ‘failure to report’ offence and blind reporting to police are particularly relevant.¹⁷ If police choose to initiate a criminal investigation of the allegations as a result, this may have implications for how the religious institution processes the complaint, as will be discussed later in this chapter.

Once further details of the national scheme are released, religious organisations that opt in to the scheme will need to review any existing national protocols in light of the national redress scheme. Some religious organisations have already acknowledged the need to undertake this task. For example, during the *Institutional review of Catholic Church authorities* hearing, the Chair of the Truth, Justice and Healing Council (the Council), the Hon. Neville Owen, gave evidence that Catholic Professional Standards Limited will have to address whether the complaint handling processes represented in Towards Healing or the Melbourne Response will continue.¹⁸ Towards Healing is a set of principles and procedures which the Catholic Church in

Australia first established in the 1990s for responding to complaints of abuse against personnel of the church. The Melbourne Response is a procedure for responding to complaints of abuse in the Archdiocese of Melbourne.

Mr Owen gave evidence that the Council hoped that the Australian Government's national redress scheme would handle 'claims resolution' outside of the Catholic Church and that the individual complaints would still be handled by the Catholic Church authorities subject to the standards and principles set by Catholic Professional Standards Limited.¹⁹

We understand that one of the key concerns for the Anglican Church of Australia is how the national redress scheme would link with their own complaint handling processes. During *Case Study 52: Institutional review of Anglican Church institutions (Institutional review of Anglican Church institutions)*, Ms Anne Hywood, General Secretary of the General Synod of the Anglican Church of Australia, told us that, if the national redress scheme did not provide the Anglican Church with the name of the perpetrator, it would not be a scheme they could join.²⁰ She told us that they 'are committed to ensuring safe places in our churches and other institutions. We would need information about a perpetrator'.²¹ While acknowledging that work on the national redress scheme may have developed, she told us that there was still some work to do to clarify how the national redress scheme and the Anglican Church's complaints handling process would interact.²²

21.4 Making complaints to religious institutions

21.4.1 Types of complaints

In Volume 7, *Improving institutional responding and reporting*, we explain the term 'complaint', the different types of complaints concerning child sexual abuse and the different types of behaviours that could be the subject of a complaint.

In summary, a 'complaint' can be made by anyone and includes any allegations, suspicions, concerns or reports of a breach of the institution's code of conduct. It also includes disclosures made to an institution that may be about or relate to child sexual abuse in an institutional context. The types of behaviours that can be the subject of a complaint are broad – they range from suspicions or concerns to allegations that may amount to criminal conduct.²³

A complaint may be made about an adult who is allegedly perpetrating child sexual abuse or about a child who is exhibiting harmful sexual behaviours. It can be received in writing or verbally or be the result of other observations, including behavioural indicators. Institutions may receive a complaint from a child, adult survivor, parent, trusted adult, independent support person, staff member, volunteer or community member. Occasionally, complaints may be made anonymously.²⁴

Once the Australian Government's national redress scheme is operational, religious institutions may also receive complaints of child sexual abuse through referral from the scheme. As noted above, in our *Redress and civil litigation* report we recommended that a redress scheme should inform any institution named in an application for redress of the application and the allegations made in it.²⁵

Regardless of whether a complaint is made directly to a religious institution or is referred to the institution by the national redress scheme, the institution must apply its own complaint handling process, including the relevant steps set out below in this chapter.

It is important that all persons working for or engaging with a religious institution are aware of behaviours which can (and should) be the subject of a complaint. One mechanism which religious institutions can use to disseminate this information is a publicly accessible code of conduct.

21.4.2 The role of codes of conduct

In this section we consider the role that codes of conduct play in the complaint handling process. As will be discussed below, codes of conduct can effectively act as a trigger for complaint reporting, as they identify behaviour that meets the threshold to warrant a complaint being made.

We recommend in Volume 7, *Improving institutional responding and reporting*, that all institutions that deal with children should have a code of conduct that sets out the behaviour by staff members towards children that the institution considers unacceptable (see Recommendation 7.8, set out in Appendix A). This includes concerning conduct, misconduct and criminal conduct. The code of conduct should be explicit about the kinds of behaviours that are not acceptable and should avoid vague terms such as 'appropriate' and 'inappropriate', unless they are further defined and examples are provided. The code should define various forms of abuse, including child sexual abuse and grooming.²⁶

Religious institutions' codes of conduct should explicitly apply to all people in religious ministry, as well as all others who may have contact with children. In this Final Report, we define a person in religious ministry as a minister of religion, priest, deacon, pastor, rabbi, Salvation Army officer, church elder, religious brother or sister and any other person recognised as a spiritual leader in a religious institution.

The code of conduct should also include a specific requirement to report any concerns and breaches or suspected breaches of the code to a person responsible for handling complaints in the institution or to an external authority when required by law and/or the institution's complaint handling policy. It should identify to whom breaches of the code should be reported (internal and external to the institution). It should also outline the protections available to individuals who make complaints or report in good faith to any institution engaging in child-related work.²⁷

In Volume 7, *Improving institutional responding and reporting*, we explain why it is important that people are encouraged to report ‘concerning conduct’ that does not itself constitute abuse. ‘Concerning conduct’ refers to ambiguous behaviours that could be inappropriate for children to be exposed to and may be the precursors to abuse (including acts of grooming). Potential examples of concerning conduct include:²⁸

- showing favours to one child over others – for example, giving one child a lift home but not others
- repeatedly visiting a child and/or their family at their home for no professional reason
- being alone with a child when there is no professional reason
- not respecting the privacy of children when they are using the bathroom or changing – for example, on excursions and in residential situations
- exchanging photos with a child online.

In cases of concerning conduct, the institution should follow the process set out in this chapter to determine if it is satisfied the conduct occurred and, if so, what risk management steps it needs to take.

One issue that arose from the evidence we received from religious institutions is that there is a lack of practical detail in some institutions’ codes of conduct about what constitutes prohibited or concerning conduct, especially on the part of people in religious ministry.

In the Catholic Church in Australia there are two national overarching guidance documents about appropriate behaviour by persons associated with its institutions: *Integrity in ministry: A document of principles and standards for Catholic clergy & religious in Australia (Integrity in ministry)* and *Integrity in the service of the church: A resource document of principles and standards for lay workers in the Catholic Church in Australia (Integrity in the service of the church)*.

As we discuss in Chapter 13, ‘Catholic Church’, the Catholic Church developed *Integrity in ministry* in the late 1990s. A revised edition was published in June 2004, and it was republished in April 2010.

Integrity in ministry describes itself as a ‘code of conduct’ for ‘clergy and religious engaged in ministry on behalf of the Catholic Church in Australia’, including bishops and leaders of religious institutes.²⁹ It also has some application to lay people engaged to carry out formal ministries in the Catholic Church.³⁰ In Section 13.7, ‘Development of national procedures in the Catholic Church’, we outline some of the general behavioural standards in the document with regard to interactions with children.

Integrity in the service of the church, published in 2011, ‘outlines principles of conduct for any lay person who performs paid or unpaid work in the service of the Church’.³¹ Unlike *Integrity in*

ministry, however, it is explicitly *not* a code of conduct; rather, it is intended to be ‘a guide to assist organisations to develop new, or revise existing, behavioural processes and/or guidelines to meet their own particular circumstances or needs’.³² In relation to conduct with children, it contains behavioural standards that are worded in a similar way to those in *Integrity in ministry*.³³

In some parts, the guidance provided in *Integrity in ministry* lacks practical detail about what constitutes prohibited conduct (including concerning conduct) in relation to children. For example, it states that the ‘area of physical touch calls for great sensitivity’ and includes the principle that clergy must ‘respect the physical and emotional boundaries appropriate to relationships with adults and minors’.³⁴ However, the behavioural standards underpinning this principle simply refer to ‘exercising prudent judgment ... in initiating and responding to physical contact’ and ‘exercising prudent judgement in the expression of affection and regard’.³⁵ The document also directs clergy and religious to avoid ‘any form of over-familiarity or inappropriate language’, but it does not provide further examples of what conduct would be caught by these terms.³⁶

Evidence we received as part of our *Institutional review of Catholic Church authorities* hearing suggests that in recent years a number of Catholic Church authorities have supplemented or replaced *Integrity in ministry* and *Integrity in the service of the church* with their own codes of conduct.³⁷ Some of these codes also contain guidance on what constitutes inappropriate (including concerning) conduct that is more specific than the two national documents.³⁸

The Australian Province of the Society of Jesus provided us with an undated document created by the National Committee for Professional Standards entitled *Appropriate physical contact with children: Guidelines for church workers, including clergy and religious (NCPS physical contact guidelines)*.³⁹ The guidance in the *NCPS physical contact guidelines* is more detailed, practical and direct than *Integrity in ministry*. For example, the *NCPS physical contact guidelines* list the following as ‘inappropriate physical contact’:⁴⁰

- ‘Touching a child between the shoulders and knees should be avoided, although contact with the bony areas of the body such as the face, hand, shoulder, elbow or head, is generally acceptable’.
- ‘Holding school age and older children on your lap is not appropriate’.
- ‘Stroking any part of a child’s body and horseplay (tickling, wrestling, etc.) should be avoided’.

We consider that the lack of specific detail in *Integrity in ministry* is problematic. Directing people in ministry to ‘exercise prudent judgement’ in initiating physical contact or when expressing affection is not sufficiently prescriptive. It does not give sufficient guidance on recognising inappropriate behaviour by the person in religious ministry to either the person trying to appropriately minister to children, or to children, family or members of the community. We consider that *Integrity in ministry* needs to be revised to identify in specific terms the types of behaviours that are inappropriate.

The Anglican Church of Australia implemented a code of conduct called *Faithfulness in service: A national code for personal behaviour and the practice of pastoral ministry by clergy and church workers (Faithfulness in service)* in 2004.⁴¹ The code was most recently amended in November 2016 to include a definition and description of grooming.⁴² *Faithfulness in service* sets out standards of behaviour expected of both clergy and church workers, including in relation to ministry with children. It includes standards and obligations around reporting child sexual abuse to civil authorities and to the dioceses' professional standards directors.⁴³

Importantly, in addition to prescribing standards of behaviour, *Faithfulness in service* includes guidelines for meeting these standards, including descriptions of what constitutes 'appropriate' and 'inappropriate' physical contact in relation to children. For instance, *Faithfulness in service* states that appropriate physical contact would include 'bending down to the child's eye level, speaking kindly and listening intently' and 'patting the child on the head, hand, back or shoulder in affirmation'. Inappropriate contact, however, would include 'Touching any area of the body normally covered by a swimming costume, specifically the buttocks, thighs, breasts or groin areas'.⁴⁴

During *Case Study 49: Institutional review of The Salvation Army, Australia Eastern Territory and Australia Southern Territory (Institutional review of The Salvation Army)*, we received evidence about the suite of complaint handling policies known as Keeping Children Safe (KCS). These documents currently apply in The Salvation Army Southern Territory, but we heard they will be rolled out nationally as part of the unification of The Salvation Army Southern and Eastern territories.⁴⁵

The *KCS code of conduct* sets standards of personal and professional conduct for 'all Salvation Army officers, employees, volunteers and any other person engaged by or working under the banner of The Salvation Army'.⁴⁶ The code prohibits behaviour such as 'language that is intended to harm, abuse, bully, harass, shame, humiliate, belittle or degrade children'. It also prohibits 'grooming'.⁴⁷ Grooming is defined in a separate KSC policy.⁴⁸

In *Case Study 56: Institutional review of Uniting Church in Australia (Institutional review of Uniting Church in Australia)*, the Uniting Church provided us with three codes of conduct that have been approved by the Uniting Church in Australia Assembly (the national council of the Uniting Church). These codes apply, respectively, to all Uniting Church ministers, lay preachers and lay leaders in Australia.⁴⁹ These codes do not contain guidance about the specific behaviours towards children that the Uniting Church considers unacceptable.

However, the Uniting Church's National Child Safe Policy Framework provides that all Uniting Church entities will 'adopt, implement and strictly enforce codes of conduct for all adults who interact with children, including setting clear boundaries of behaviour between adults and children'.⁵⁰ It appears from the evidence received from Ms Anne Cross, Chief Executive Officer of UnitingCare Queensland, that it is left to the individual Uniting Church institution to determine how it will address interactions with children in its own code of conduct.⁵¹

The Australian Christian Churches (ACC), in its *Ministerial code of conduct*, provides guidance for ACC credentialed ministers about expected behaviour. The code is similar to the Uniting Church's national code of conduct for ministers in that it does not contain clear guidance for ACC ministers on unacceptable behaviours towards children.⁵² Some details about 'safe touch' are included in the ACC's *Safer churches manual*, which applies to ACC credentialed ministers.⁵³ Hillsong Church, an affiliated ACC church, includes direct and specific guidance for staff interacting with children in its *Codes of conduct for working with children & young people*.⁵⁴

As part of *Case Study 53: Institutional review of Yeshivah Melbourne and Yeshiva Bondi (Institutional review of Yeshiva/h)*, we received the codes of conduct adopted by the Yeshivah Centre and Yeshivah College in Melbourne, Victoria (Yeshivah Melbourne). Both codes contain specific detail about what constitutes inappropriate conduct with children. The codes explicitly apply to 'All personnel, from our Rabbis, synagogues committees to casual staff and volunteers' and prohibit any form of 'sexual behaviour' with or in the presence of children, including 'non-contact' behaviour such as 'flirting, sexual innuendo, inappropriate text messaging, inappropriate photography or exposure to pornography or nudity'.⁵⁵ The Yeshivah codes also explicitly prohibit any of its personnel from having contact with children or young people participating in its program or services that 'involves touching ... of genitals, of buttocks [or] of the breast area' (other than as part of delivering medical or allied health services).⁵⁶

Notably, some religious institutions' codes of conduct target concerning conduct that may not of itself constitute abuse but is potentially an early warning sign.

The Catholic Diocese of Ballarat's *Code of conduct for caring for children*, under the section 'Developing awareness of inappropriate behaviour', lists different examples of 'systematic inappropriate behaviour' which 'may be a precursor to abuse', such as 'isolating an individual, giving him or her undue attention or prized gifts' and 'excessive touching'.⁵⁷ It directs anyone who works or volunteers with children who witnesses such behaviour to report it in accordance with the procedure set out in that code.⁵⁸

The Catholic Archdiocese of Melbourne's policy *May our children flourish: Code of conduct for caring for children* is almost identical to the Diocese of Ballarat's code.⁵⁹ Both the Archdiocese of Melbourne's and the Diocese of Ballarat's codes of conduct emphasise that 'regardless of the way in which an issue arises, you should always report circumstances that cause you concern'.⁶⁰ Both codes also provide contact details and advise a person to make contact 'if you are not sure whether to report a matter'.⁶¹

The Salvation Army's *KCS policy*, which links with its code of conduct, includes a detailed definition of 'grooming', drawn from New South Wales and Victorian government resources. Behaviour is considered grooming where there is evidence of a 'pattern of conduct' consistent with preparing a child for sexual activities. It lists in detail behaviour that may lead to a conclusion that grooming is present.⁶² The reporting and notification policy of The Salvation Army Southern Territory states that allegations and disclosures of sexual abuse against a child,

including grooming behaviour, constitute criminal behaviour and ‘must be reported to police and other relevant external authorities’.⁶³ The policy relates to the knowledge or ‘reasonable belief’ held by personnel, which includes beliefs that are formed from ‘observations of the child’s behaviour’ or ‘the observation of a pattern of conduct of an adult towards a child’ to gain access to the child.⁶⁴ The policy states that the Territorial Professional Standards Unit is available for contact and advice in all matters which could be ‘deemed inappropriate, criminal and/or abusive’.⁶⁵

The importance of having policies that direct people who have *any* concerns to lodge a complaint was highlighted during our *Institutional review of Catholic Church authorities* hearing. Mr Mark Eustance, the Director of Professional Standards for the Catholic Church in Queensland, told us that within the Catholic Church:

I think there is a continuing culture of discretion ... I think it will be the ultimate challenge to change that culture ... I think within that is perhaps a lack of willingness in different areas to fully disclose things and to take formal action when they need to ... There’s still a reticence to make a telephone call or to blow the whistle if concerning information is raised. I think that is changing, though.⁶⁶

Similarly, Ms Claire Pirola, the Manager of the Office for Safeguarding and Professional Standards in the Catholic Diocese of Parramatta, told us that ‘one of our risks is that there is still a view by some that they have a discretion in [reporting]’.⁶⁷

We consider that there is a particular need to ensure that religious institutions adopt codes of conduct that use language that is explicit and direct about what constitutes inappropriate conduct that must be reported.

As outlined in Chapter 9, ‘Characteristics of child sexual abuse specific to religious institutions’ our inquiry has illustrated that, by virtue of their status, people in religious ministry can hold positions of considerable power, authority and influence in both their institution and the community more broadly. In the Catholic and Anglican churches, there is a particular belief, often referred to as ‘clericalism’, that people in religious ministry who are ordained – namely, priests – become ‘higher beings’ who are ‘above ordinary people’.⁶⁸ The belief in the elevated status of people in religious ministry can contribute to a belief in the minds of children, parents, and people in religious ministry themselves that the behaviour of people in religious ministry cannot, or should not, be challenged.⁶⁹

In our view, if codes of conduct allow for people in religious ministry to rely on their own ‘judgment’ regarding what is appropriate physical contact, this permits them significant discretion. This discretion may make it harder for victims, family members and members of the community to identify and challenge concerning or inappropriate behaviour. There needs to be clear understanding on the part of people in religious ministry, employees and the broader community about what constitutes unacceptable conduct in an institution, including on the part of people in religious ministry. This need is underscored by the evidence above of a continuing culture of discretion in some areas of the Catholic Church in relation to reporting.

We recommend in Volume 7, *Improving institutional responding and reporting*, that all institutions that deal with children should have a code of conduct that sets out the behaviour by staff members towards children that the institution considers unacceptable (see Recommendation 7.8, set out in Appendix A).

That recommendation applies to all religious institutions. In addition, we recommend that codes of conduct in religious institutions should explicitly and equally apply to people in religious ministry and lay persons. There should not be different standards of behaviour applied to people in religious ministry.

The importance of codes of conduct was emphasised by a survivor of child sexual abuse in a religious institution during his private session. ‘Lloyd Michael’ told us he was sexually abused many times by his Catholic priest in the church and presbytery. He said he wanted to see codes of conduct that limit the ability of adults in institutions to be left unsupervised with children.⁷⁰

Recommendation 16.49

Codes of conduct in religious institutions should explicitly and equally apply to people in religious ministry and to lay people.

21.4.3 Training about unacceptable behaviours

In order for a code of conduct to be effective in preventing child sexual abuse, it is also crucial that all staff and volunteers be trained to recognise early indicators of potential abuse, or ‘high risk’ behaviour, and to report such conduct.

During the *Institutional review of Catholic Church authorities* hearing, Ms Pirola gave evidence that ‘If we are serious about protecting kids, we have to intervene right back when those early indicators come up’.⁷¹ She explained that religious institutions may have a particular difficulty in this respect because:

there are faith parts to the organisation – around how they view people. Generally people find it hard to understand that someone who does a lot of good things and may have some goodness to them also can do something really bad and be a criminal.⁷²

Ms Pirola stated that her office addresses this thinking in their training sessions in the Diocese of Parramatta:

When we’re training people, we put up examples of known offenders’ grooming behaviour early on. We say, ‘Look at this behaviour’, and often people will say, ‘Oh, well, they went to have a meal with the family. Well, that’s a pastoral response’. ... It may be a pastoral response. What I say to them is that we don’t know ... and that is why the early intervention is critical.⁷³

Ms Pirola provided a further example she gives in training: if someone is engaging ‘one-on-one’ with a child, this is considered high-risk behaviour that confuses the child’s boundaries and can open the adult up to a complaint and investigation.⁷⁴

During our institutional review hearings, we received evidence that some religious institutions provide training on their code of conduct and on recognising and reporting early indicators of potential abuse or ‘high-risk’ behaviour.

Bishop William Wright, Bishop of the Catholic Diocese of Maitland–Newcastle, gave evidence that the diocese’s child protection training programs focus on ensuring that people are aware of ‘red flags’ and understand their responsibility to report those indicators to Zimmerman Services, the diocese’s child protection body.⁷⁵

The National Commander of The Salvation Army Australia, Commissioner Floyd Tidd, stated in 2015 that The Salvation Army Southern Territory’s training program included ‘specific training dealing with grooming and educating participants in how to identify grooming behaviour’.⁷⁶ However, he stated there was ‘limited training or information about indicators of abuse’.⁷⁷ Commissioner Tidd’s evidence was that The Salvation Army Southern Territory was developing training to deal with indicators of sexual abuse, typical behaviour of a perpetrator and how to identify perpetrator behaviour.⁷⁸

Hillsong Church’s *Safe church training manual*, which was tendered during *Case Study 55: Institutional review of Australian Christian Churches and affiliated Pentecostal churches (Institutional review of Australian Christian Churches)*, describes in detail indicators of child sexual abuse and behaviour that may indicate grooming where seen in a pattern, such as showing special favours to a child or talking about sex.⁷⁹ The training manual instructs Hillsong Church workers to recognise individual and community barriers that they may need to overcome in order to respond to a possible abuse situation.⁸⁰ In relation to deciding when to report, the training manual directs Hillsong workers to consider the indicators of abuse, or ‘red flags’ as an objective measure of whether a problem exists, and whether to report.⁸¹

As outlined in Volume 6, *Making institutions child safe*, Child Safe Standard 7 is ‘Staff and volunteers are equipped with the knowledge, skills and awareness to keep children safe through continual education and training’. It aims to ensure that leaders, staff and volunteers have the knowledge, skills and attitudes to effectively respond to complaints of child sexual abuse within institutional contexts.

We consider there is a particular need for this training in religious institutions in order to counter the belief that the elevated status of people in religious ministry means their behaviour should not be subject to scrutiny or criticism. It is important that staff and volunteers receive training in how to respond to a complaint, in line with the institution’s complaint handling policy.⁸²

Recommendation 16.50

Consistent with Child Safe Standard 7, each religious institution should require all people in religious ministry, leaders, members of boards, councils and other governing bodies, employees, relevant contractors and volunteers to undergo initial and periodic training on its code of conduct. This training should include:

- a. what kinds of allegations or complaints relating to child sexual abuse should be reported and to whom
- b. identifying inappropriate behaviour which may be a precursor to abuse, including grooming
- c. recognising physical and behavioural indicators of child sexual abuse
- d. that all complaints relating to child sexual abuse must be taken seriously, regardless of the perceived severity of the behaviour.

We make further recommendations with respect to initial and ongoing training relating to child safety in religious institutions in Chapter 20.

21.5 Receiving complaints in religious institutions

As noted above, some survivors told us they felt they could not disclose the abuse because they either had no one to confide in within the institution, or there were no formal avenues that allowed them to make a complaint about their abuse.

Institutions should establish appropriate mechanisms for children and adults in the institution to make a complaint. All institutions should have complaint handling policies which specify how a complaint can be made within the institution. The policy should also explain all external complaint pathways outside of the institution, including to an independent body such as an ombudsman.⁸³

Some of the policies we received from religious institutions identify a specific person within the institution as a contact point. For example, the Catholic Archdiocese of Perth and the Diocese of Cairns both have designated parish safeguarding officers.⁸⁴ These officers act as liaisons with outside agencies and as resource persons for any staff member or volunteer with child protection concerns.⁸⁵ They are responsible for ensuring that ‘standard reporting procedure is followed’ so that suspected cases of child abuse are referred promptly to the Safeguarding Coordinator.⁸⁶

We heard that, in the Anglican Diocese of Sydney, people can contact one of five contact persons, who are trained counsellors, through an abuse report line or via email.⁸⁷ During the *Institutional review of Anglican Church institutions* hearing, Mr Lachlan Bryant, Director of Professional Standards for the Anglican Diocese of Sydney, gave evidence that:

Once a contact person has taken an initial report the complainant is offered counselling and the complaint is sent to the Professional Standards Unit. The chaplain is responsible for contact with the complainant and remains in touch with them throughout the process.⁸⁸

In its *Safer churches guidelines*, the ACC recommends that its constituent churches each appoint a Safer Churches person or team to receive reports and assist in the process for reporting child protection concerns.⁸⁹ The guidelines direct ‘ACC People’ to report reasonable suspicions or concerns of abuse to their local Safer Churches Person or Team.⁹⁰

Other religious institutions have set up distinct units or offices which have the task of both receiving and managing the investigation of complaints. For example, the Catholic Archdiocese of Canberra and Goulburn has established an Institute for Professional Standards and Safeguarding.⁹¹

Similarly, Hillsong Church has created a Safe Church Office, which is responsible for the handling of complaints of child sexual abuse, including investigation and reporting to all relevant regulatory bodies.⁹² Hillsong Church’s *Safe church training manual* directs all Hillsong Church workers (including volunteers, leaders and employees) to report all concerns to the Safe Church Office through email, an online form or a 1800 number.⁹³

Religious institutions will also need to ensure that they have a mechanism for receiving and processing information from the national redress scheme in relation to allegations of child sexual abuse once the scheme is implemented.

21.6 Responding to complaints in religious institutions

In responding to complaints, institutions should take a proportionate approach that considers the nature of the complaint and the risk of harm. For example, the urgency of response to a disclosure of current sexual abuse of a child would be different from the response to a complaint of historical abuse where the alleged perpetrator is deceased.⁹⁴

Volume 7, *Improving institutional responding and reporting*, outlines general guidance for actions after a complaint has been received. Here we outline the institutional barriers that can prevent or impede the reporting of known or suspected child sexual abuse to external authorities.

21.6.1 The obligations to report to external authorities

In each state and territory, certain individuals and institutions are legally obliged to report suspicions, risks and instances of child abuse and neglect, including child sexual abuse, to the police, child protection or oversight agencies. Exactly what reporting is required depends on the type of reporting, and it varies between states and territories.

As discussed in Chapter 20, the types of reporting obligations that apply to institutional child sexual abuse may include one or all of the following:

- **Mandatory reporting to child protection authorities.** Designated individuals must report to child protection authorities suspected and known cases of child abuse and neglect, including child sexual abuse, in certain circumstances. Mandatory reporting laws have been enacted in every Australian state and territory.⁹⁵
- **Reporting to police.** Individuals in particular jurisdictions who are in possession of information about criminal offences committed or believed to have been committed by others must report to the police.
- **Reporting conduct to an oversight body that administers a reportable conduct scheme.** Heads of particular institutions that provide services to, or engage with, children must report to an oversight body allegations and instances of reportable conduct – child neglect and abuse, including child sexual abuse – on the part of their employees and volunteers.

There are some key differences in how these obligations operate. Under mandatory reporting laws and reporting offences, the responsibility to report is placed on an individual. However, under a reportable conduct scheme, the responsibility to report is placed on the institution and is discharged by a nominated office holder. It should also be noted that these obligations are triggered in a broader range of circumstances than merely the receipt of a formal complaint.

Later in this chapter we consider how to improve the frequency, quality and timeliness of reporting of child sexual abuse by religious institutions through legislative reforms.

21.6.2 Addressing barriers to external reporting in some religious organisations

In Volume 7, *Improving institutional responding and reporting*, we discuss the various institutional barriers that can prevent or impede the reporting of known or suspected child sexual abuse. These barriers may be institutional or personal; and explicit or implicit. Many of the religious institutions we examined in our case studies had an institutional culture that discouraged reporting of child sexual abuse. This culture was often based on traditions and practices that acted as an institution-wide barrier to reporting abuse to an external authority.

In this section we focus on institutional barriers that are particular to certain religious institutions and are informed by the unique nature of those institutions.

In our *Criminal justice* report we recommended that any person associated with an institution who knows or suspects that a child is being or has been sexually abused in an institutional context should report the abuse to police. In the same report, we also recommended that each state and territory government should introduce legislation to create a criminal offence of ‘failure to report’ targeted at child sexual abuse in institutions (relevant recommendations from our *Criminal justice* report are extracted in Appendix A).

For the purposes of the present discussion, we emphasise that Recommendation 33 applies to all people in religious ministry, staff and volunteers and anyone else who requires a Working With Children Check for their role in a religious institution. It applies regardless of any internal law or policy, including law or policy underpinned by theology, doctrine, scripture or tradition.

The issue of the confessional seal as a barrier to reporting in the Catholic Church is discussed in detail in our *Criminal justice* report⁹⁶ and below in Section 21.12.

Jehovah’s Witnesses

In *Case Study 29: The response of the Jehovah’s Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse (Jehovah’s Witnesses)*, we were satisfied that it was the general practice of the Jehovah’s Witnesses organisation in Australia not to report allegations of child sexual abuse to the police or other authorities unless required to do so by law.⁹⁷ In that case study we found that there was no evidence of the Jehovah’s Witnesses organisation in Australia having reported to police or other secular authority a single one of the 1,006 perpetrators of child sexual abuse recorded in the case files held by Watchtower Australia.⁹⁸

We heard evidence in the *Jehovah’s Witnesses* case study that, since at least 2010, it has been the policy of the Jehovah’s Witness organisation not to discourage a person from reporting a complaint of child sexual abuse to the authorities. Despite this, no witness appearing on behalf of the Jehovah’s Witnesses organisation could identify an instance of the organisation reporting an allegation of child sexual abuse to the police or other authorities.⁹⁹

Senior leaders in the Jehovah’s Witness organisation told us that the scriptures make it difficult for the elders to override the ‘absolute right’ of a victim or a victim’s family to report their complaint to authorities themselves. Mr Geoffrey Jackson, a member of the Governing Body of the Jehovah’s Witnesses, and Mr Rodney Spinks, Senior Service Desk Elder, Watchtower Bible and Tract Society of Australia, both said that this factor would not be an issue if the Jehovah’s Witnesses organisation were required by the law in all states and territories to report child sexual abuse to the authorities.¹⁰⁰

The evidence from Mr Jackson and Mr Spinks supports our recommendations in Volume 7, *Improving institutional responding and reporting*, and our *Criminal Justice* report, that mandatory reporting laws and reporting offences should be established in all jurisdictions and should cover religious institutions.

As we discuss in Chapter 15, 'Jehovah's Witnesses', during *Case Study 54: Institutional review of Church of the Jehovah's Witnesses and its corporation, the Watchtower Bible and Tract Society of Australia (Institutional review of the Jehovah's Witnesses)*, we heard that the policies of the Jehovah's Witnesses organisation in relation to reporting to civil authorities have been revised. The *Child safeguarding policy* of the Jehovah's Witnesses in Australia, which was finalised in March 2017, requires that, 'if congregation elders learn of a case of child abuse in which a child may still be at risk of harm, they will ensure that a report to the police or other appropriate authorities is made immediately'.¹⁰¹ Mr Spinks gave evidence that the words 'learn of a case of child abuse' (emphasis added) were intended to be understood as learning of an allegation of child abuse.¹⁰²

As we state in Chapter 15, we welcome the inclusion of this requirement in the Jehovah's Witnesses *Child safeguarding policy*. In his evidence to the *Institutional review of the Jehovah's Witnesses* hearing, Mr Spinks acknowledged that this requirement is not included in its two other main policy documents for responding to allegations of child sexual abuse: its *Child protection guidelines for branch office service desks*; and the *Letter to elders dated 1 August 2016*. He stated that the requirement should 'absolutely' be included in those documents.¹⁰³ We conclude in Chapter 15 that the Jehovah's Witness organisation should amend all its policies and procedures that relate to child sexual abuse to ensure the requirement is included. This should be provided to members of the Service Desk at the Australia Branch Office and to elders in Australia to assist them in responding to allegations of child sexual abuse.

Jewish institutions

In *Case Study 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions (Yeshiva Bondi and Yeshivah Melbourne)*, we heard that there are certain Jewish legal (*halachic*) concepts that were relevant to the reporting of, and institutional response to, allegations of child sexual abuse. These included the concepts of:¹⁰⁴

- *mesirah*: a prohibition upon a Jew informing upon, or handing over another Jew to, a secular authority (particularly where criminal conduct is alleged)
- *moser*: a term of contempt applied to a Jew who has committed *mesirah* (the definition of the term approximates the secular term 'informer' but with additional – and very negative – connotations)

- *loshon horo*: the act of gossiping (or speaking negatively) about another Jew or a Jewish institution or place. *Loshon horo* is discouraged under Jewish law, even if what is said about a person, institution or place is objectively true.

These concepts are discussed further in Chapter 17, ‘Yeshiva Bondi and Yeshivah Melbourne’.

In the *Yeshiva Bondi and Yeshivah Melbourne* case study we found that:

The application of Jewish law (in particular, the concepts of *mesirah*, *moser* and *loshon horo*) to communications about and reporting of allegations of child sexual abuse to secular authorities – in particular, police – caused significant concern, controversy and confusion amongst members of the Chabad-Lubavitch communities.¹⁰⁵

We found that the evidence strongly suggested that, because of the way those concepts were applied, some members of those communities were discouraged from reporting child sexual abuse.¹⁰⁶

In the *Institutional review of Yeshiva/h* hearing, Emeritus Professor Bettina Cass, Chair of the New South Wales Jewish Board of Deputies’ Task Force on Child Protection, stated that, upon reading the evidence and report in the *Yeshiva Bondi and Yeshivah Melbourne* case study, she identified ‘some elements of cultural and theological closure which enabled allegations not to be brought forward according to the law, as they should have been’.¹⁰⁷ She gave evidence that ‘those barriers of theology and culture are being dismantled as barriers and must continue to be fully dismantled’. She stated:

The notion of a closed community which does not permit of obeying the laws of the land or does not permit of full respect and protection of children and young people, is alien to us and alien to us both as Jews and as citizens of Australia.¹⁰⁸

During the *Institutional review of Yeshiva/h* hearing, all of the Jewish community leaders who attended as witnesses – including Professor Cass; Mr Anton Block, President of the Executive Council of Australian Jewry; Ms Jennifer Huppert, President of the Jewish Community Council of Victoria; Rabbi Benjamin Elton, the Chief Minister and Rabbi of The Great Synagogue in Sydney; and the leaders of Yeshiva Bondi and Yeshivah Melbourne – were asked whether any of the *halachic* principles discussed above applied in relation to the reporting of allegations of child sexual abuse to the police or other civil authorities. Each of these witnesses gave evidence that these principles have absolutely no application to child sexual abuse allegations.¹⁰⁹ Rabbi Elton, Rabbi Moshe Gutnick, Senior Dayan (a judge) of the Sydney Beth Din (a rabbinical court), and Rabbi Mendel Kastel, Chief Executive Officer of Jewish House, gave evidence that under Jewish law there is in fact a positive obligation to report such matters.¹¹⁰

The leaders of Yeshivah Melbourne and Yeshiva Bondi, Rabbi Chaim Tsvi Groner, Rabbi Yehoshua Smukler, Rabbi Pinchus Feldman and Rabbi Dovid Slavin all agreed with the proposition that it would be useful to include express statements in their child protection policies that *halachic* principles do not apply to the reporting of child sexual abuse.¹¹¹

In Chapter 17, we recommend that all Jewish institutions' complaint handling policies should explicitly state that the *halachic* concepts of *mesirah*, *moser* and *loshon horo* do not apply to the communication and reporting of allegations of child sexual abuse to police and other civil authorities (see Recommendation 16.30).

21.7 Assessing risk and putting temporary safeguards in place

When a complaint has been made, the institution should assess the risks associated with the complaint and implement necessary safeguards before that complaint is investigated.¹¹² The merit of each complaint, with consideration of any previous complaints particularly against the same person, needs to be assessed. The initial risk assessment should consider, among other things:

- any immediate and ongoing risks associated with the complaint, including the safety of the adult or child complainant and other children
- action to be taken against the subject of the complaint including supervision, removal from contact with children, or being stood down
- the institution's expertise in assessing risk and the need to obtain expert advice
- whether it is necessary to report the complaint to an external authority
- who should be informed about the complaint, and whether there are restrictions on the information they can be given (for example, due to privacy laws and other confidentiality obligations).

21.7.1 Risk assessment and people in religious ministry

Our case studies have demonstrated instances where religious institutions allowed alleged perpetrators to continue in religious ministry after suspicions had been raised or complaints had been received about their conduct, with little or no corresponding risk management or monitoring of their interactions with children.¹¹³ In some instances, the failure to manage the risk associated with a person in religious ministry the subject of a complaint represented a missed opportunity to prevent further sexual abuse of children.

We acknowledge that risk assessment and effective mitigation of risk in relation to people in religious ministry can be challenging for religious institutions. Some ministry roles include a wide range of duties that are difficult to limit. These duties can include regular preaching in a

formal place of worship or teaching in a school; leading youth groups and religious studies in informal settings; providing pastoral care and spiritual guidance on a one-on-one basis in a personal setting such as in a hospital or in a person's home; performing religious ceremonies such as weddings or funerals; and performing religious rites such as confession. People in religious ministry can often have both personal and professional relationships with people in their pastoral care. This can increase the risk of boundary violations, whether advertent or inadvertent. As we mention above, people in religious ministry are also often considered to occupy a particular position of trust and authority in the eyes of people in the community, and this can influence how people respond to them.

Based on the evidence and policy documents we received, a common issue for many religious institutions is a lack of clarity in their policies as to whether they will conduct a risk assessment following receipt of a complaint, and whether and when they will stand down a person in religious ministry who is the subject of a complaint of child sexual abuse.

As discussed in Chapter 13, at the national level the Catholic Church has developed *Towards Healing* – a set of principles and procedures which the Australian Catholic Bishops Conference and Catholic Religious Australia first established in the 1990s for 'responding to complaints of abuse against personnel of the Catholic Church'.¹¹⁴ *Towards Healing* was designed to be adopted by all Catholic Church authorities in Australia, except for the Archdiocese of Melbourne, which developed its own procedure for responding to complaints of abuse – the Melbourne Response.

In its submission to *Issues paper 2: Towards Healing*, the Truth, Justice and Healing Council (the Council) stated that, if a complaint involving child sexual abuse is received under *Towards Healing*, the Director of the state Professional Standards Office will usually recommend to the Catholic Church authority that the person be stood aside from any current duties including active ministry.¹¹⁵ The Council stated that 'the Church Authority has authority under canon law to require the accused to stand aside on an interim basis'.¹¹⁶ However, under the provisions of *Towards Healing*, the Catholic Church authority retains a discretion to determine 'whether precautionary measures are to be taken against the accused cleric'.¹¹⁷

Many Catholic Church authorities who gave evidence as part of our *Institutional review of Catholic Church authorities* hearing stated that it is their usual practice to stand down the subject of a complaint of child sexual abuse as soon as the complaint is received and until the matter is investigated.¹¹⁸ Others told us that they may stand down the subject of the complaint.¹¹⁹

A number of the policies provided to us by Catholic Church authorities as part of that hearing did not address the question of standing down the subject of a complaint. An exception was the De La Salle Brothers' *Interim procedures – response to allegations (Interim procedures)*. The *Interim procedures* expressly incorporates initial risk assessment prior to the formal investigation of an allegation.¹²⁰ The document sets out a number of factors that may be considered during the risk assessment but stipulates that, where the allegation relates to child sexual abuse, the individual will be immediately stood down from ministry.¹²¹ The professional

standards officer is expressly required to conduct an initial risk assessment even where there is no complaint made to the De La Salle Brothers but they have become aware of an allegation from police or through civil litigation.¹²²

During the *Institutional review of Anglican Church institutions* hearing, we heard that most Anglican Church dioceses respond to complaints or information about alleged child sexual abuse by church workers – a term which includes clergy – under a professional standards system based on the national Model Professional Standards Ordinance. The framework envisioned under the Model Professional Standards Ordinance does not require the body or person responsible for receiving a complaint or other information about alleged examinable conduct to carry out an initial risk assessment.

Under the Model Professional Standards Ordinance, information regarding the alleged conduct must be referred to a professional standards committee in the relevant diocese.¹²³ The committee must determine whether the alleged conduct is relevant to the person's fitness for office and, if so, commence an investigation.¹²⁴ After commencing the investigation, the committee may recommend to the bishop one or more of the following outcomes: the church worker accused of the conduct (the respondent) be suspended from 'duties or office or employment', and/or that a prohibition order be made against the respondent, after it has given the respondent an opportunity to be heard.¹²⁵

During the *Institutional review of Anglican Church institutions* hearing we received evidence that at least one Anglican diocese enabled members of clergy to be stood down from employment positions, for instance as a chaplain in a school, pending investigation under the professional standards process.¹²⁶

The Salvation Army's international *Orders and regulations for officers of The Salvation Army (Orders and regulations)* were amended in 2014 to provide for the suspension of an officer pending an investigation for a sexual offence. The orders apply to both The Salvation Army Southern Territory and The Salvation Army Eastern Territory.¹²⁷ Commissioner Floyd Tidd, National Commander of The Salvation Army Australia, stated that the effect of the amendment is that 'suspension is mandatory in cases of allegations of offences against an officer which are of a criminal sexual nature or reportable to police or other authorities under legislation'.¹²⁸ The orders state that mandatory suspension is not to be regarded as censure or sanction. The officer retains a full allowance on the condition that they assist with the speedy conclusion of the investigation.¹²⁹

In line with the amended *Orders and regulations*, the *Management of persons convicted/proven and/or persons alleged to have committed a sex offence policy (MSO policy)* was developed to apply to The Salvation Army in Australia.¹³⁰

The *MSO policy* provides for restrictions and conditions on those who are the subject of allegations, as well as managing those who are the subject of a substantiated complaint of child sexual abuse or are convicted of a sex offence.¹³¹ The *MSO policy* states that officers will be suspended where they are subject of allegations of ‘offences’ of a ‘sexual nature’.¹³² It also states that, for any person alleged to have committed an offence related to child sexual abuse, The Salvation Army will require them to:¹³³

- be immediately suspended or stood down from duties
- enter into a written agreement if they are to have access to The Salvation Army’s premises or engage in its activities
- cease wearing the uniform and/or any The Salvation Army branded clothing.

During our *Institutional review of The Salvation Army* hearing, Commissioner Tidd told us about the status attached to The Salvation Army uniform and the effect of officers being denied the ability to wear it:

The issue of uniform is a significant one. Wearing of The Salvation Army uniform is very important to officers. Even retired officers still wear their uniforms. It is a significant step to deny any officer the right to wear his or her uniform. Not wearing a uniform brings with it a certain stigma within [The Salvation Army Australia Southern Territory].¹³⁴

As set out in Chapter 15, in the *Jehovah’s Witnesses* case study, we heard that the Jehovah’s Witnesses can take some informal precautionary measures when a person is alleged to have perpetrated child sexual abuse. For example, when elders are not able to establish the truth of an allegation of child sexual abuse according to the scriptural standards of proof (discussed further below), they can be advised to ‘remain vigilant with regard to the conduct and activity of the accused’.¹³⁵ We are otherwise not aware of any specific formal or uniform procedures for the adoption or imposition of precautionary measures against a person is alleged to have perpetrated child sexual abuse in the Jehovah’s Witness organisation.

The Uniting Church in Australia’s National Child Safe Policy Framework provides that ‘where a complaint of abuse of a child becomes known ... we will immediately take the appropriate steps to assess and minimise any further risk or harm’.¹³⁶ However, the evidence we received as part of the *Institutional review of Uniting Church in Australia* hearing suggests that Uniting Church institutions may take a different approach to risk management depending on whether the subject of a complaint of child sexual abuse is a person in religious ministry.

The Uniting Church in Australia’s national policy in relation to handling complaints of child sexual abuse for ‘members’ or ‘adherents’ of the Church (that is, ordinary congregants) is contained in its *Member or adherent sexual abuse and sexual misconduct policy (Sexual misconduct policy)*.¹³⁷ The Uniting Church’s complaint handling policy in relation to complaints of child sexual abuse against ministers (including lay ministers) is contained in the *Uniting Church in Australia regulations (UCA regulations)*.¹³⁸

The *Sexual misconduct policy* provides that, if a child is at risk of harm, the person who is the subject of the complaint 'must be removed from any further opportunities to be in contact with children in the Church'.¹³⁹ In her statement, Reverend Heather den Houting, General Secretary of the Uniting Church Queensland Synod, gave evidence that, when a lay member of a congregation is the subject of an allegation of child sexual abuse, the process for developing a 'person of concern' agreement 'needs to be immediately commenced to restrict the person's access to children and to monitor the person's participation in Church community life'.¹⁴⁰

In her evidence at the hearing, Ms Colleen Geyer, General Secretary of the National Assembly of the Uniting Church, told us that the Uniting Church has the ability to stand a minister aside pending a police investigation.¹⁴¹ Reverend den Houting told us that, if a 'ministry agent' is alleged to have abused a child, 'they are immediately stood aside from their role pending the outcome of police enquiry and subsequent process and church discipline processes'.¹⁴²

It is not clear from this evidence whether it is the Uniting Church's policy or practice that a minister who is the subject of a complaint of child sexual abuse will be stood aside if there is no criminal proceeding or investigation afoot, but there is a risk to children. It is also not clear from *the UCA regulations*. Regulation 5.7.5 provides that the moderator of the synod may stand aside a minister from the performance of ministerial duties 'at any time following the making of a complaint' of sexual misconduct (including criminal conduct) 'if such action be considered necessary for the well-being of the Church'.¹⁴³ The regulation does not make any reference to an assessment of risk.

In relation to institutions affiliated with the ACC, the ACC Constitution provides for suspension of an ACC person's credentials or certificate to perform ministry in 'extreme and emergency cases, where there is sufficient evidence of improper conduct or false teaching on the part of a credential or certificate holder', pending investigation of the complaint by the State Executive.¹⁴⁴ The ACC's *Grievance procedure for certificate holders* provides that the ACC state president will 'consider whether there is sufficient evidence of a serious breach of ministerial conduct to justify suspension of the Certificate Holder's certificate pending investigation'.¹⁴⁵ The grievance procedure sets out a process that provides the person who is the subject of complaint with an opportunity to respond to the proposed suspension.¹⁴⁶

Neither the ACC's constitution nor the grievance procedure defines what threshold of proof is required to be met to constitute 'sufficient evidence' of improper conduct. It is of concern that the ACC's documents suggest that a person will not be suspended from ministry while an investigation takes place, unless a decision has been reached, prior to the investigation, that there is 'sufficient evidence' of the conduct. There is no reference in either document to the relevance of risk to a decision to suspend a person from ministry pending the outcome of the investigation.

By comparison, in its policies, Hillsong Church requires its Safe Church Office to conduct an initial risk assessment whenever an allegation or disclosure of harm to a child is received.¹⁴⁷

It directs the Safe Church office to assess ‘any possible risks’ posed by the person who is the subject of the complaint and to ‘take any necessary interim action to reduce the risk of further harm occurring’, including consideration of whether the person needs to be suspended from their duties while the investigation takes place.¹⁴⁸ Hillsong Church’s risk assessment template directs that suspension of the worker should be considered where the person works in a child-related role or has direct access to children and cannot be diverted to a new role.¹⁴⁹ Hillsong Church’s policies require that, if the subject of the complaint is an ACC accredited minister, the Safe Church Office must consult with the ACC during the risk assessment process.¹⁵⁰

The *Chabad youth child protection policy* applied at the Yeshivah Centre Melbourne provides that, if an allegation is made against a staff member, the ‘Nominated Supervisor’ will ‘take any action necessary to safeguard the child or young person (or other children or young people in our care) from additional harm’. This includes through options such as:¹⁵¹

- redeploying that staff member to a position where they do not work with children
- additional supervision of that staff member
- removing/suspending that staff member from duty until the validity of the allegations are determined.

The Chabad Youth policy also includes a template for recording allegations, disclosures or concerns of child sexual abuse.¹⁵² It requires the person documenting the complaint to identify any interim action taken to ensure the child or young person’s safety and any interim action taken in relation to the alleged perpetrator.¹⁵³

Conclusions about risk assessment and people in religious ministry

We consider that it is necessary for all religious institutions to conduct an initial risk assessment upon receiving a complaint of child sexual abuse. The risk assessment should identify and minimise any risk to children.

As we note above, the failure of a number of religious institutions to manage the risk associated with people in religious ministry against whom complaints were made was, in some cases, a missed opportunity to prevent further sexual abuse of children.

The broad nature of religious ministry means that there are a wide variety of activities which a person in religious ministry may be required to perform, in both professional and private settings. Consequently, there are many ways a person in religious ministry could come into contact with children outside of planned duties. Further, people in religious ministry are often considered by people in the community to be figures inherently worthy of trust. The lack of clarity in the policies of many religious institutions about whether and when they will stand down from ministry a person against whom a complaint of child sexual abuse has been made is, in our view, problematic.

In our view, more stringent risk mitigation is required for people in religious ministry against whom complaints of child sexual abuse are made. All religious institutions' complaint handling policies should require that, if a complaint of child sexual abuse against a person in religious ministry is plausible, and there is a risk that person may come into contact with children in the course of their ministry, the person be stood down from ministry while the complaint is investigated.

Recommendation 16.51

All religious institutions' complaint handling policies should require that, upon receiving a complaint of child sexual abuse, an initial risk assessment is conducted to identify and minimise any risks to children.

Recommendation 16.52

All religious institutions' complaint handling policies should require that, if a complaint of child sexual abuse against a person in religious ministry is plausible, and there is a risk that person may come into contact with children in the course of their ministry, the person be stood down from ministry while the complaint is investigated.

21.7.2 Communication with affected parties about the complaint

Once a religious institution has conducted an initial risk assessment, to ensure that measures to minimise risk are effective it must determine which people within the institution (and, in some cases, within the broader religious organisation) need to be informed of the complaint. In Chapter 23, 'Recordkeeping and information sharing in religious institutions', we discuss the issue of information sharing internally within an institution and within the broader organisation once a complaint has been made.

A complaint of institutional child sexual abuse will be of interest and concern to many people associated with the institution (referred to in this section as 'affected parties'). As the New South Wales Ombudsman explains, 'they will naturally be interested in receiving further information about the allegation, how it is being handled and whether there are broader implications for members of the community'.¹⁵⁴

Institutions' complaint handling policies and procedures should include guidance on determining whether, and in what circumstances, information related to a complaint of child sexual abuse will be communicated to affected parties, including the institution's staff and volunteers, parents, guardians or carers of children involved in the institution, and other children involved in the institution.¹⁵⁵

Communication with affected parties about complaints of child sexual abuse can arise in two contexts – first, where the complaint involves criminal conduct; and, second, where the complaint does not involve criminal conduct. In both contexts, communication should occur in a way that minimises legal complications. According to the New South Wales Ombudsman, ‘generally, this means that the content of any disclosure should be measured and impartial, and limited to the information necessary to fulfil the purpose of the disclosure’.¹⁵⁶

Where the police are involved in dealing with a complaint of child sexual abuse and the institution wishes to communicate with affected parties about the matter, it should only do so in consultation with the police.¹⁵⁷

As we discussed in Part C, ‘Nature and extent of child sexual abuse in religious institutions’, there are often strong connections between religious families, the religious communities to which they belong, and their religious leaders. For this reason, when a person is temporarily removed from ministerial activities due to an allegation of child sexual abuse, an important question is whether and which other persons within the religious institution and the community will be told about this removal.

By appropriately sharing information about a complaint with the community, the religious institution may counter the spread of inaccurate and unreliable information, including about why the person has been stood down and what it means, and also may help ensure that other potential victims are warned and protected.¹⁵⁸

21.8 Investigation of complaints

The types of behaviours that can comprise a complaint range from suspicion or concerns about inappropriate behaviour to allegations of child sexual abuse that amount to criminal conduct.¹⁵⁹ Institutions should make every effort to investigate each complaint they receive. However, the level of investigation should be proportionate to the seriousness of the complaint, including the frequency of occurrence and severity of the alleged abuse.¹⁶⁰

Where there is a concern that the conduct associated with the complaint constitutes a criminal offence, the institution should consult with and seek the agreement of the police before starting their own investigation to make sure they do not compromise any criminal investigation. Where the police decide not to investigate the allegation then the institution should confirm that the police have no objection to the institution initiating its own investigation before taking any steps to investigate. For further information on what institutions should do when police are investigating, see our *Criminal justice* report.¹⁶¹

An investigation is a formal or systematic inquiry to establish facts about a complaint of child sexual abuse.¹⁶² An investigation of a complaint of child sexual abuse may have different purposes. It may be carried out:

- to identify whether there is evidence that the subject of the complaint may have committed a criminal offence (exclusively a matter for police and not the institution)
- to determine whether the subject of the complaint poses a risk to children's safety and, if so, what action needs to be taken by the institution to address this (that is, on a permanent basis rather than temporary measures imposed after an initial risk assessment)
- to determine whether it is appropriate for the institution to commence disciplinary measures against the subject of the complaint (for example, if they have breached the institution's code of conduct)
- to identify what circumstances caused or permitted the act to occur in the institutional context and to determine what the institution needs to do to minimise risks to children's safety in the future.

In light of these different purposes for investigation, it is clear that, in many cases involving complaints of institutional child sexual abuse, a response will be sought or required from both police and the institution. This is the case in relation to complaints of child sexual abuse that may amount to criminal conduct where the alleged perpetrator is or has recently been working, volunteering or otherwise involved with the institution.¹⁶³

As discussed earlier in this chapter, in our *Criminal justice* report,¹⁶⁴ we recommend that institutional child sexual abuse should be reported to the police. We conclude in that report that the police response should take priority to the institution's response. Generally, the police and the institution should cooperate to ensure that there is no interference with the police investigation.¹⁶⁵

Subject to that limitation, an institution may investigate for any or all of the latter three purposes listed above. This sort of investigation examines the circumstances of the complaint to determine all relevant facts and establish a documented basis for a decision.¹⁶⁶

It is important that institutions work effectively with police to respond to risks to children's safety, even where the allegation has been reported to police. It is likely that there will be circumstances in which charges cannot be laid or brought to trial, and circumstances in which a conviction is not obtained. Institutions cannot assume that the absence of a conviction, or even a charge, means that there is no risk for the institution to address.¹⁶⁷

The Uniting Church in Australia's National Child Safe Policy Framework is an example of a policy that recognises the interaction between police and the institutional responses to a complaint of child sexual abuse. The framework provides that:¹⁶⁸

- where a complaint of abuse of a child becomes known 'it will be immediately reported to the authorities, including police and other statutory authorities'
- the relevant Uniting Church entity will 'immediately take the appropriate steps to assess and minimise any further risk or harm'
- the Uniting Church will 'support relevant authorities' investigations into any concerns about children and/or allegations of abuse or harm towards children'
- 'while investigations are being conducted we will ensure child protection measures continue to be in place. In consultation with police and other authorities, and subject to their approval, we will conduct our own inquiries in order to identify opportunities for child safe practice improvements'.

21.8.1 Who will investigate

It is crucial that the individuals employed or appointed by the institution to investigate complaints of child sexual abuse made against the institution's personnel be impartial and objective. The investigator should have no conflict of interest with the proper investigation of the complaint. This is also an important requirement of procedural fairness, which is discussed further below in this section.

The investigator should be trained in conducting investigations. He or she may be an employee of the religious institution, a contractor or an external investigator independent of the institution. An external investigator may be appointed if there is an actual or perceived conflict of interest, which sometimes arises in religious institutions where there are familial or other close relationships between leaders and staff, including those in religious ministry, within the institution. We discuss conflicts of interest further in Chapter 20.

If a religious institution receives a referral of an allegation from the national redress scheme, it will need to investigate the complaint in accordance with its complaint handling policy and procedure if the subject of the allegation is still associated with the institution. As mentioned earlier in this chapter, in our *Redress and civil litigation* report we recommended that the redress scheme not make findings in relation to whether any alleged abuser was involved in any abuse.¹⁶⁹ The purpose of the redress scheme is only to determine whether it is reasonably likely that the person suffered abuse, for the purpose of deciding the person's entitlement to redress.¹⁷⁰

We acknowledge the concerns that some survivors have expressed about religious institutions being permitted to investigate themselves. A survivor, Mr Steven Smith, gave evidence in *Case Study 57: Nature, cause and impact of child sexual abuse in institutional contexts* and recommended that:

Responsibility for the response should be removed from the institution. An independent body should be established to handle all complaints and make binding recommendations to the institution concerned and mandatorily enforced across all institutions ... In the case of religious organisations, professional standards bodies should be totally independent of the institution.¹⁷¹

Similarly, survivor Mr Damian De Marco gave evidence in that case study that:

the only solution is for all investigations of alleged abuse in institutions to be undertaken by the state or with government oversight. No institution can be allowed to investigate itself any more.¹⁷²

In our view, independent oversight of complaint handling is vital to address problems that can arise in the way that religious institutions handle complaints about child sexual abuse. Independent oversight can assure the public that religious institutions will not minimise or ignore complaints and that the leaders and employees of these institutions are not operating with impunity.

Our recommendations about independent oversight of complaint handling are discussed in Section 21.13. In particular, we recommend that all religious institutions should be covered by a reportable conduct scheme, such as the scheme in place under the *Ombudsman Act 1974* (NSW), in each state and territory. A key aspect of the New South Wales Ombudsman's reportable conduct scheme is that the Ombudsman monitors institutional investigations of complaints involving 'reportable conduct'. It also has the power to conduct its own investigation of the complaint if it deems it necessary.

21.8.2 Investigation procedure

During an investigation, an institution should ensure that it applies an appropriate standard of proof, complies with requirements of procedural fairness, and documents and provides reasons for any findings or conclusions. The findings or conclusions should be supported with clear and relevant details and evidence.¹⁷⁵

The purposes of an institutional investigation of a complaint of child sexual abuse are different from that of a criminal investigation. The purpose of a criminal investigation is to investigate whether a criminal offence has occurred, who may have committed it and whether charges should be laid. The standard of proof required by a court of law in criminal proceedings is ‘beyond reasonable doubt’.

The purpose of institutional investigations will ordinarily be to determine the need for any disciplinary measures and to identify any protective measures that may need to be put in place in order to minimise the risk to children in the institution. This sort of investigation examines the circumstances of the complaint to determine all relevant facts and establish a documented basis for a decision regarding the appropriate response. A lower standard of proof than the criminal standard is appropriate.

In our view, institutions should apply the standard of the balance of probabilities, meaning ‘more probable than not’ in their investigations. If the institution concludes that it is more probable than not that the alleged conduct did occur then it should find that the complaint has been substantiated.

In considering whether it is more probable than not that the alleged conduct occurred, the institution should have regard to the principles in *Briginshaw v Briginshaw* (1938) 60 CLR 336. Accordingly, when deciding whether the subject of the complaint has been proven on the balance of probabilities, the institution must have regard to the seriousness of the allegation and the gravity of the consequences flowing from a proposed finding.¹⁷⁶

Applying the balance of probabilities, having regard to the principles in *Briginshaw v Briginshaw*, is consistent with the approach of civil authorities when determining misconduct and disciplinary matters for those in the teaching¹⁷⁷ or medical¹⁷⁸ professions.

In this chapter we refer to the standard of proof of the ‘balance of probabilities, having regard to the principles in *Briginshaw v Briginshaw*’, as the ‘balance of probabilities’.

As we discuss in the following section, if the institution concludes the complaint is not substantiated because it is not satisfied that the complaint has been proven on the balance of probabilities, the institution still should conduct a risk assessment to determine whether the person who is the subject of the complaint poses a risk to children. If so, the institution must take steps to address this risk.

Based on the evidence we received during our institutional review hearings, the level of guidance in religious institutions' policies about their investigation procedures varies greatly.

Within the Catholic Church in Australia, some individual Catholic Church authorities have developed very detailed investigation policies. For example, the Diocese of Maitland–Newcastle and the Archdiocese of Canberra and Goulburn have similar policies. Both contain guidance relating to:¹⁷⁹

- matters that require investigation
- obligations to report complaints to external authorities
- rights of the person the subject of the complaint
- types of evidence, rules of evidence, and investigative procedures to be used in an inquisitorial process
- applying the 'balance of probabilities' standard of proof
- assessing 'unacceptable risk'
- procedural fairness and conflicts of interest
- drafting an investigation report and recommending findings.

Both policies also include useful flowcharts for determining the appropriate type of investigation, the investigation process followed and the process for finalising an investigation where there is a finding of sexual misconduct.¹⁸⁰

The detail contained in these two authorities' policies, compared with those of other Catholic Church authorities, may be explained by the fact that they both fall under the supervision of the reportable conduct scheme in New South Wales (for the Diocese of Canberra and Goulburn, at least partially).¹⁸¹

The Catholic Archbishop of Canberra and Goulburn, Archbishop Christopher Prowse, told us that:

Towards Healing is now a twenty year old document. Quite rightly, best practice in the field of investigation has changed and developed over the course of the past two decades. [The Archdiocese] has implemented a high standard of employment related investigation procedures commensurate with current best practice.¹⁸²

The *Child protection policy* of Yeshiva College in Bondi contains detail about the investigation procedure to be followed in the event of an allegation of reportable conduct. This includes initial and ongoing risk assessment and management; steps to ensure procedural fairness; conducting interviews; considering evidence; making of preliminary and final findings; and the right of appeal.¹⁸³ It is apparent from the document that these details have been included in order to comply with requirements and guidance from the New South Wales Ombudsman in relation to its reportable conduct scheme.

Hillsong Church has also developed a standard operating procedure which provides detailed and practical guidance about planning and conducting an investigation. In a letter tendered during the *Institutional review of Australian Christian Churches* hearing, Hillsong Church representatives stated that Hillsong Church had developed this policy as a result of its ‘increased responsibilities to the NSW Ombudsman’.¹⁸⁴

In our view, these examples illustrate the positive impact that a reportable conduct scheme such as that in place in New South Wales can have and provide support for our recommendation (discussed later in this chapter) that such schemes be introduced (or extended) in all jurisdictions to cover religious institutions.

Internal legal processes for investigations concerning people in religious ministry

Some religious denominations have their own internal legal processes and/or principles specifically for investigating and determining allegations of misconduct against people in religious ministry, including allegations of child sexual abuse. Some of these processes and principles are underpinned by theology, doctrine, scripture or tradition, and cannot be altered by individual religious institutions. Some of these rules reflect the idea that people in religious ministry are considered to have special status.

We have observed that some religious institutions apply their own standards of proof when investigating complaints for the purpose of imposing disciplinary measures against people in religious ministry. Some of these standards of proof are high and can be problematic where they prevent the institution from acting to reduce the risk to children.

By contrast, some religious institutions, such as a number of dioceses within the Anglican Church, have adopted investigation procedures which apply a similar process, and the same standard of proof, for complaints against a person in religious ministry as for complaints against any other church worker.

Application of canon law investigation procedures by Catholic Church institutions

The Catholic Church’s 1983 Code of Canon Law contains provisions for investigating allegations of child sexual abuse by a priest which are applicable to the universal Catholic Church. These procedures are designed to be part of the disciplinary process for priests.

Dr Rodger Austin, a canon lawyer, gave evidence in our *Institutional review of Catholic Church authorities* hearing that the current process under canon law, as amended by the pope’s *moto proprio* in 2001, is that once a bishop receives a complaint of child sexual abuse against a priest:¹⁸⁵

- the bishop conducts a ‘preliminary investigation’
- once the preliminary investigation has been completed, the bishop forwards the matter to the Congregation for the Doctrine of the Faith (CDF) in the Holy See

- the CDF then decides what action is to be taken, including whether to direct the bishop to investigate the matter fully by conducting either a penal administrative process or a penal judicial process, whether to present the case directly to the pope for dismissal, or whether to decide that no further penal action against the priest is required.

As we discuss in Section 13.11.6, 'Canon law', we have a number of concerns with the canon law investigative and disciplinary process. One issue from an investigation perspective is that, under canon law, the standard of proof required for determinations of allegations of child sexual abuse against clergy is 'moral certainty of the matter'.¹⁸⁶ Dr Austin gave evidence that, according to Pope Pius XII, 'moral certainty' is a higher standard than probability, as it excludes 'well-founded or reasonable doubt'.¹⁸⁷ Accordingly, it is closer to the criminal law standard of 'beyond reasonable doubt'.¹⁸⁸ As we explain in Section 13.11.6, this can prevent Catholic bishops from permanently removing a priest from ministry, despite evidence to a lower but sufficient standard that they have perpetrated child sexual abuse.

In the 1990s the Australian Catholic Bishops Conference and Catholic Religious Australia introduced Towards Healing as a process for 'responding to complaints of abuse against personnel of the Catholic Church'.¹⁸⁹ Towards Healing provides for an investigation of the complaint, referred to as an 'assessment'. In the event the complaint is substantiated, it provides for outcomes such as provision of redress to the complainant and referral to the relevant Catholic Church authority for consideration of disciplinary measures against Church personnel.¹⁹⁰ In investigations conducted by assessors under Towards Healing, the complaint is considered to be substantiated if it is found to be true on the balance of probabilities.¹⁹¹

As we discuss in Chapter 13, there are a number of conflicts between canon law and the Towards Healing process, including the standard of proof required to be applied under each. In 2002 the Australian Catholic Bishops Conference's National Committee for Professional Standards decided that, despite the inconsistency between canonical process and the process in Towards Healing, they would generally continue to use the latter.¹⁹² However, in 2013 the CDF informed the Catholic Church in Australia that in its view all accusations of sexual abuse of a minor by clergy 'containing at least a semblance of truth' should be forwarded to the CDF, for the CDF to decide how (or whether) investigation of the complaint should proceed.¹⁹³ In the *Institutional review of Catholic Church authorities* hearing, the Archbishop of Brisbane, Archbishop Mark Coleridge, gave evidence that the 'official position' of the CDF was still that the investigation procedures in Towards Healing do not apply to complaints against priests.¹⁹⁴

The position as between Catholic Church authorities in Australia and the Holy See with respect to investigation and discipline of clergy relating to complaints of child sexual abuse is unclear. From the evidence we received, it is unclear whether Catholic Church authorities in Australia are adhering to the canon law process when they receive complaints of child sexual abuse against clergy. We do not know if they only consider a complaint substantiated if, after a penal process, they have 'moral certainty' that the complaint is true, or whether they conduct their own investigation of complaints under Towards Healing or their own policies separate to the canon law process.

In any event, we are concerned that the canon law investigation procedures for complaints of child sexual abuse against clerics may cause some Catholic Church authorities to depart from more appropriate processes for investigating complaints of child sexual abuse against priests.

For example, as discussed above, the Diocese of Maitland–Newcastle and the Archdiocese of Canberra and Goulburn have developed detailed investigation policies which address the requirements of a thorough and timely investigation. However, both of those policies include a caveat that their policy ‘sets the binding standard for any investigations conducted by the Diocese/Archdiocese in the civil realm’ but ‘does not extend to those investigations conducted under canon law’.¹⁹⁵

An example of the problem created by the different standard for determining complaints against priests under canon law is contained in *Case Study 14: The response of the Catholic Diocese of Wollongong to allegations of child sexual abuse, and related criminal proceedings, against John Gerard Nestor, a priest of the Diocese*. We discuss that case study in Section 13.7.

Anglican Church

As discussed in Chapter 12, ‘Anglican Church’, there are two distinct approaches for responding to complaints of child sexual abuse made against clergy in the Anglican Church of Australia. The first is a formal diocesan tribunal process enshrined in the 1962 Constitution of the Anglican Church. The second is a model professional standards framework. To varying degrees, most Anglican dioceses have adopted the professional standards framework. In these dioceses, the tribunal system coexists with, and has in practice been supplanted by, the professional standards framework.¹⁹⁶

As we discuss in Section 12.3, ‘The development of national model procedures in the Anglican Church’, before 2004 the diocesan tribunal process was the primary formal mechanism for disciplining clergy. Its processes are quasi ‘criminal’ in nature and it operates in a similar way to a civil or criminal trial, applying the rules of evidence.¹⁹⁷ Under this process, if the tribunal finds the charges to be proven, the tribunal then makes a recommendation about sanctions to the diocesan bishop.¹⁹⁸ In Section 12.3 and Section 12.4, ‘Early Anglican Church responses to child sexual abuse’ we outline how the technical and evidentiary hurdles of the tribunal system discouraged bishops from pursuing charges against clergy. We understand that very few tribunals relating to complaints of child sexual abuse have ever occurred.

In 2004, a new system for dealing with complaints against clergy was introduced at the General Synod. The system departed from the tribunal model in that it was primarily concerned with whether and to what extent the conduct either qualifies the person’s fitness to hold office or excludes them from doing so for the protection of the public, as opposed to a disciplinary or punitive response.¹⁹⁹

The Model Professional Standards Ordinance introduced at the General Synod requires dioceses to establish a professional standards committee and a professional standards board.²⁰⁰ The Model Professional Standards Ordinance deals with complaints against all ‘church workers’, which includes clergy and lay persons such as employees.²⁰¹

Information relating to alleged conduct of a church worker is to be referred to the professional standards committee of a diocese if it involves:²⁰²

- sexual misconduct or child abuse (including child sexual abuse)
- an omission of a church worker who had knowledge of conduct of another church worker involving sexual misconduct or child abuse, or
- the failure to deal appropriately with or to investigate matters relating to sexual misconduct or child abuse.

If the committee considers that the alleged conduct is relevant to the person’s fitness for office, it must investigate.²⁰³

After investigation, the committee may refer questions of a church worker’s fitness to hold an office, licence or position of responsibility in the Anglican Church, or to remain in holy orders (in the case of clergy), to the professional standards board of the diocese for a finding.²⁰⁴ The board then holds a sitting, in which the referring body and the respondent may have legal representation and must be given a reasonable opportunity to call or give evidence, examine or cross-examine witnesses and make submissions to the board.²⁰⁵

Under the Model Professional Standards Ordinance, the professional standards board is not bound by the rules of evidence but ‘must act with fairness and according to equity’.²⁰⁶ The standard of proof to be applied by the board is not addressed directly in the Model Professional Standards Ordinance; however, wording in article 69A(b) suggests that it is ‘more likely than not’.²⁰⁷

After sitting, the board makes findings and recommendations about the discipline of the church worker to the relevant Anglican Church diocese (archbishop or bishop).²⁰⁸

In the lead-up to the *Institutional review of Anglican Church institutions* hearing, we asked each of the 23 Anglican dioceses what standard of proof they used in internal proceedings related to child sexual abuse matters. Representatives from all except one of the dioceses – including the Diocese of Sydney, which has a different mechanism from the professional standards framework – told us that the standard of proof used in internal proceedings was the balance of probabilities (and most dioceses stated that they also applied the principles in *Briginshaw v Briginshaw*).²⁰⁹

Archbishop Jeffrey Driver, then Archbishop of Adelaide, told us that in the Diocese of Adelaide the Professional Standards Ordinance 2015 defines the standard of proof, at section 90, as:

- ‘The standard of proof to establish an allegation is that of a reasonable satisfaction on the balance of probabilities’.
- ‘Each of the Board and the Review Board must scrutinise evidence with greater care if there is a serious allegation to be established, or an inherent unlikelihood of an occurrence of a given description or if there are grave consequences that would flow from a particular finding’.²¹⁰

The Anglican Church of Australia has a separate complaints framework, known as episcopal standards for complaints against bishops. As mentioned in chapters 12 and 20, the Anglican Church of Australia, in September 2017, adopted *the Episcopal Standards (Child Protection) Canon 2017*²¹¹ which, if adopted by the 23 dioceses will see a nationally consistent approach to episcopal standards, albeit confined to child safety matters.

This canon sets out a similar process for investigating complaints against bishops whereby complaints are referred to the Episcopal Standards Commission, which is able to refer the matter to the Episcopal Standards Board. Like the professional standards process, the board is not bound by rules of evidence but must ‘act with fairness and according to equity’.

Uniting Church in Australia regulations

As mentioned above, the Uniting Church in Australia applies different policies and procedures for handling complaints of child sexual abuse, depending on whether the subject of the complaint is a person in religious ministry (including lay ministry) or a person who is not ministering.

If a complaint of child sexual abuse is made against a lay person who is not in ministry, the *Sexual misconduct policy* applies.²¹² That policy provides that complaints will be referred to the synod, which will determine whether the complaint should be investigated by the presbytery or the synod.²¹³ The *Sexual misconduct policy* provides that the investigation ‘shall be by inquiry and not adversarial’, and does not specify a standard of proof.²¹⁴ The *Sexual misconduct policy* provides that, ‘if the matter is one that requires notification to the police, no investigation will commence until the police investigation has been finalised’.²¹⁵

If a complaint of child sexual abuse is made against a person in religious ministry in the Uniting Church, including a person in lay ministry, it will be dealt with under the *UCA regulations*.²¹⁶ The *UCA regulations* require that all complaints against ministers of ‘sexual misconduct’, which includes child sexual abuse, be referred to the Synod Sexual Misconduct Complaints Committee (SSMC Committee).²¹⁷ The chairperson of the SSMC Committee will determine whether the complaint ‘amounts to a complaint of sexual misconduct’ and, if so, the committee will investigate the complaint.²¹⁸

Reverend den Houting, General Secretary of the Uniting Church Queensland Synod, gave evidence that 'it is the role of the [SSMC Committee] to investigate, assess and make determinations on matters of sexual misconduct including those of child sexual assault'.²¹⁹ However, the *UCA regulations* provide that the SSMC Committee shall 'not act as an adjudicative body but shall only form opinions on issues of fact when necessary for the purpose of deciding on action to be taken'.²²⁰ The *UCA regulations* direct the SSMC Committee to 'seek an agreed outcome that encourages healing and maintains the integrity of ministry of the Church' and, in doing so, it shall 'make use of the tools of conversation, enquiry, mediation and collaborative resolution'.²²¹ The regulations do not specify any standard of proof to be applied by the SSMC Committee.

The *UCA regulations* provide that at any point in its investigation the SSMC Committee may refer a complaint to the Synod Committee for Discipline (Discipline Committee).²²² The *UCA regulations* state that the Discipline Committee adopts a process 'similar to the process a court undertakes'.²²³ It holds proceedings at which an advocate appointed for the complainant, and the respondent, may appear (either in person or through representation by a lawyer or a Uniting Church member), give oral evidence and call and examine witnesses.²²⁴ The Discipline Committee makes findings of fact and decides whether or not the complaint has been made out, on the balance of probabilities.²²⁵ The Discipline Committee also determines disciplinary outcomes for the subject of the complaint (as will be discussed further below).²²⁶

Based on our review of the *UCA regulations* and Reverend den Houting's statement, there may be some tensions within the documents about the role of the SSMC Committee and the intended outcomes of its process. It is unclear to us how a process that is aimed at achieving an 'agreed outcome' between the complainant and respondent, including through use of tools such as 'conversation, mediation and collaborative resolution', would meet the definition of an institutional investigation we give above – that is, a formal or systematic inquiry to establish facts about a complaint of child sexual abuse.

The Discipline Committee appears to follow a process which more readily meets the definition of an institutional investigation. While the *UCA regulations* allow the SSMC Committee to refer a complaint of child sexual abuse to the Discipline Committee, it does not appear to require referral.

Application of scripture-based investigation processes by the Jehovah's Witnesses

The Jehovah's Witness organisation handles allegations of child sexual abuse in accordance with the organisation's internal disciplinary, scripture-based process for addressing all forms of alleged sins or 'wrongdoing' committed by its members.

The policies of the Australian branch of the Jehovah's Witnesses provide that the elders in a congregation will conduct a 'scriptural investigation' of every allegation of child sexual abuse.²²⁷

As we discussed in the *Jehovah's Witnesses* case study and in Chapter 15, certain aspects of the scriptural-based investigation process mandated by the Jehovah's Witness organisation are not appropriate for investigations of complaints of child sexual abuse. These problematic aspects include that:

- responsibility for investigating complaints of child sexual abuse is given to two elders (people in religious ministry) in the congregation in which the complaint arose, even when the allegations are against their fellow elders
- in the absence of a confession from the accused, the standard of proof requires evidence from two eyewitnesses in order for there to be a finding of wrongdoing (the 'two-witness rule')
- as only men can be elders, all investigation and decision-making in relation to allegations of child abuse is conducted by men only.

In the *Jehovah's Witnesses* case study we heard that the organisation's reliance on the two-witness rule put congregational elders in a position where they were unable to take disciplinary action even though they believed allegations of child sexual abuse were true.²²⁸

In that same case study we recommended that the Jehovah's Witnesses organisation revise and modify its application of the two-witness rule, at least insofar as it is applied in relation to allegations of child sexual abuse.²²⁹ We also recommended that the organisation explore ways in which women can be involved in the investigation and assessment of allegations of child sexual abuse.²³⁰

During the *Institutional review of the Jehovah's Witnesses* hearing, we heard evidence that the Jehovah's Witness organisation has not adopted these recommendations. Mr Terrence O'Brien, Director, Watchtower Bible and Tract Society of Australia, gave evidence that both the two-witness rule and the position that only men who are elders can be responsible for decision-making in relation to allegations of wrongdoing, are required by the scriptures and therefore cannot be changed.²³¹

We note that two other problematic aspects of the Jehovah's Witness organisation's investigation process that we identified in the *Jehovah's Witnesses* case study – namely, the requirement for a victim to face the abuser and the lack of provision for a support person – have now been addressed in the *Child safeguarding policy* of Jehovah's Witnesses in Australia.²³² However, we noted in Chapter 20 that one of the problems for the Jehovah's Witnesses is that they need to ensure that their policies relating to child safety are adequately communicated to members of their congregations.

In Chapter 15, we make specific recommendations to the Jehovah's Witnesses about amending the two-witness rule and involving women in decision-making regarding investigation of complaints (see Recommendations 16.27 and 16.28).

Conclusions about internal legal processes for investigations

It is apparent from the evidence we received that there are significant issues with the policies and procedures some religious organisations and institutions have in place for the investigation of complaints of child sexual abuse against people in religious ministry. One of the issues is that certain religious organisations – for example, the Uniting Church and, in terms of canon law, the Catholic Church – have processes for investigating complaints against people in religious ministry which are different from those for investigating complaints against other people associated with the institution.

In the case of the Catholic Church, the separate process for disciplining (and therefore investigating) priests under canon law imposes a standard of proof for substantiation of complaints (moral certainty), which is higher than the standard we recommend as appropriate for religious institutions (the balance of probabilities). This can prevent the removal of a priest from the clerical state, despite sufficient evidence that they have perpetrated child sexual abuse.

In the case of the Uniting Church, the SSMC Committee, which receives all complaints against ministers of ‘sexual misconduct’, including child sexual abuse, is said to use tools like mediation to seek ‘agreed outcomes’ and only ‘forms opinions on issues of fact’ rather than making findings of fact. Under the *UCA regulations* a complaint of child sexual abuse can be referred by the SSMC Committee to the Discipline Committee for a more formal investigation; however, the *UCA regulations* do not appear to require the SSMC Committee to do so.

In the case of the Jehovah’s Witnesses, while there appears to be no distinction in the process for the ‘scriptural investigation’ of allegations of child sexual abuse against people in religious ministry from those not in ministry, the two-witnesses rule applied in that process for substantiating any complaint is inappropriate and can prevent appropriate action being taken against perpetrators.

By contrast, some religious institutions, such as a number of dioceses within the Anglican Church that have adopted the Model Professional Standards Ordinance, have adopted investigation procedures which apply a similar process and the same standard of proof (balance of probabilities) for complaints against a person in religious ministry as for complaints against any other church worker.

We make recommendations below to address some of the common issues arising in relation to religious institutions’ investigation procedures.

We also note our recommendation, contained in Volume 7, *Improving institutional responding and reporting* and discussed in the final section of this chapter, that all states and territories should establish a reportable conduct scheme based on the approach under the *Ombudsman Act 1974* (NSW). Reportable conduct schemes should cover all religious institutions. This recommendation for external oversight will help to ensure that religious institutions follow appropriate investigation procedures in relation to all complaints of child sexual abuse, including those against people in religious ministry.

Recommendation 16.53

The standard of proof that a religious institution should apply when deciding whether a complaint of child sexual abuse has been substantiated is the balance of probabilities, having regard to the principles in *Briginshaw v Briginshaw*.

Recommendation 16.54

Religious institutions should apply the same standards for investigating complaints of child sexual abuse whether or not the subject of the complaint is a person in religious ministry.

Procedural fairness

The rules or principles of procedural fairness have been developed to ensure that decision-making is fair and reasonable.²³³ Institutions should comply with the requirements of procedural fairness when investigating a complaint of child sexual abuse and determining outcomes.

In Volume 7, *Improving institutional responding and reporting*, we explain that there are two main requirements of procedural fairness as developed in the context of decision-making by courts and administrators: the bias rule and the hearing rule. As a matter of good practice, non-government institutions, including religious institutions, should comply with the requirements of procedural fairness.

The New South Wales Ombudsman's fact sheet, *Natural justice/procedural fairness*, provides some helpful guidance for institutions in relation to affording procedural fairness.²³⁴ The Ombudsman states that the rule against bias requires that the decision-maker (for present purposes, the investigator) not have a personal interest in the outcome.²³⁵ The Ombudsman further states that other requirements of procedural fairness (including the hearing rule) may require that the decision-maker:²³⁶

- inform the person who is the subject of the investigation, or a person whose interests are likely to be adversely affected by a decision in relation to the complaint, of the substance of the allegation
- provide those persons with a reasonable opportunity to put their case to the investigator
- make reasonable inquiries or investigations
- act fairly and without bias in making decisions
- conduct the investigation without undue delay.

A religious institution's complaint handling policy should specify steps that will be taken to comply with the requirements of procedural fairness for both the victim and the subject of a complaint.

The Catholic Church's Towards Healing protocol contains a number of provisions which are designed to afford procedural fairness, particularly towards the subject of a complaint. These include the following:

- The accused should be informed of the nature of the complaint and asked for a response.²³⁷
- The assessors will interview the complainant and the accused separately. If the accused declines an interview, he or she can provide a written response. However, the assessment will proceed even if the accused does not wish to participate.²³⁸
- The assessors review the evidence and make findings as to whether they consider the complaint to be true on the balance of probabilities. The assessors must prepare a written report, with reasons for their findings.²³⁹

Likewise, the Anglican Diocese of Sydney's Discipline Ordinance 2006 contains a number of provisions linked with procedural fairness. This includes that documents outlining the substance of the complaint should be served upon the respondent; and the respondent should be given an invitation to respond in writing within 21 days.²⁴⁰

The Yeshiva College Bondi *Child protection policy* states that the institution will 'be mindful of the principles of procedural fairness' in relation to investigations.²⁴¹ The policy provides that the institution will 'inform the person subject of the allegation ... of the substance of any allegations made against them and provide them with a reasonable opportunity to respond to the allegations', 'make reasonable enquiries or investigations before making a decision' and 'avoid conflicts of interest'.²⁴²

Yeshiva College Bondi's *Child protection policy* requires that the person who is the subject of the allegation be notified and given an opportunity to respond at multiple points in the investigation process: through a letter describing the allegation, during an interview, and through giving the subject of the complaint the investigator's preliminary finding and an opportunity to respond to that finding, prior to the final finding being made.²⁴³

The importance of religious institutions complying with procedural fairness requirements was demonstrated in the Supreme Court of New South Wales case of *DEF v Trappett*.²⁴⁴ The case was brought by a Catholic priest in the Archdiocese of Brisbane. An allegation of (adult) sexual abuse had been made against the priest. The priest denied the allegations. The complaint was dealt with under the Catholic Church's Towards Healing process, and in their report the assessors found the complaint to be substantiated (on the balance of probabilities).

The priest filed civil proceedings in the Supreme Court against the Archbishop of Brisbane and the Director of Professional Standards, Queensland, seeking an injunction to stop the archbishop from taking any action against him on the basis of the assessors' report. He claimed that the assessment had not complied with the clauses in Towards Healing concerning procedural fairness. He also claimed that he was entitled to have the complaint against him determined in accordance with the Code of Canon Law and had been denied his right to natural justice.²⁴⁵

Justice Beech-Jones ultimately dismissed the proceedings, concluding that the court did not have jurisdiction to deal with the plaintiff's claims.²⁴⁶

Although on this occasion the litigation was unsuccessful, this case demonstrates the risk of litigation created for institutions if the subject of the complaint does not perceive their investigation processes to be fair.

DEF v Trappett also illustrates the potential problem for Catholic Church authorities, mentioned above, created by the coexistence of canon law investigation procedures alongside the procedures set out in Towards Healing. This has significance where the canon law provides potentially stronger procedural protections for the accused than Towards Healing (for example, the application of a higher standard of proof, mentioned above). The plaintiff priest was challenging his treatment under Towards Healing, in part because he said he was entitled to certain procedural rights under canon law in relation to the investigation of the complaint of abuse.²⁴⁷ While canon law and Towards Healing apply different procedural safeguards, Catholic Church authorities investigating a complaint of child sexual abuse under Towards Healing or another process which appropriately sets the standard of proof at the balance of probabilities, run the risk that priests can challenge their decisions under either civil law (as in *DEF v Trappett*) or canon law (see the case of Father John Gerard Nestor, which is discussed in Section 13.7, 'Development of national procedures in the Catholic Church').

The risk of litigation is not confined to the Catholic Church. As we note in Section 12.5, 'Contemporary Anglican Church responses to child sexual abuse', cases have been unsuccessfully brought against the Anglican Church in Australia by former clergy following their removal from holy orders under the professional standards framework. In two cases, the plaintiffs argued that their removal was unconstitutional because the Constitution of the Anglican Church required diocesan tribunals and that other types of disciplinary bodies were excluded.²⁴⁸

21.9 Determining and implementing an outcome

After the investigation has been completed, the institution needs to make a decision about the complaint, based on the investigation's findings. It then needs to consider an appropriate outcome.

If the institution concludes that the complaint is not substantiated this is not the end of the matter. The institution still has an obligation to consider whether the person who is the subject of the complaint poses a risk to children. The institution may form the view that such a risk exists on the basis of the evidence before it, even though that evidence was not sufficient to substantiate the complaint. If a risk is identified, it must be managed and mitigated. The institution may take such actions as placing the person under supervision or restricting their duties. In the case of a person in religious ministry, the risk assessment following an investigation may require the religious institution to restrict the ministry of a person so that they do not have contact with children.

If the institution concludes that the complaint is substantiated it will need to make a decision about the ongoing involvement of the person who is the subject of the complaint in the institution.

In any event, the outcome should be communicated to the person who is the subject of the complaint, the victim and/or complainant, and those in the community affected by the conduct.

The religious institution should ensure that those affected by the outcome have access to advocacy, support and therapeutic treatment services (discussed later in this chapter). The complainant should be made aware of the institution's redress policy.

This section will focus on the outcomes for the person who is the subject of a substantiated complaint.

21.9.1 Decision-making regarding future religious ministry

A particular issue for religious institutions is how to determine and implement outcomes for complaints of child sexual abuse against people in religious ministry.

Below we discuss some of the current issues relating to how particular religious institutions make decisions about the future religious ministry of a person who is the subject of a complaint of child sexual abuse. Common issues that emerge include which person or body has the authority to permanently remove a person from religious ministry, what standard of proof is applied and whether, as a matter of policy and practice, the institution will permanently remove from ministry a person who is the subject of a substantiated complaint of child sexual abuse.

Catholic Church

Under *Towards Healing*, it is up to the particular Catholic Church authority to determine what action will be taken in relation to a priest or religious who is the subject of complaint of child sexual abuse.²⁴⁹

If the person who is the subject of the complaint admits the abuse, or the outcome of the assessment is that 'there are concerns about the person's suitability to be in a position of pastoral care', the Catholic Church authority must consult with the director of professional standards and the consultative panel. The Catholic Church authority is then to 'consider what action needs to be taken concerning the future ministry of the person, taking account of the degree of risk of further abuse and the seriousness of the violation of the integrity of the pastoral relationship'.²⁵⁰ *Towards Healing* directs that the Catholic Church authority 'shall be guided by the principle that no-one should be permitted to exercise a public ministry if doing so presents an unacceptable risk of abuse to children and young people'.²⁵¹

In its submission to *Issues paper 2: Towards Healing*, the Truth, Justice and Healing Council explained that this requires the Catholic Church authority to consider the degree of likelihood that the person may abuse a child in the future, which is ‘a different question from whether the particular allegation has been legally proved “beyond reasonable doubt”, or even “on the balance of probabilities”’.²⁵² The *Towards healing guidelines* state that, in the case of child sexual abuse, ‘there can be no realistic possibility that the person be allowed to return to pastoral ministry’.²⁵³

However, on this point, there is a tension between *Towards Healing* and canon law. As mentioned above in this chapter, canon law provisions apply to the investigation and discipline of priests and religious. The standard of proof required by canon law for the imposition of a penalty against a priest or religious is moral certainty. These provisions apply regardless of the content of *Towards Healing*.

In Section 13.11.6, we consider whether Catholic bishops in Australia have the power, as a matter of canon law, to permanently exclude from ministry a priest in their diocese who has a complaint of child sexual abuse substantiated against them on the balance of probabilities, or who they otherwise judge to be an unacceptable risk to children, without going through canon law penal procedures involving the CDF in the Holy See. We conclude that it is unclear under canon law whether a bishop can permanently remove a priest without following the process that the CDF decides must apply in a particular case.

In that section we discuss the problems associated with the requirement that the Catholic Church authorities in Australia need to apply to a body in the Holy See in order to take disciplinary measures against a priest who has had a complaint of child sexual abuse substantiated against him. We recommend that the Holy See should amend canon law to give effect to our recommendations below regarding permanent removal from ministry and dismissal from the priesthood (see Recommendation 16.14).

We note in Section 13.11.6 that most of the Catholic bishops who gave evidence on the issue in the *Institutional review of Catholic Church authorities* hearing said that, if a priest in their diocese is convicted of child sexual abuse, the bishop will, as a matter of practice, ‘withdraw’ ‘revoke’ or ‘remove’ their ‘faculties’ (essentially a licence) for ministry or otherwise not permit him to exercise ministry.²⁵⁴ Some did not provide this information.²⁵⁵ A majority of them also said they would take this step if the complaint of child sexual abuse was substantiated (even if it is not the subject of a conviction).²⁵⁶

Anglican Church

As mentioned above, the Anglican Church has parallel processes available for resolving complaints of child sexual abuse against clergy: the tribunal system under the Anglican Church Constitution for complaints against clergy and the professional standards frameworks.

Under the tribunal system established by the Anglican Church Constitution, a tribunal is convened to hear charges against a member of the clergy. If the charges are proven, the tribunal then makes a recommendation about sanctions to the diocesan bishop.²⁵⁷ These sanctions may include suspension or expulsion from office and/or deposition from holy orders.²⁵⁸ The diocesan bishop may then exercise a discretion to impose the recommended punishment, mitigate the sentence or issue a pardon.²⁵⁹

The introduction of the professional standards framework in 2004 meant that clergy and lay people were subject to the same complaint handling process. As discussed above, this complaint process involves having information or a complaint relating to child sexual abuse investigated by the diocesan professional standards committee and then referred to the professional standards board for adjudication. Almost all 23 dioceses gave evidence that the standard of proof they apply for substantiating complaints of child sexual abuse is the balance of probabilities.

The Model Professional Standards Ordinance provides that after the investigation the professional standards board may determine that the church worker is temporarily or permanently unfit to hold an office, licence, or position of responsibility in the Church, or to be or remain in holy orders or in the employment of an Anglican Church body.²⁶⁰ The board may make recommendations in relation to the church worker, including that the church worker:²⁶¹

- be suspended from office or employment for a period of time
- have their licence or authority revoked
- have their employment terminated
- cease to hold any office
- be subject to a prohibition order
- be subject to conditions or restrictions
- be deposed from holy orders.

An Anglican priest or deacon may not exercise ministry unless they are licensed by the diocesan bishop.²⁶² The effect of a member of the Anglican clergy having their licence revoked is similar to the withdrawal of faculties for a Catholic priest. The most severe punishment for a member of clergy is deposition from holy orders, which is similar to dismissal from the priesthood for Catholic clergy (both of which will be explained further in the section below).

The Model Professional Standards Ordinance provides that the Anglican Church authority (usually the bishop) is empowered to give effect to the professional standards board's recommendation.²⁶³ However, there is no requirement that they do so. Under the canon law of the Anglican Church, the diocesan bishop is the only person who has the decision making power to depose a member of clergy from holy orders.²⁶⁴

The discretion that bishops generally retain in relation to the discipline of clergy was demonstrated in *Case Study 42: The responses of the Anglican Diocese of Newcastle to instances and allegations of child sexual abuse*. In that case study we heard that the then Bishop of Newcastle, Bishop Brian Farran, did not adopt the professional standards board's recommendation in respect of Father Graeme Sturt. Bishop Farran chose to suspend him for a period of five years rather than depose him from holy orders.²⁶⁵

As mentioned in Section 12.3, the professional standards framework operates slightly differently across the 23 Anglican Church dioceses. During the *Institutional review of Anglican Church institutions* hearing we heard that the Diocese of Melbourne has recently implemented the Professional Standards Uniform Act 2016, which specifically requires that an Anglican Church authority 'is bound to give effect to a recommendation of the Board or review Board or any permissible modification of the same'.²⁶⁶

The Salvation Army

The Salvation Army's *Orders and regulations for officer review boards* require an Officer Review Board (ORB) to be established in each Territory, with one of its purposes being to recommend disciplinary action against officers.²⁶⁷ An officer may face disciplinary action in relation to a wide range of conduct including 'serious offences', such as sexual offences against a child (identified as 'Immoral conduct which could lead to a criminal prosecution').²⁶⁸ The ORB acts when the Territorial Commander chooses to refer a matter for consideration. Where an offence could result in criminal prosecution, the Territorial Commander must refer the matter to the ORB.²⁶⁹

In his 2015 statement, tendered during the *Institutional review of The Salvation Army* hearing, Commissioner Floyd Tidd, National Commander of The Salvation Army Australia, stated that the Southern Territory's ORB conducts its investigations for discipline and determinations according to 'the civil standard of proof, namely the balance of probabilities'. Commissioner Tidd noted, however, that the ORB had sought advice on this issue:

Members of the ORB have no formal training in decision-making. Particularly in relation to considerations of historical abuse, however, they are required to make very difficult recommendations one way or the other about the future of officers. To assist the ORB, in October 2014, TSAS commissioned a paper by a barrister to explain to the ORB what is meant by the 'balance of probabilities'.²⁷⁰

Following consideration, the ORB makes a recommendation to the Territorial Commander that there be no action, dismissal, or disciplinary action short of dismissal.²⁷¹ The recommendation is not binding on the Territorial Commander.²⁷² Sanctions available under the orders are a formal reprimand, probation or 'dismissal'.²⁷³

We heard evidence that ‘if someone is dismissed, they lose their officership’.²⁷⁴ Under the orders, dismissal from ‘officership’ may occur with or without removal from the soldiers’ roll.²⁷⁵

The *Orders and regulations for officer review boards* provide that, where the ORB is made aware that an officer has been convicted of a sexual offence in a court of law, it will recommend dismissal and the Territorial Commander is directed to carry out this recommendation and enforce it without delay.²⁷⁶ The orders state there is to be no re-acceptance of an officer convicted of a sexual offence in a court of law.²⁷⁷ As discussed in Chapter 14, ‘The Salvation Army’, we heard evidence in our case studies regarding The Salvation Army that, in some cases, a perpetrator was readmitted to The Salvation Army after having been dismissed or having resigned due to child sexual abuse allegations.²⁷⁸

Where an officer has committed ‘immoral conduct’ but has not been convicted, the *Orders and regulations for officer review boards* are silent as to whether dismissal is mandatory. However, the *MSO policy* states that an officer who has been *proven* to have committed a sex offence, as well as an officer who has been convicted, will be immediately dismissed and will never be permitted to apply for reconsideration as an officer. The *MSO policy* states that The Salvation Army will not ‘commission, engage and/or continue to engage’ such an officer.²⁷⁹ It is not clear to us to what standard the sexual offence must be proved.

Uniting Church

As mentioned above, the *UCA regulations* contain the framework for Uniting Church discipline applicable to ministers (both lay and ordained).²⁸⁰ The Synod Committee for Discipline finds a complaint of sexual misconduct made out against a minister when the majority of its members ‘be so satisfied on the balance of probabilities’.²⁸¹ Where it finds a complaint against a minister to be substantiated, the Synod Committee for Discipline is able to determine disciplinary action to be taken, including:²⁸²

- no action
- admonishment
- suspension or termination of placement
- suspension from the exercise of all or any functions of a minister
- withdrawal of recognition as a minister.

Where a complaint of sexual misconduct is substantiated, the *UCA Regulations* are silent on which sanctions the Synod Committee for Discipline should or must apply. The *UCA Regulations* do not refer to mandatory suspension of functions or withdrawal of recognition of ministers who are the subject of a substantiated complaint of child sexual abuse.

In her statement to the Royal Commission, tendered during the *Institutional review of Uniting Church in Australia* hearing, Reverend den Houting, General Secretary of the Uniting Church Queensland Synod, gave evidence about ‘persons of concern’.²⁸³ A ‘person of concern’ includes a minister who is the subject of a substantiated complaint of child sexual abuse. Reverend den Houting stated:

If a person of concern had previously been in a position of leadership, the Church would have removed the person from leadership without possibility of exercising a further leadership role. If the person of concern had previously been an employee or ministry agent, their employment would have been terminated or their recognition withdrawn.²⁸⁴

The evidence of Reverend den Houting indicates an intention that such disciplinary action be applied to those in ministry who have had a complaint substantiated against them. While the current *UCA regulations* provide that the committee has discretion to apply such sanctions, there appears to be no requirement to do so. The regulations appear to be silent on the possibility of future reinstatement to ministry.

Where the Synod Committee for Discipline dismisses a complaint or finds that it is not substantiated, the *UCA regulations* provide that it may still take steps in relation to the complaint and the minister who is the subject of the complaint. These steps include supervision, training and standing the minister aside from the exercise of all or any of their functions as a minister. It is not open to the committee to withdraw the minister’s recognition without finding a complaint to be substantiated.²⁸⁵

Jehovah’s Witnesses

As we discussed above, the Jehovah’s Witnesses organisation’s procedure for handling complaints of child sexual abuse, including against elders or ministerial servants, is a scripture-based process which is used for addressing alleged sins or ‘wrongdoing’ committed by its members. This process includes the requirement that, unless a person confesses, a finding of wrongdoing cannot be made unless two witnesses give either evidence of the same incident or separate incidents of the ‘same type of wrongdoing’; or strong circumstantial evidence. We call this the ‘two-witness rule’.

As discussed in Chapter 15, it is only if this scriptural standard of proof is met that the elders appointed to investigate the complaint can then form a judicial committee (of elders), which can assess the degree of repentance of the perpetrator and determine an appropriate scriptural sanction. These sanctions include:²⁸⁶

- deletion: the person is removed from his position as an elder or ministerial servant
- reproof: if the judicial committee considers that the person is genuinely repentant, they are publicly reproved to the congregation but are allowed to remain within the congregation

- disfellowshipping: if the judicial committee considers that the person is unrepentant, the person is excommunicated from the Jehovah's Witnesses organisation. However, a person who has been disfellowshipped can be reinstated.

In the *Jehovah's Witnesses* case study, Mr Rodney Spinks, Senior Service Desk Elder, Watchtower Bible and Tract Society of Australia, gave evidence that, if an elder or ministerial servant is found to have engaged in child sexual abuse, he is immediately deleted.²⁸⁷

However, he also gave evidence that the elders do not consider the risk of reoffending when determining whether to reprove or disfellowship a person. We found that a decision to reprove a person, rather than expel or disfellowship them from the congregation, involves no objective consideration of the risk that that person might reoffend.²⁸⁸ None of the newer policies provided to us by the Jehovah's Witnesses organisation for the *Institutional review of the Jehovah's Witnesses* hearing explicitly suggest that risk is a factor considered by the judicial committee.²⁸⁹

In the *Jehovah's Witnesses* case study we found that reproof and disfellowshipping are not effective mechanisms for protecting children in the congregation and in the broader community.²⁹⁰ In the same case study, we heard evidence that the organisation's reliance on the two-witness rule put congregational elders in a position where they were unable to take disciplinary action where they believed allegations of child sex abuse were true.²⁹¹

From the policies produced by the Jehovah's Witnesses organisation in the *Institutional review of the Jehovah's Witnesses* hearing, it appears that restrictions may be imposed on a person who is the subject of a complaint of child sexual abuse in certain circumstances. These include restrictions on involvement with the congregation (specifically, any assignment of responsibility), on participation in field ministry and on any interactions with children.²⁹²

However, the policy documents provided by the Jehovah's Witnesses suggest that the only circumstances in which these restrictions will be imposed on an existing member of the organisation is if a judicial committee has already found the person guilty or if the person has been convicted of child sexual abuse by secular authorities.²⁹³ It is concerning that, under the current policies of the Jehovah's Witnesses organisation, a person against whom a complaint of child sexual abuse is made will not be the subject of restrictions to his ministry unless either two witnesses can be found or the person is convicted for child sexual abuse.

As noted above, we recommend in Chapter 15 that the Jehovah's Witnesses organisation amend the two-witness rule, at least in relation to complaints of child sexual abuse.

Australian Christian Churches and Hillsong Church

The ACC Constitution outlines a framework for granting certificates or credentials to an individual to act as a minister in an ACC church.²⁹⁴ All certificates are issued by the ACC's National Executive, and only the National Executive has the power to suspend or withdraw those certificates.²⁹⁵

The ACC *Safer churches manual* provides that, if a complaint of abuse (including child sexual abuse) is made against an ACC certificate holder, the ACC's *Grievance procedure* must be followed.²⁹⁶ Under that procedure, the general process is that the State Executive organises an investigation of the complaint and then forms a committee to consider the outcome of the investigation. The committee will then determine whether, on the balance of probabilities, the minister has engaged in improper conduct.²⁹⁷

Where the committee considers that the minister has engaged in improper conduct, the State Executive will make a recommendation to the National Executive about the appropriate action to be taken, which may include 'discipline and restoration', suspension or cancellation of certificate.²⁹⁸

The decision whether to suspend or withdraw the minister's certificate (and therefore credentials) is at the discretion of the ACC National Officers. The ACC Constitution merely provides that credentials and certificates may be withdrawn or suspended on the grounds of improper conduct by a decision of the majority of the National Officers.²⁹⁹ Neither the ACC Constitution nor the *Grievance procedure* addresses the question of whether, as a matter of policy, a minister who has a complaint of child sexual abuse substantiated against him or her will have their certificate withdrawn.

Hillsong Church cooperates with the ACC to investigate complaints concerning ACC certificate holders who minister for Hillsong Church.³⁰⁰

Hillsong Church's investigation procedure provides that, where the ACC investigates a complaint, the ACC's findings and details of the investigation will be presented to Hillsong Church's Head of Agency, who will make his or her own finding in accordance with Hillsong Church's own procedures.³⁰¹ Hillsong Church, like the ACC, applies the standard of proof 'on the balance of probabilities'.³⁰²

Hillsong Church states in its *Discipline and termination procedure* that, where there has been 'serious misconduct, formal disciplinary action is required'. This could include a verbal warning, counselling, a written warning, suspension or termination of employment or contract.³⁰³

Hillsong Church's procedures also highlight that, following the completion of any investigation, the Safe Church Office should review and finalise their risk assessment, which should 'inform what action is to be taken as a result of the investigation, including possible disciplinary action'.³⁰⁴

In a letter to the Royal Commission tendered during the *Institutional review of Australian Christian Churches* hearing, Hillsong Church's representatives stated that its position regarding 'administering disciplinary action to employees, including accredited ministers, who are alleged perpetrators of child sexual abuse' is that:

Employees who have sustained findings of a sexual offence will have their employment terminated, and will be given no means for reinstatement. Furthermore, they will not be permitted to attend any services conducted by Hillsong Church.³⁰⁵

As discussed in Chapter 16, 'Australian Christian Churches and affiliated Pentecostal churches', we heard evidence in *Case Study 18: The response of the Australian Christian Churches and affiliated Pentecostal churches to allegations of child sexual abuse (Australian Christian Churches)* that the title of 'pastor' is often used within the ACC and that members of Pentecostal congregations trust their pastors.³⁰⁶ In that case study, Pastor Wayne Alcorn, the National President of the ACC, agreed that the ACC had no disciplinary power over people who do not have an ACC credential holding themselves out as pastors.³⁰⁷ A particular issue for the ACC in terms of risk management, which we noted in the *Australian Christian Churches* case study, was the use of the title 'pastor' by people who do not hold ACC certificates permitting them to minister.³⁰⁸

In a joint statement tendered as part of the *Institutional review of Australian Christian Churches* hearing, the ACC representatives stated that the ACC 'does not endorse addressing anyone as "Pastor" who does not hold an ACC credential' and 'has expressly discouraged all constituent churches from using the title "Pastor" in the absence of ACC accreditation'.³⁰⁹ During the hearing, Pastor Sean Stanton, National Secretary and Treasurer of the ACC, gave evidence that the ACC allows a person to call themselves a pastor only once they have received their Probationary Minister Certificate.³¹⁰ Pastor Stanton said progress had been made and to his knowledge there were no churches referring to someone as 'pastor' where that person did not have at least an ACC issued Probationary Minister Certificate.³¹¹

Conclusions about decision-making regarding future religious ministry

We acknowledge that there is not always a simple 'employer–employee' relationship between a person in religious ministry and a religious institution which would permit the latter to terminate the role of such a person, in the same way that, for example, a school could terminate the employment of a teacher.

As discussed above, some religious institutions are subject to the internal laws of their religious denomination, which contain rules in terms of the disciplinary procedures and outcomes that apply to people in religious ministry. These rules are sometimes underpinned by theology, doctrine, scripture, or tradition. They may purport to constrain the institution in terms of what measures it can apply to these persons, including when it can remove them from ministry.

Despite these challenges, for all religious institutions the priority and determining factor in dealing with a person who is the subject of a substantiated complaint of child sexual abuse must be the minimisation of any risks to children.

Our case studies have demonstrated that even when people in religious ministry were found to have sexually abused children, either by an admission or through an investigation, those people were not always dismissed from the institution.³¹²

We consider that any person in religious ministry against whom a complaint of child sexual abuse is substantiated, on the balance of probabilities, should be permanently removed from ministry. This also applies to a person who is convicted by a court of an offence relating to child sexual abuse. We do not consider that the application of any internal religious laws should be permitted to impede a religious organisation's or institution's ability to permanently remove a person from ministry if it has been established on the balance of probabilities, or a higher standard of proof, that the person committed child sexual abuse.

We note that applying the balance of probabilities, having regard to the principles in *Briginshaw v Briginshaw*, as the standard of proof for removal of a person from religious ministry, would be consistent with the approach of civil authorities which determine whether to remove someone from the teaching or medical profession for misconduct.

As we discuss in Chapter 9, during our inquiry we heard that the status afforded to people in religious ministry played a role in enabling the perpetration of child sexual abuse by those people. Survivors frequently told us about the trust and respect shown by religious communities and families to people in religious ministry. We also heard of many instances where this trust and respect was a factor in the way that perpetrators groomed children and their families. We heard from many survivors about the power and authority wielded by perpetrators who were people in religious ministry.

We consider that, given that religious authority was often a factor that enabled the abuse of children by people in religious ministry, in order to minimise the future risk to children, those who are found to have committed child sexual abuse (through either a substantiated complaint or conviction) should not be able to present themselves as persons with religious authority.

Permanent removal from ministry should therefore mean that a person cannot be given any position in which he or she would perform ministry, and that he or she is not permitted to perform any ministerial activities, such as preaching or hearing confessions. The person should also be effectively prohibited from holding themselves out as being a person in religious ministry in any way – for example, by using a religious title, such as 'priest', or wearing religious apparel or insignia that would identify them as a person in religious ministry.

We understand that, given the close and personal connections that people in religious communities can have with people in religious ministry, disciplinary measures against the latter can be the subject of opposition. This opposition may come from those within the community, those within the religious organisation and even those in the leadership of the organisation if they are not adequately informed about the risk to children posed by those found to have committed child sexual abuse. By sharing accurate information with the community about why the person has been removed from ministry, religious institutions may counter the spread of inaccurate and unreliable information and also may help to ensure that potential victims are warned and protected.³¹³

We emphasise that leaders in religious organisations must show strong leadership and take responsibility for educating those within the organisation and the community about the reasons for disciplinary decisions and the organisation's commitment to child safety.

Recommendation 16.55

Any person in religious ministry who is the subject of a complaint of child sexual abuse which is substantiated on the balance of probabilities, having regard to the principles in *Briginshaw v Briginshaw*, or who is convicted of an offence relating to child sexual abuse, should be permanently removed from ministry. Religious institutions should also take all necessary steps to effectively prohibit the person from in any way holding himself or herself out as being a person with religious authority.

21.9.2 Dismissing a person in religious ministry from a religious organisation and removing their religious status

Some of the religious organisations we examined require persons who seek to take on religious ministry to go through a process of 'ordination' or profess particular vows. In some cases, this has implications for how those people can be dismissed from that organisation or have their status in ministry removed in the event they are convicted of offences relating to child sexual abuse, or the subject of a substantiated complaint of child sexual abuse. Dismissing a person in religious ministry from a religious organisation and removing their status in ministry can be seen as a separate and more severe consequence than their permanent removal from performing ministry, as is discussed in the section above.

We have considered the processes available in some religious organisations we examined for dismissing those people in religious ministry who are ordained or who have professed vows.

Anglican Church

As we discuss in Chapter 12, in the Anglican Church, deacons, priests and bishops are ordained into holy orders. According to the Doctrine Commission of the Anglican Church in Australia:

In Anglicanism, the nature of the ordination vows in various rites, with their shared heritage in the *Book of Common Prayer*, would support the affirmation that ordination is normally for life. The lack of any provision for re-ordination would seem to confirm this conclusion. However, there are Anglicans within some traditions who would want to go further than this and, for them, the language of the ‘indelibility’ of Orders would find comfortable acceptance.³¹⁴

As is explained above, for those Anglican dioceses that have implemented a professional standards framework based on the Model Professional Standards Ordinance, complaints against deacons and priests are dealt with by the same process as complaints against non-ordained church workers. If the professional standards board substantiates a complaint of child sexual abuse against a person who is ordained, the board may recommend that the person be deposed from holy orders. The Model Professional Standards Ordinance sets out that once a person is deposed from holy orders they become incapable of:³¹⁵

- officiating or acting in any manner as a bishop, priest or deacon of the Anglican Church
- accepting or holding an office in the Anglican Church only capable of being held by someone in holy orders
- holding right, privilege or advantage attached to the office of bishop, priest or deacon
- holding himself or herself out to be a member of the clergy
- holding an office in the Church which may be held by a lay person without the consent of the diocesan bishop.

The Model Professional Standards Ordinance provides that the Anglican Church authority (usually the bishop) is empowered to give effect to the professional standards board’s recommendation.³¹⁶ However, there is no requirement that they do so.

In sections 12.4 and 12.5, we discuss the early and contemporary responses of the Anglican Church to institutional child sexual abuse. As set out in those sections, we have heard that clergy in the Anglican Church have been deposed from holy orders, both under the professional standards framework, and under the formal diocesan tribunal process that was in use prior to 2004. However, we have heard that in some cases disciplinary processes were not engaged when they could or should have been. We have also heard that in some cases, the disciplinary processes were protracted and in the case of the formal diocesan tribunal process, caused distress to victims who participated.

Uniting Church

In the Uniting Church, ministers of the word and deacons are required to be ordained, although lay people are also able to perform some types of religious ministry – for example, as a pastor.³¹⁷ Reverend den Houting gave evidence that:

Ordination is the ‘setting apart’ of baptised women and men whom the Church has discerned to be called by God to serve as Deacons and Ministers of the Word. As a designated leader, authorised by the Church, ordination places the Minister in a new relationship with others in the community. The Church recognises that ordination gives a person new status in the community, and there are expectations around the role as a result.³¹⁸

In the Uniting Church, if the Discipline Committee finds a complaint against a minister to be substantiated, the committee is able to determine that the person should have their recognition as a minister withdrawn.³¹⁹ This applies to ordained ministers such as ministers of the word and deacons, as well as non-ordained ministers such as lay pastors.³²⁰

Catholic Church

In the Catholic Church all priests are required to be ordained. The process of ordination is considered by some Catholics to cause an ‘ontological change’ in the priest which makes them different from lay (that is, non-ordained) people. Former priest and seminary lecturer, Dr Christopher Geraghty, has explained the language of ‘ontological change’ as referring to the notion that, when a priest is ordained, an ‘indelible seal ... goes on the soul’, so that there is ‘a change in the very being, in the very essence’ of the priest.³²¹ Religious brothers and sisters in the Catholic Church are not ordained, but are required to profess vows of poverty, chastity and obedience. These vows may be temporary or permanent.³²²

In the Catholic Church, a priest who has been removed from ministry (referred to as having his ‘faculties’ removed) still has the status and title of a priest.³²³ The only way a priest can be deprived of his status as a priest is if he voluntarily requests laicisation or is dismissed from the priesthood by the pope. Dismissal from the priesthood (also referred to as ‘dismissal from the clerical state’) means that the person is prohibited from exercising the power of orders (the only exception being that he is allowed to hear the confession of someone in danger of death), he can no longer hold himself out as a priest (for example, he is not to wear clerical garb or to use clerical titles), and he has no right to remuneration.³²⁴

Similarly, a religious brother or sister who has professed vows can be removed from ministry, but remain a member of their religious institute. A religious can be dismissed from his or her religious institute if they voluntarily apply for a dispensation from their vows, or they are dismissed by the supreme moderator and the council of their religious institute.³²⁵ In religious

institutes of pontifical right (that is, the vast majority of religious institutes in operation in Australia) it is necessary for a vote for dismissal to be confirmed by the Holy See.³²⁶ We discuss the process for dismissing priest or a religious under canon law in detail in sections 13.2 and 13.11.6.

Dismissing a priest from the priesthood or a religious from their vows can be seen as a separate and more severe consequence than their permanent removal from performing ministry, as is discussed in the section above.

The question of whether a priest or religious convicted of an offence relating to child sexual abuse, or the subject of a substantiated complaint of child sexual abuse, should be dismissed from the priesthood or religious life has been a contentious one within the Catholic Church in Australia

We heard that, if the person is dismissed, the Catholic Church loses any authority over them and consequently has limited ability to monitor their whereabouts or activities. If they are kept within the priesthood or their particular religious institute, the Catholic Church can keep them under some form of supervision and restrictions and provide them with accommodation and financial support, but this can create problems within the institution and in the community.

In his evidence to our *Institutional review of Catholic Church authorities* hearing, Archbishop Anthony Fisher, outlined the main arguments for and against dismissal of offending priests and religious that we have heard from various witnesses. Arguments in favour of dismissal include that:

- people in the community, particularly the victim and their family, would criticise the Catholic Church for continuing to support perpetrators³²⁷
- it may be appropriate to deny ‘the title “Father” to the perpetrator, lest he be tempted to use his priestly status to find further opportunities to abuse the vulnerable’³²⁸
- Catholic institutions do not have the resources or ability to effectively supervise perpetrators to ensure that they pose no risk.³²⁹

Arguments against dismissal include that:

- ‘it may be wise to maintain links with a perpetrator (e.g. by providing some material support) in order to ensure that there is some continuing oversight of the person with a view to the continuing protection of vulnerable people’³³⁰
- ‘situations may arise where dismissal or dispensation may not achieve any real or significant effect, such as where a convicted priest is very old and immobile, and living in a retirement village’³³¹
- dismissal may be seen by the victim, their family or the community as the Catholic Church ‘washing its hands again of a responsibility’ and ‘throwing them back on their family or on the community’ to support them financially.³³²

Catholic Church authorities have adopted various approaches to whether they generally seek to have a person who has been convicted of an offence relating to child abuse, or the subject of a substantiated complaint, dismissed from the priesthood or religious life. However, a consensus in favour of dismissal, at least for those convicted of an offence relating to child abuse, appears to be emerging.

During our *Institutional review of Catholic Church authorities* hearing, the majority of the Catholic archbishops gave evidence that generally they have petitioned or will petition the CDF to have convicted priests within their dioceses dismissed from the priesthood (if they did not agree to voluntarily seek laicisation).³³³

However, the Catholic Archbishop of Perth, Archbishop Timothy Costelloe, and Archbishop Fisher suggested that there might be exceptions to their general policy of seeking dismissal. Archbishop Fisher, in particular, pointed to a case ‘where a convicted priest is very old and immobile, and living in a retirement village’.³³⁴

Some of the male Catholic religious institutes with members who are priests also gave evidence that they adopt the approach of seeking dismissal for those who have committed child sexual abuse.³³⁵

Other Catholic religious institutes, particularly the Christian Brothers and the Marist Brothers, told us they have (until recently) taken the approach of keeping within the institute members who have had a conviction recorded or complaint substantiated for child sexual abuse. They require those brothers to sign management plans that impose restrictions prohibiting them from engaging in any ministry or activity where they have access to children. They can also impose other restrictions and conditions, such as in relation to his place of residence, and submitting to psychological assessment and therapy.³³⁶

However, since the commencement of our inquiry, both the Christian Brothers and the Marist Brothers have changed their approach in favour of dismissal for more recent offenders. Under the Christian Brothers’ new policy, any member who commits a child sexual offence after 1 September 2014 will ‘ordinarily be dismissed from the Congregation’.³³⁷ Under the Marist Brothers’ new policy, where a brother commits a contemporary child sexual abuse crime (that is, a crime after 1 September 2015 – the date the policy came into force), he will be recommended for dismissal.³³⁸

We acknowledge that there are challenges for Catholic bishops and heads of religious institutes who wish to have a priest dismissed from the priesthood or have a religious dispensed from their vows. In Section 13.11.6, we discuss the disciplinary processes for priests and religious under canon law. Some of the key points from that section relevant to the present discussion are as follows:

- Under canon law, a bishop does not have the authority to dismiss a priest from the priesthood, even if they have been convicted of an offence relating to child sexual abuse. The bishop can only refer the case to the CDF in the Holy See with a recommendation that the priest be dismissed.³³⁹ A similar issue arises in relation to members of religious institutes, as they can only be dismissed from their vows with approval from the Holy See.³⁴⁰
- Under canon law the standard of proof that must be met before a priest can be dismissed is ‘moral certitude’.³⁴¹ As mentioned earlier in this chapter, moral certitude is similar to ‘beyond reasonable doubt’ – the standard required for criminal conviction.
- The CDF has the power and discretion to reject a petition from a bishop for dismissal of a priest, even one who has been convicted by an Australian court for an offence relating to child sexual abuse. The Holy See has similar discretion in relation to dismissing members of religious institutes.
- We heard evidence from Catholic authorities of the delay, sometimes years long, caused by bishops having to wait for a response from the Holy See to know if the priest will be dismissed from the priesthood.

As we discuss in Section 13.11.6, these canonical processes that are generally required for dismissal create difficulties for Catholic authorities in Australia seeking to remove a priest’s status following a conviction or substantiated complaint relating to child sexual abuse.

Conclusions about dismissing a person from religious ministry

As stated above, we recommend that any person in religious ministry who is convicted of an offence relating to child sexual abuse, or who is the subject of a substantiated complaint of child sexual abuse, should be permanently removed from ministry. As part of this permanent removal, the person should be effectively prohibited from holding themselves out in any way as being a person with religious authority – for example, by using a religious title, such as ‘priest’, or wearing religious apparel or insignia that would identify them as a person in religious ministry.

In the case of a person in religious ministry who has been ordained, or who has taken religious vows, even after they have been permanently removed from ministry they retain their particular status within the religious denomination which was conferred by virtue of their ordination or their vows.

There are different views within the Catholic Church about whether it is best practice for Catholic Church authorities to seek to have a priest or religious who has been convicted of an offence of child sexual abuse, or had a complaint for child sexual abuse against them substantiated, dismissed from the priesthood and/or dispensed from their vows as a religious.

The majority of Catholic Church authorities who gave evidence in our *Institutional review of Catholic Church authorities* hearing told us they generally now seek dismissal of such persons where there has been a conviction.

Some of the key arguments we heard from Catholic Church authorities against dismissal, are based on the desire of Catholic Church authorities to be able to retain some level of oversight and supervision of a perpetrator, while providing them with some material support. We do not consider that this is a sufficient basis to justify allowing priests or religious who commit child sexual abuse to remain in the priesthood or religious life.

In our view, people should not be retained within the priesthood or religious life just to maintain supervision and a level of control or to provide them with material support. We acknowledge the practical reality that people who take vows of poverty in order to become religious, and particularly those who comply with those vows for a significant portion of what would otherwise be their working lives, may be in need of material support. Religious institutions can continue to provide some material support to religious who are dispensed from their vows. Some Catholic Church authorities gave evidence that they currently do so.³⁴²

We consider that supervision and control may be achieved in other ways even in circumstances where a person is dismissed, such as by making the provision of material assistance conditional on compliance with supervision arrangements and other terms.

Brother Peter Clinch, the Province Leader of the Oceania Province of the Christian Brothers Congregation, gave evidence that the Christian Brothers are currently considering developing an approach where a brother who has been convicted or had a complaint substantiated against him can be materially supported and supervised by the Christian Brothers, and perhaps even live in the community but be stripped of his status as a brother and no longer have the title.³⁴³

We note in Chapter 9, that commissioned research suggested that the authority of people in religious ministry and the unquestioned power granted to them by their religious community meant they were trusted implicitly. This trust ensured their access to children.

Given that we have heard that the status of people in religious ministry played a role in enabling the perpetration of child sexual abuse, we consider that there is a need for religious organisations to ensure that this status is removed when the person is convicted of child sexual abuse.

We therefore recommend (Recommendation 16.56) that any person in religious ministry who is convicted of an offence relating to child sexual abuse should:

- in the case of Catholic priests and religious, be dismissed from the priesthood and/or dispensed from his or her vows as a religious
- in the case of Anglican clergy, be deposed from holy orders
- in the case of Uniting Church ministers, have his or her recognition as a minister withdrawn
- in the case of an ordained person in any other religious denomination that has a concept of ordination, holy orders and/or vows, be dismissed, deposed or otherwise effectively have their religious status removed.

In making this recommendation, we do not seek to discourage any religious organisation if they consider it appropriate and/or necessary to take these steps in relation to a person in religious ministry if, through its own processes, the organisation has substantiated a complaint of child sexual abuse but the person has not been convicted. In many cases, this will be an appropriate course of action. We note that currently:

- in those Anglican dioceses that have adopted professional standards frameworks based on the Model Professional Standards Ordinance, a member of the clergy can be deposed from holy orders if a complaint of child sexual abuse is substantiated by the professional standards board on the balance of probabilities
- the Uniting Church Synod Discipline Committee can withdraw a person's recognition as a minister if the committee is satisfied on the balance of probabilities that the person committed child sexual abuse.

By contrast, in the Catholic Church, a priest or religious cannot be dismissed unless they are found to have committed a delict (including child sexual abuse) to the standard of 'moral certainty'.

The standard of proof applied under canon law for dismissal of Catholic priests and religious is anomalous when compared with the standard used by both the Anglican and Uniting churches. It is also anomalous with the standard of proof that is used for disciplining practitioners in professions, such as doctors and teachers, which is the balance of probabilities.

We heard evidence from Archbishop Mark Coleridge, the Catholic Archbishop of Brisbane, that even in cases where priests in his archdiocese had been convicted of child sexual abuse offences by courts, when he petitioned the Holy See to have eight of those priests dismissed from the priesthood, the CDF rejected five of his applications.³⁴⁴ We find this particularly concerning.

Recommendation 16.56

Any person in religious ministry who is convicted of an offence relating to child sexual abuse should:

- a. in the case of Catholic priests and religious, be dismissed from the priesthood and/or dispensed from his or her vows as a religious
- b. in the case of Anglican clergy, be deposed from holy orders
- c. in the case of Uniting Church ministers, have his or her recognition as a minister withdrawn
- d. in the case of an ordained person in any other religious denomination that has a concept of ordination, holy orders and/or vows, be dismissed, deposed or otherwise effectively have their religious status removed.

21.10 Managing participation of perpetrators in religious communities

During our case studies and consultations we have heard that an issue facing some religious institutions is how to manage the situation in which a person (whether a lay person or a person currently or formerly in religious ministry) who the institution knows has either been convicted of child sexual abuse, or had a complaint of child sexual abuse against them substantiated, wishes to attend and/or participate in religious services run by the institution.

We recognise the uniquely difficult situation that this creates for religious institutions seeking to ensure that they are child safe.

We acknowledge that all people have a right to manifest their religion or beliefs,³⁴⁵ regardless of whether they have been convicted of child sexual abuse or otherwise had a complaint of child sexual abuse against them substantiated. However, religious institutions which provide religious services or activities, through which people can practise their religion or beliefs, need to manage risks to children who also attend those services or activities.

We consider that, where a religious institution becomes aware that a person who is attending its religious services or activities has been convicted or the subject of a substantiated complaint of child sexual abuse, whether a person in religious ministry or a lay person, the religious institution must assess the level of risk posed to children by that person's ongoing involvement in the religious community. If the institution assesses that the risk posed by the person can be adequately managed, they should take appropriate steps to manage that risk.

If the institution determines that they cannot effectively manage the risk if the person attends services or activities at their institution, they should prioritise the safety of children and prohibit the person from attending and/or participating in services or activities run at their institution.

During our institutional review hearings, we received evidence from some religious institutions about how they attempt to assess and manage the risk in these types of situations.

21.10.1 Current approaches

Anglican Church

The Anglican Church in Australia has introduced initiatives at both national and diocesan levels for managing safety issues arising where there is a person whose presence constitutes a risk of sexual abuse to others in the parish community (referred to as a ‘person of concern’).

In September 2009, the Professional Standards Commission – which operates at a national level – published their *Guidelines for parish safety where there is a risk of sexual abuse by a person of concern (Parish safety guidelines)*.³⁴⁶

The *Parish safety guidelines* provides a framework and resources to assist clergy and church workers responsible for safe ministry to address safety issues that arise regarding persons of concern and to take steps to protect the parish community from the risk of harm.³⁴⁷ Key aspects of this framework include processes for identifying persons of concern; undertaking a risk assessment in relation to a person of concern’s involvement in parish communities; discussing with the person and reaching a consensus on the terms of their involvement; and formalising the terms of any agreement.³⁴⁸

In 2009, the General Synod recommended that each diocese, parish and Anglican Church organisation adopt further parish safety measures in accordance with the *Parish safety guidelines*. In the *Institutional review of Anglican Church institutions* hearing in March 2017, professional standards directors from dioceses around Australia gave evidence outlining the diocesan policies and procedures implemented in their diocese(s) to manage risks relating to persons of concern in Anglican Church communities. We heard that processes and policies for managing persons of concern varied among dioceses.³⁴⁹

Mr Michael Elliott, Director of Professional Standards for the dioceses of Grafton and Newcastle, told us that, although policies are varied, the general principles for responding to persons of concern in Anglican diocese nationally are the same. He told us that those principles are based on ‘risk assessment’ and ‘risk management’.³⁵⁰

All of the directors who gave evidence during the *Institutional review of Anglican Church institutions* hearing told us that they had experienced some reluctance on the part of some clergy to risk manage known persons of concern.³⁵¹

In September 2017, following the *Institutional review of Anglican Church institutions* hearing, the General Synod of the Anglican Church adopted the *Safe Ministry to Children Canon 2017* which prescribes standards in respect of managing persons of concern within Anglican dioceses. Once this canon has been adopted by the 23 Anglican dioceses there will be a consistent national approach to the management of persons of concern throughout the church.³⁵²

The Salvation Army

As mentioned above, at a national level, The Salvation Army provides for the ongoing involvement of a ‘known perpetrator’ in Salvation Army activities. The *MSO policy* states that any individual who has been ‘convicted of or proven to have committed a sex offence’ may be allowed to attend meetings, activities and premises, ‘subject to a thorough risk assessment and on the strict condition of management and compliance with same’.³⁵³ It applies broadly to officers, soldiers, adherents and attendees of the Salvation Army, including those who have previously been officers.³⁵⁴

The *MSO policy* requires any ‘convicted/proven sex offender’ to sign a form, known as a ‘written agreement’, to manage risk as a result of their participation in The Salvation Army activities.³⁵⁵ The provisions of the standard agreement seek to restrict an individual’s free movement in Salvation Army premises and limit their contact with children. For example, the individual may be required to be accompanied to a bathroom on the premises.³⁵⁶ The *MSO policy* states that anyone subject to a written agreement must not wear The Salvation Army uniform or branded clothing.³⁵⁷

The *MSO policy* also mandates that Salvation Army personnel managing risks of an alleged sex offender are ‘fully briefed’ on the alleged offences.³⁵⁸ In addition, the *MSO policy* sets out how The Salvation Army will manage an alleged sex offender who may wish to transfer within The Salvation Army and to other denominations.³⁵⁹ The *MSO policy* states that The Salvation Army will not engage a worker or volunteer who has been convicted or ‘proven’ to have committed a sex offence other than in the ‘most exceptional cases’ and subject to a strict risk assessment.³⁶⁰

During the *Institutional review of The Salvation Army* hearing, Lieutenant Colonel Christine Reid, Secretary for Personnel of The Salvation Army Eastern Territory and Commissioner Tidd, National Commander, said that the Eastern Territory had developed a draft 'risk matrix' to standardise the risk assessment of attendees who are accused of child sex offences that have not been substantiated after an investigation. They stated the draft matrix assesses the level of risk the person poses to a church fellowship and the appropriate safety measures to put in place.³⁶¹ As discussed in Section 21.9.1 above, an institution may form the view that risk exists, even though the evidence was not sufficient to substantiate the complaint. We consider it good practice to develop a process to manage and mitigate risk whether a complaint has been substantiated or not.

Uniting Church 'persons of concern' agreements

During the *Institutional review of Uniting Church in Australia* hearing, Reverend Heather den Houting, General Secretary of the Uniting Church Queensland Synod, told us that:

The Church acknowledges that people who have perpetrated or allegedly perpetrated child sexual offences may wish to engage with and in the Christian community. In recognising this reality the Church has sought to be pro-active in seeking ways to ensure the provision of a safe environment for all people, especially vulnerable children, young people and adults.³⁶²

Reverend den Houting stated that, where a person who has admitted to or had a complaint substantiated or conviction recorded against them for child sexual abuse wishes to engage with and in the Uniting Church Christian community, they will be subject to a formal 'person of concern' agreement.³⁶³ She gave evidence that:

Person of concern policies and processes have been developed to provide a standardised approach that shared the responsibility for managing the alleged/convicted perpetrator across the different councils of the Church (Synod, Presbytery, and Church Council).³⁶⁴

Reverend den Houting gave evidence that the 'general nature' of these agreements is to identify the person of concern; establish conditions of engagement with the Uniting Church community, including boundaries; and put in place processes for supervision and oversight of the person.³⁶⁵ According to Reverend den Houting, prior to any agreement being offered, information about the person and their crimes or the allegations against them is gathered through discussions with the synod, the congregation and the presbytery, and the person themselves, and an 'exploration of risk occurs'.³⁶⁶

Catholic Diocese of Cairns safeguarding agreements

Bishop James Foley, the Catholic Bishop of Cairns, gave evidence that the Catholic Diocese of Cairns has developed a draft *Safeguarding agreement* to 'deal with perpetrators seeking to return to parish participation, whether they are former clergy or lay persons'.³⁶⁷ The agreement states that it can only be executed after a documented risk assessment has been conducted by the parish priest, a determination has been made 'that risk factors identified are appropriately manageable' and the bishop has been notified.³⁶⁸

The draft *Safeguarding agreement* restricts the offender's attendance at church services and other parish events or functions. The agreement requires that the offender nominate the particular church service or services that he or she intends to attend; places conditions on where and with whom the offender will sit during church services; and prohibits the offender from participating in any form of children's liturgy, Sunday school or any analogous activity 'whereby interaction with children, young people, or vulnerable people may be reasonably foreseen' or allowing themselves to 'be in a situation at a parish service or function where they are alone with children or vulnerable people'.³⁶⁹

Bishop Foley gave evidence that within the Diocese of Cairns 'any member or former member convicted of child sexual abuse will after serving their sentence be expected to be a signatory to such an agreement, or will be unable to celebrate services'.³⁷⁰

ACC and Hillsong Church's approach

The ACC National President, Pastor Wayne Alcorn, gave evidence during the *Institutional review of Australian Christian Churches* hearing that it is ACC's preference that people who have been found guilty of child sexual abuse 'don't worship in any setting where children and young people are'.³⁷¹ However, he stated that the ACC has been able to identify some locations 'in cities and key regional areas, where there are places where perpetrators of such crime can actually find a place for worship'.³⁷²

Similarly, the evidence of Pastor Sean Stanton, National Secretary and Treasurer, was that the ACC's approach to registrable sex offenders is to '[seek] to be redemptive and to help them' but not permit them on premises where there are children.³⁷³ Pastor Stanton then said:

we encourage them not to attend services, because even with the best of intentions, keeping people monitored the whole time in every single situation I think can be difficult, and again, just speaking as a local church pastor, where we have faced something like this recently, we said to the person they could attend a men's group midweek, off-campus, where there were no children around ...³⁷⁴

Pastors Alcorn and Stanton did not comment on what the ACC's policy is in relation to the participation of people who have not been convicted but have had a complaint of child sexual abuse against them substantiated.

As a local ACC church, Hillsong Church implements child protection through its *Safe church policy* and *Safe church training manual*. Both policies are explicit that Hillsong Church maintains a 'zero tolerance approach to registerable sex offenders as it poses an unacceptable risk' and that 'registerable sex offenders are not permitted to take part in any Hillsong services, programs, activities or events'.³⁷⁵

In addition to Hillsong Church's zero tolerance approach to registerable sex offenders, its *Ministry to known offenders and other persons of concern procedure* provides for the management of a 'person of concern', defined as a person who is 'identified as a possible risk ... without being accused of harmful action'.³⁷⁶ The procedure provides that the person should be monitored, and risk management measures may be taken, such as 'limiting the person's involvement as a volunteer, or which services or programs they wish to attend'.³⁷⁷ The procedure provides that, if there is any inappropriate behaviour or action that constitutes harm or a significant risk of harm, this should be reported to the Safe Church Office.³⁷⁸ The Safe Church Office may make a request to the Head of Agency that the person be banned from attending Hillsong Church.³⁷⁹

Jewish institutions

In the *Institutional review of Yeshiva/h* hearing, Jewish leaders gave evidence that they manage the risk of attendance by a person who has a conviction recorded or complaint substantiated against them for child sexual abuse on an informal and case-by-case basis. Rabbi Kastel, Chief Executive Officer of Jewish House, gave evidence that:

each case is different, and at the end of the day it is for the institution where the person frequents, or they might choose for them not to frequent any more, how they manage it ... very much they need to look at is there a risk if that person is there and how much control they have of being able to manage [it] and if they can't manage then they'd probably ask the person to go to somewhere else where they're less of a risk.³⁸⁰

Rabbi Benjamin Elton, Chief Minister and Rabbi of The Great Synagogue in Sydney, gave evidence that whenever they hold an event at the Great Synagogue they have security present outside, and a voluntary organisation that works with the security guards, called the Community Security Trust, has information about 'people who have been problematic in other community institutions'.³⁸¹ He stated that it does not happen yet in relation to child sexual abuse, but there is a systematic approach taken where, if someone presents themselves at the synagogue about whom the synagogue has information, the president of the synagogue is notified and the board goes through the process of 'determining what the risk is and whether they should be allowed to take part'.³⁸²

Mr Anton Block, President of the Executive Council of Australian Jewry, explained that generally a synagogue is run by a democratically elected board, and typically it would be the board, not the rabbi of the synagogue, who would make these determinations as to the risk and 'would ultimately have the responsibility to ensure the safety of their congregants'.³⁸³

Jehovah's Witnesses

In the *Institutional review of the Jehovah's Witnesses* hearing, the Jehovah's Witnesses organisation provided policies that address what elders in a congregation must do if they are aware that a person has been accused of child sexual abuse. This includes circumstances where a person who has had a complaint of child sexual abuse against them substantiated and/or has been placed under restrictions by a congregation, or has been disfellowshipped or disassociated from the Jehovah's Witnesses, seeks to move to a new congregation. Generally, the primary risk management strategy employed by the Jehovah's Witnesses under these policies is sharing information with the Australian Branch Office and the elders in the receiving congregation.³⁸⁴

In the situation when a congregation places restrictions on a person because of a complaint of child sexual abuse but that person remains within that congregation, the elders are required to inform parents of children in the congregation to 'alert' them of the 'need for caution', but the elders are warned not to 'reveal confidential details'.³⁸⁵ After the elders inform the parents, the parents are required to sign a brief statement that includes the name of the individual, the names of the parents and the date they were informed.³⁸⁶

21.10.2 Conclusions about managing participation of perpetrators in religious communities

The problem of how to effectively regulate the attendance of known perpetrators at religious services is one that appears to be common to many religious institutions. Whatever approach a religious institution adopts, we recommend that, as a minimum, where it becomes aware that a person who is attending its religious services or activities has been convicted of offences relating to child sexual abuse, or is the subject of a substantiated complaint of child sexual abuse, the religious institution assess the level of risk posed to children by that person's ongoing involvement in the religious community.

If the institution assesses that the risk posed by the person can be adequately managed, they should take appropriate steps to manage that risk.

However, if the religious institution considers that it cannot effectively manage the risk if the person attends services or activities at their institution, it should prohibit the person from attending.

Hillsong Church have decided to adopt a zero tolerance approach, at least in relation to convicted child sex offenders. For some religious institutions a blanket rule against allowing attendance may be the only way to effectively manage the risk in the circumstances.

Recommendation 16.57

Where a religious institution becomes aware that any person attending any of its religious services or activities is the subject of a substantiated complaint of child sexual abuse, or has been convicted of an offence relating to child sexual abuse, the religious institution should:

- a. assess the level of risk posed to children by that perpetrator's ongoing involvement in the religious community
- b. take appropriate steps to manage that risk.

21.11 Providing support and assistance

Concern and support for the person who is making a complaint must be at the heart of an institution's response. Support is required throughout all stages of the complaint process – from the time of disclosure or the initial complaint until after an investigation has been completed and the complaint finalised.³⁸⁷

The support and assistance provided by the institution should include:³⁸⁸

- support for the victim, in which institutions should respond sensitively to the child victim or adult survivor as part of a 'trauma-informed' response
- support for the family of the victim and any other secondary victims, including affected (religious) communities
- support and assistance to the subject of the complaint throughout the complaint process.

When a complaint of child sexual abuse has been made, the institution should ensure that victims, the subject of a complaint and other affected parties can access advocacy, support and therapeutic treatment services.³⁸⁹

Advocacy, support and therapeutic treatment services for victims and secondary victims are dealt with in more detail in Volume 9, *Advocacy, support and therapeutic treatment services*.

As we discuss in Volume 9, the trauma of institutional child sexual abuse can have profound, long-lasting and cumulative impacts for victims and survivors.

In our case studies we heard that a particular issue that can arise for people who make complaints of child sexual abuse to religious institutions is the potential for negative consequences for that person's relationship with the religious community in which that institution operates.

21.11.1 Ostracism from religious communities

As we discuss in Part D, 'Institutional responses to child sexual abuse in religious institutions', we received evidence in some case studies on religious institutions that victims who spoke up about the abuse were ostracised from their religious communities.

In the *Yeshiva Bondi and Yeshivah Melbourne* case study we heard evidence that some members of the Jewish communities in which those institutions operated perceived people who disclosed or talked about child sexual abuse to be sinning, because they believed to do so was not consistent with Jewish law.³⁹⁰

Witnesses told us that they had observed the community treat survivors of child sexual abuse as outcasts after it had become known that they had reported their experiences of child sexual abuse to civil authorities.³⁹¹ The evidence before us in that case study was that the treatment extended to the families of the survivors of child sexual abuse.³⁹² We found that the belief that communicating about child sexual abuse was contrary to Jewish law resulted in some community members behaving in a range of ways towards the victims of sexual abuse and their families which caused great distress to those victims and their families. In some cases, victims and their families experienced such severe ostracism and shunning that they felt unable to remain in the community.³⁹³

In the *Institutional review of Yeshiva/h* hearing, there was a clear consensus amongst the Jewish leaders who gave evidence that it is unacceptable for Jewish communities to shun victims who communicate about their abuse or their family members.³⁹⁴ Mr Anton Block, President of the Executive Council of Australian Jewry, stated that 'in my view, to shun is to be complicit in the abuse that has been perpetrated on the victim and there is no place for that in our society whatsoever'.³⁹⁵

Mr Block stated that 'it is important that we reach out to those victims and seek to feel their pain and support them in that pain'.³⁹⁶ He gave evidence that a number of representative Jewish bodies were holding a 'night of healing' in Melbourne for this purpose, at which community leaders and survivors would be speaking and sharing their feelings.³⁹⁷

We welcome these comments from Jewish leaders making clear that victims and their families who raise complaints about child sexual abuse must be supported and not shunned. We stress that it is crucial that these sentiments are reflected in the actions of all members of Jewish communities, but particularly the leadership, whenever a complaint of child sexual abuse is made.

21.11.2 Shunning survivors who choose to leave the religious organisation

In Chapter 15, we discuss the Jehovah's Witnesses' practice of shunning people who choose to 'disassociate' from (that is, leave) the organisation and how this may affect survivors of child sexual abuse perpetrated by a member of that organisation.

As we noted in the *Jehovah's Witnesses* case study, it is entirely conceivable that a survivor of child sexual abuse may no longer wish to be part of, or subject to the rules and discipline of, the Jehovah's Witnesses organisation at all.³⁹⁸ We found that members who no longer want to be subject to the Jehovah's Witnesses organisation's rules and discipline have no alternative but to actively leave – that is, disassociate from – the organisation.³⁹⁹

However, if a person disassociates from the organisation, those members of their family and social network who remain members of the organisation are counselled against associating, fraternising or conversing with that person.⁴⁰⁰ It is conceivable that a survivor's entire family and social networks comprise members of the Jehovah's Witnesses organisation.⁴⁰¹

We found in the *Jehovah's Witnesses* case study that the Jehovah's Witnesses' practice of shunning members who disassociate from the organisation has the very real potential of putting a survivor in the untenable position of having to choose between constant re-traumatisation at having to share a community with the person who abused them and losing that entire community altogether.⁴⁰²

In the *Institutional review of the Jehovah's Witnesses* hearing, we asked Mr Terrence O'Brien, Director, Watchtower Bible and Tract Society of Australia, about these findings and whether the Jehovah's Witnesses organisation had made any changes following our case study report. He gave evidence that the shunning of disassociated members was required by the organisation's 'understanding of the scriptural disfellowshipping disassociation doctrine'.⁴⁰³ He stated that the Australian Branch Committee, or the directors of the Watchtower Bible and Tract Society of Australia, are not authorised to change the shunning practice, and it would be a matter for the governing body of the Jehovah's Witnesses in the United States.⁴⁰⁴

For the reasons set out in Chapter 15, we consider that the practice of shunning child sexual abuse survivors who choose to disassociate from the organisation is unacceptable.

We recommend in Chapter 15 that the Jehovah's Witnesses organisation should no longer require its members to shun those who choose to disassociate from the organisation, at least in cases where the reason for disassociation is that the person has been a victim of child sexual abuse within the organisation (see Recommendation 16.29).

21.11.3 A positive model of support service

We received evidence in *Case Study 43: The response of Catholic Church authorities in the Maitland-Newcastle region to allegations of child sexual abuse by clergy and religious (Catholic Church authorities in Maitland-Newcastle)*, and our *Institutional review of Catholic Church authorities* hearing that Zimmerman Services in the Catholic Diocese of Maitland–Newcastle is regarded by both survivors and other Catholic Church authorities as adopting good practice in terms of support for victims and survivors. For example, CNE gave evidence that:

[I am] receiving counselling support which is being paid for by the Catholic Church. This was arranged through Zimmerman Services, which I have found to be excellent. They have been very supportive of me, have believed my story, and gone out of their way to care for me. I cannot fault the support of Zimmerman Services.⁴⁰⁵

The head of the Healing and Support Team, Ms Maureen O’Hearn, gave evidence about Zimmerman Services in our *Catholic Church authorities in Maitland-Newcastle* hearing. She stated that the Healing and Support Team in Zimmerman Services provides a supportive response to those who have been affected by childhood sexual abuse perpetrated by personnel of the diocese, including victims and their family members.⁴⁰⁶ She gave evidence that, if a person comes forward and says they have been abused, the Healing and Support Team does not ‘test’ the allegation but accepts their account and offers them support.⁴⁰⁷

We heard that the Healing and Support Team follows two practice guidelines produced by the organisation Adults Surviving Child Abuse (ASCA): the Guideline for the Treatment of Complex Trauma; and the Guideline for Trauma-Informed Care and Service Delivery.⁴⁰⁸ The team assist victims and their families by:⁴⁰⁹

- organising and facilitating counselling for people
- supporting people to make reports to the police and potentially supporting them through the whole criminal process (that is, at trial, at sentencing hearings, assisting with writing impact statements and so on)
- supporting people through making a civil claim against the diocese
- introducing people to other survivors, developing peer support networks and working collaboratively with survivor community groups
- providing practical assistance to support victims to manage particular crises or challenges in their lives, including assistance in securing accommodation, financial assistance for household bills and mental health assessments, and addressing personal legal issues
- assisting with spiritual healing, including by arranging a meeting with the bishop or a priest if requested, providing resources such as books on spiritual healing, and facilitating attendance at spiritual retreats.

Bishop William Wright, the Bishop of the Catholic Diocese of Maitland–Newcastle, gave evidence that there is no limit on the length of time that a person can access services from the Healing and Support Team.⁴¹⁰ Ms O’Hearn gave evidence that ‘it’s very much a very flexible, open-ended, long-lasting service that people can come and go or stay involved with over a long period of time’.⁴¹¹ She gave evidence that:

complex trauma affects people for a long time and has wide-ranging effects. It is important that people who have been affected by that feel that they can be empowered and engaged and collaborate in what’s happening to them. It’s important that they are very much a part of the decision-making and very much shape what that response will look like. It’s important that they feel that they can stay engaged with the service for as long as they need to and can come and go as they need to, and I think that’s an aspect that Healing and Support offers.⁴¹²

21.12 Reporting to external authorities

As we discuss in Chapter 19, ‘Common institutional responses and contributing factors across religious institutions’, our work has shown that known or suspected child sexual abuse in religious institutions was often not reported to police or other authorities. Many people in positions of authority in religious institutions knew or suspected that people in religious ministry or other colleagues were responsible for child sexual abuse but did not report to police or other external authorities, even where they were under a legal obligation to do so.

In this section, we consider how to improve the frequency, quality and timeliness of reporting of child sexual abuse by religious institutions through legislative reforms.

21.12.1 Voluntary reporting

As we stated in our *Criminal justice* report, we consider it important to make clear that persons who know or suspect that a child is being or has been sexually abused in an institutional context *should* report this to police – not necessarily as a legal obligation enforced by a criminal offence (which we discuss below) but because it is moral and ethical to do so.⁴¹³ Child sexual abuse is a crime which can and often does cause great harm to the child. There should be no doubt that police are the correct agency to which child sexual abuse should be reported.

Some religious organisations have complaint handling policies that require complaints of child sexual abuse to be reported to police, even where there is no legal obligation to do so. The Uniting Church in Australia’s National Child Safe Policy Framework states that complaints of child abuse will be immediately reported to the police and other statutory authorities.⁴¹⁴ The Uniting Church also directs in its *Sexual misconduct policy* that ‘Allegations of child abuse that arise within a UCA agency should be reported to the appropriate authority regardless of whether reporting is mandatory’.⁴¹⁵

The ACC's *Child protection policy* also explicitly directs all officers or employees in ACC-affiliated institutions to report actual harm or a risk of harm to a child to 'the relevant government agency and/or law enforcement body', even when there is no mandatory reporting obligation under law.⁴¹⁶

Some religious institutions require 'blind reporting' of complaints of child sexual abuse if the complainant does not want their details reported to police. The Catholic Church's *Towards healing protocol* requires that, if a person who makes a complaint about an alleged criminal offence does not want to take the matter to police, the director of professional standards should nonetheless provide information about the complaint to police, other than details that would identify the complainant.⁴¹⁷ We discussed and made recommendations about blind reporting in the *Criminal justice* report.⁴¹⁸

In that report we recommended that any person associated with an institution who knows or suspects that a child is being or has been sexually abused in an institutional context should report the abuse to police (in accordance with any guidelines the institution adopts in relation to blind reporting under Recommendation 16 of the *Criminal Justice* report) (relevant recommendations from our *Criminal justice* report are extracted in Appendix A).

21.12.2 Obligatory reporting

In Volume 7, *Improving institutional responding and reporting*, we discuss reporting of institutional child sexual abuse to external authorities in detail and make recommendations for legislative change to improve obligatory reporting (see relevant recommendations set out in Appendix A). This section outlines the reporting obligations imposed on religious institutions under the three categories listed previously in this chapter, and discusses our recommendations as they relate to religious institutions.

In particular, we have considered whether there should be any exemption to reporting obligations where information about abuse is received through 'religious confession' – a confession made by a person to a member of the clergy in the member's professional capacity according to the ritual of the church or religious denomination involved.

A broader discussion of the oversight of complaint handling by religious institutions provided under a reportable conduct scheme, and our proposed recommendation to extend such schemes, is contained in the final section of this chapter.

Mandatory reporting to child protection authorities

South Australia is the only jurisdiction in Australia to expressly include 'ministers of religion' as mandatory reporters.⁴¹⁹ It also designates 'employees and volunteers in organisations formed for religious or spiritual purposes' as mandatory reporters.⁴²⁰ In the Northern Territory,

every person is a mandatory reporter and therefore people in religious ministry and other personnel associated with religious organisations are legally obliged to report suspected cases of child abuse and neglect to authorities.⁴²¹ As at mid-2017 in both these jurisdictions, there is effectively an exception to the obligation to report if the information about the abuse was obtained in the context of religious confession.

Religious personnel might fall under the scope of mandatory reporting obligations in other jurisdictions when fulfilling other identified roles – for example, as a school counsellor or teacher. However, people in religious ministry are otherwise not subject to mandatory reporting obligations in relation to their pastoral work.

People in religious ministry deal with children in various ways during course of their work. For example, people in religious ministry may engage with children through:

- religious instruction or pastoral care for children
- community group activities run by places of worship
- religious confession
- the National School Chaplaincy Program, where chaplains provide pastoral care services to students in over 3,000 schools across Australia.

The many ways that people in religious ministry engage with children on a daily basis enables them to detect, and receive disclosures of, both familial and institutional child sexual abuse. Extending mandatory reporting to people in religious ministry could therefore play a powerful role in preventing or intervening at an early stage in child sexual abuse cases. Further, reporting to a child protection authority may help to avoid conflicts of interest in religious institutions in the event that there are familial relationships between leaders and other staff within the institution and those accused of abuse.

Obliging people in religious ministry to report child sexual abuse to child protection authorities may also help overcome cultural, scriptural, hierarchical and other barriers to reporting for religious institutions. Some of these barriers are discussed in more detail in Section 21.6.2 above.

Some stakeholders expressed support for extending mandatory reporting obligations to people in religious ministry.

During the *Institutional review of Catholic Church authorities* hearing, Catholic archbishops Prowse, Costelloe, Wilson, Fisher, Hart and Coleridge all agreed that the clergy in their archdioceses should be included as mandatory reporters, subject to an exception for information obtained in the course of religious confession (discussed further below).⁴²²

In the *Institutional review of Anglican Church institutions* hearing, Mr Garth Blake SC, Chair of the Professional Standards Commission of the General Synod and Chair of the Royal Commission Working Group, said he would like ‘a consistent approach to mandatory reporting, such that ministers of religion are required to mandatorily report’.⁴²³ Archbishop Philip Freier of the Diocese of Melbourne, Bishop Dr Sarah Macneil, Diocese of Grafton, Archbishop Glenn Davies, Diocese of Sydney, and Bishop Geoffrey Smith of the Diocese of Brisbane, all stated that they had no opposition to being mandatory reporters.⁴²⁴

In a response provided to the Royal Commission, the Rabbinical Council of Victoria stated that it ‘supports obligating mandatory reporting of cases of suspected child sexual abuse on rabbis and other religious leaders, employees and volunteers in organisations formed for religious or spiritual purposes’.⁴²⁵

In the *Institutional review of Uniting Church in Australia* hearing, we received evidence on this point from Ms Colleen Geyer, the General Secretary of the National Assembly of the Uniting Church. She gave evidence that, although the Uniting Church in Australia had not considered, at a national level, the question of whether people in religious ministry and religious leaders should be subject to mandatory reporting requirements, she considered that the Uniting Church’s documents and policies ‘indicate that that’s something we would agree with’.⁴²⁶

Major David Eldridge, a retired Salvation Army officer, stated in his evidence that one of the key issues that he thought needed to be addressed by The Salvation Army ‘in order to build safer protective arrangements for children and young people’ was accountability.⁴²⁷ He stated that to address this:

There need to be formal processes to ensure that there are consequences for not complying with appropriate protections for children and young people. It may be necessary for state authorities to introduce mandated reporting for ministers of religion and full-time church workers.⁴²⁸

In Volume 7, *Improving institutional responding and reporting* we recommend that state and territory governments amend laws concerning mandatory reporting to child protection authorities to achieve national consistency in reporter groups. Our recommended reporting groups include people in religious ministry (see Recommendation 7.3, set out in Appendix A).

Failure to report offences

‘Reporting’ or ‘failure to report’ offences impose criminal liability on third parties – that is, persons other than the perpetrator of the child sexual abuse – who believe that child sexual abuse has taken place but fail to report this abuse to the police. These third parties must report abuse to police in order to avoid committing the offence.

We discussed ‘failure to report’ offences in detail in our *Criminal justice* report.

There are currently reporting offences in New South Wales and Victoria. In our *Criminal justice* report, Chapter 16, we discussed in detail the scope and use of these current offences.

In New South Wales, if a serious indictable offence has been committed, section 316(1) of the *Crimes Act 1900* (NSW) makes it an offence for an individual who knows or believes that the offence has been committed and that he or she has information that ‘might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender’ to fail to report that information to the police or other appropriate authority without a reasonable excuse.⁴²⁹

Section 316(1) has been used to prosecute the concealment of serious crimes such as murder and manslaughter. However, as we discuss in our *Criminal justice* report, it appears that the offence has rarely been used to prosecute concealment of child sexual abuse offences.

There is no express exception to the requirement to report for people in religious ministry under section 316. However certain persons, including ‘clergy’, can only be prosecuted for a breach of section 316(1) with the consent of the Attorney General.⁴³⁰

In 2014, Victoria introduced an offence of failing to disclose a child sexual offence in section 327(2) of the *Crimes Act 1958* (Vic).⁴³¹ Under this provision, where an adult has information that leads them to form a reasonable belief that a ‘sexual offence’ has been committed in Victoria against a child under the age of 16 by another adult, they must disclose that information to a police officer as soon as it is practicable to do so, unless they have a reasonable excuse for not doing so. The maximum penalty for a failure to disclose is three years’ imprisonment.

Under the Victorian offence there is an exception for various categories of privileged information, including information obtained through a rite of confession or similar religious practice, provided there is no criminal purpose involved in the confession.⁴³² This privilege applies to both the fact that a religious confession was made and the content of a religious confession.⁴³³

In our *Criminal justice* report, we considered whether a ‘failure to report’ offence should apply to institutional child sexual abuse and whether institutions, or officers of institutions, should be subject to reporting obligations backed by Crimes Act or Criminal Code offences.

For the reasons set out in that report, we conclude that we are satisfied that there are good reasons for the criminal law to impose obligations on third parties to report to the police in relation to child sexual abuse.

As we discussed in that report, the purpose of a ‘failure to report’ offence differs from that of mandatory reporting to child protection authorities and reportable conduct schemes in that it focuses on catching, prosecuting and convicting offenders. Further, without a ‘failure to report’ offence that applies to a broad range of institutions, gaps in reporting obligations that apply to institutions and their staff would remain.

We consider that the offence should apply not only where a person in the institution knows or suspects that a child is being or has been sexually abused by an adult associated with the institution but also where the person *should have suspected* abuse.

The obligation expressed as *should have suspected* requires a person to report where a reasonable person in the same circumstances as the person would have suspected abuse. It allows for consideration of what the person knew and asks whether, with that knowledge and in those circumstances, ‘a reasonable person would have suspected’. In line with the standard of criminal negligence, the offence would be committed when that the person should have suspected only where there is a *great falling short* of what would be expected of a reasonable person.

We consider that the ‘failure to report’ offence should apply to people in religious ministry – which includes a minister of religion, priest, deacon, pastor, rabbi, Salvation Army officer, church elder, religious brother or sister and any other person recognised as a spiritual leader in a religious institution – and other officers or personnel of religious institutions. We also consider that facilities and services provided by people in religious ministry and religious institutions should also be included.

As we discuss in Chapter 19, in our case studies we heard numerous examples of instances when allegations of institutional child sexual abuse by people in religious ministry were not reported to police. A duty to report may be essential in bringing the child sexual abuse offences to the notice of the police because they so often occur in private. This is particularly the case when abuse occurs in religious institutions that have a culture of secrecy and protection of people in religious ministry.

Accordingly, in our *Criminal justice* report we recommended that each state and territory government should introduce legislation to create a criminal offence of ‘failure to report’ targeted at institutions (relevant recommendations from our *Criminal justice* report are extracted in Appendix A).

Reporting conduct under a reportable conduct scheme

A reportable conduct scheme is a legislated scheme that requires reporting, investigation and oversight of child protection-related concerns that arise in certain government and non-government institutions that provide services to, or engage with, children.

We discuss reportable conduct schemes in detail in Volume 7, *Improving institutional responding and reporting*, and in the final section of this chapter. However, in the context of discussing external reporting obligations, it is relevant to note that such schemes require heads of certain institutions to report to an independent oversight body any allegations of reportable conduct against their employees or volunteers, including allegations of child sexual abuse.⁴³⁴

21.12.3 Information received during religious confession

As we discussed in our *Criminal justice* report, we have considered whether there should be any exemption from reporting obligations where information about child sexual abuse is received through religious confession. As noted above, there are currently particular exemptions from mandatory reporting to child protection authorities and, at least in Victoria, a defence to reporting offences for information received through religious confession.

As outlined in Section 13.11.10, ‘The sacrament of reconciliation’, we received evidence in our case studies regarding Catholic Church institutions both that children had been sexually abused during confession and that perpetrators of child sexual abuse had made confessions in relation to this abuse. We also received evidence that perpetrators who confessed to sexually abusing children went on to abuse further children and to seek forgiveness again.

We also heard accounts from a number of survivors in our private sessions of the disclosures of sexual abuse they had made to priests in religious confession. In Chapter 11, ‘Disclosure of child sexual abuse in religious institutions’, we outline what survivors told us about disclosing sexual abuse during confession and being dismissed, blamed for the abuse or punished for disclosing.

From our hearings and consultation processes, we understand that our consideration of whether there should be an exemption or privilege for religious confessions is a matter of particular concern to the Catholic Church. However, our consideration of this issue is also relevant to the members of a number of other Christian churches which have a rite of religious confession, including the Anglican, Orthodox and Lutheran churches.

In our *Criminal justice* report we concluded that ‘failure to report’ offences should apply in relation to information communicated during or in connection with a religious confession.⁴³⁵

In our consultations and public hearings, a number of organisations and individuals argued in favour of exempting communications in religious confessions of child sexual abuse from reporting obligations.

We acknowledge the submissions and evidence we received that argued that a civil law duty on clergy to report information learned in religious confessions, even of child sexual offending, would constitute an intrusion into the religious practice. We recognise that in a civil society it is fundamentally important that the right of a person to freely practise their religion in accordance

with their beliefs is upheld. However, that right is not absolute; the freedom may be subject to such limitations as are prescribed by law and are necessary to protect public safety, order, health, morals or the fundamental rights and freedoms of others.⁴³⁶ The right to practise one's religious beliefs must accommodate civil society's obligation to provide for the safety of all. We are satisfied that the failure to report persons who have engaged in abuse to the police carries a risk to the safety of children.

With regard to the argument that religious confession should be understood as attracting a similar status to that of legal professional privilege it is important to recognise their different purposes. We consider that the bases for religious confessions privilege and legal professional privilege are fundamentally different. The purpose of legal professional privilege is to sustain the rule of law, in that the fair operation of the civil legal system requires that all citizens should have access to legal advice. The confessional seal obliges clergy not to reveal what a penitent tells them in religious confession, the primary purpose of which is for the penitent to obtain forgiveness or absolution for sins confessed. A religious confession privilege protects the practice of those who hold particular religious beliefs from the operation of the civil law. Given the fundamentally different purposes of these privileges, we do not accept that the religious confessions privilege should operate in a similar manner to legal professional privilege.

Although the practice of confession is infrequently utilised, the evidence before us confirms that religious confession remains a forum in which abuse may be disclosed. Given the unacceptable risk to children that non-reporting presents, in our view such information should be subject to reporting requirements. We are satisfied that concerns about the usefulness to police of the information provided in religious confessions are addressed in the targeted application of the 'failure to report' offence. Where the elements of the reporting obligation are met, reporting serves the purpose of enabling police to consider the report in the context of all the information they know, rather than relying upon a religious confessor's determination of whether it is useful to them.

As set out in our *Criminal justice* report, we received evidence of perpetrators confessing their offending against children and, in some cases, obtaining absolution and abusing again. One expert gave evidence that a significant number of the clergy child sex offenders she treated told her that they confessed their offending. Another expert told us that the confessional was a key forum used to resolve guilt in relation to offending and, in her opinion, the act of confessing played a role in enabling some of those perpetrators' abusing to continue. We were also told that, if the privilege is removed, perpetrators will not attend confession and accordingly the removal would effectively deny perpetrators a source of guidance and contrition and reduce opportunities for perpetrators to be persuaded to report themselves to police. However, we do not accept that the guidance or encouragement to self-report that may be offered by confessors during religious confession is sufficient to protect children from the risk of harm presented by child sexual abusers seeking absolution for their actions.

Furthermore, the suggestion that a group of people who would be subject to a reporting obligation in relation to child sexual abuse may not comply with that obligation is not sufficient reason to exempt them from that obligation. We are not persuaded that the potential prosecution of a Catholic priest for failing to comply with the law would undermine respect for the court system. We acknowledge that, if this recommendation is implemented, clergy hearing confession may have to decide between complying with the law and their view as to their role as a confessor.

Finally, we heard that a reporting requirement is inconsistent with the privilege contained in the Uniform Evidence Act. In the Australian Uniform Evidence Act jurisdictions – the Commonwealth, Victoria, New South Wales, Tasmania, the Australian Capital Territory and the Northern Territory – a religious confessions privilege or exemption operates so that clergy can refuse to disclose to a court the fact or content of a religious confession. We are not persuaded that it is necessary to provide an exemption from a ‘failure to report’ offence because of the existence of an evidentiary privilege. We note that reporting obligations in respect of child sexual offences seek to prevent future harm to children, whereas evidentiary privileges prescribe how matters are to be dealt with in court proceedings. While we believe that there should be no exemption for religious confessions from the operation of the ‘failure to report’ offence, we make no recommendation beyond this in relation to the religious confessions privilege in Uniform Evidence Act jurisdictions more generally.

In our *Criminal justice* report, we said there should be no exemption, excuse, protection or privilege from the offence for clergy failing to report information relating to child sexual abuse disclosed in or in connection with a religious confession (relevant recommendations from our *Criminal justice* report are extracted in Appendix A).

In Volume 7, *Improving institutional responding and reporting*, we recommend that laws concerning mandatory reporting to child protection authorities should not exempt people in religious ministry from being required to report knowledge or suspicions formed, in whole or in part, on the basis of information disclosed in or in connection with a religious confession (see Recommendation 7.4, set out in Appendix A).

21.13 Oversight of institutional complaint handling by religious institutions

As we discuss in Volume 7, *Improving institutional responding and reporting*, in Australia, the only model for independent oversight of institutional responses to complaints of child abuse and neglect across multiple sectors is known as a reportable conduct scheme. Such schemes oblige heads of certain institutions to notify an oversight body of any reportable allegation, conduct or conviction involving any of the institution’s employees. The schemes also oblige the oversight body to monitor institutions’ investigation and handling of allegations.

The only reportable conduct scheme in full operation during the period of this inquiry was that in New South Wales, under Part 3A of the *Ombudsman Act 1974* (NSW). Schemes began in July 2017 in Victoria and the Australian Capital Territory.

In summary, under the New South Wales scheme, the head of an institution must report child protection related allegations, including allegations of child sexual abuse, made against their employees and volunteers, to an independent oversight body.⁴³⁷ The oversight body then monitors and scrutinises the institution's handling and investigation of the complaint.⁴³⁸ A reportable conduct scheme is the only obligatory reporting model that facilitates this oversight and monitoring function. In this way, a reportable conduct scheme improves reporting of, and responses to, child sexual abuse that occurs in institutions.

Independent oversight is important in addressing problems that arise in the way institutions handle complaints about child sexual abuse and encourages improvements in institutional complaint handling through training, education and guidance. Further, independent oversight can assure the public that the institutions entrusted to care for children cannot minimise or ignore complaints and that the leaders and employees of these institutions cannot operate with impunity.

In Volume 7, *Improving institutional responding and reporting*, we recommend that such oversight operate through implementation of legislative reportable conduct schemes in every state and territory (see Recommendation 7.9, set out in Appendix A). Governments have a unique opportunity to achieve national consistency in reportable conduct schemes by using the New South Wales scheme as a model – as Victoria and the Australian Capital Territory have already done.

21.13.1 The scope of reportable conduct schemes

Under the New South Wales and Australian Capital Territory reportable conduct schemes, religious institutions are not covered, except to the extent that they fall into other categories of institution – for example, because they provide educational or accommodation and residential services.

In the *Institutional review of Anglican Church institutions* hearing, Mr Lachlan Bryant, Director of Professional Standards for the Anglican Diocese of Sydney, gave evidence that:

the Diocese of Sydney is not a prescribed body under [the New South Wales Ombudsman's reportable conduct] regime and, strangely, it is only when children are provided with substitute residential care, as defined in that Act, that they fall under the oversight and purview of the New South Wales Ombudsman, so that some camps run by some parishes may be captured.⁴³⁹

Mr Blake SC, Chair of the Anglican Church's Professional Standards Commission, stated that the advice from the Solicitor General suggests that 'an activity that lasts more than three days could be considered substitute residential care, but something less than three days is not'.⁴⁴⁰

Issues surrounding the coverage of the New South Wales reportable conduct scheme were also highlighted during the *Institutional review of Catholic Church authorities* case study by Mr Sean Tynan, the Manager of Zimmerman Services in the Catholic Diocese of Maitland–Newcastle. He explained that:

the only reason that Catholic clergy fall under 3A is because of their relationships with schools, particularly primary schools ... my understanding is if you remove a primary school from a parish, they actually fall outside 3A.⁴⁴¹

In New South Wales, The Salvation Army has been considered subject to the reportable conduct scheme, at least since the Solicitor General's advice on the interpretation of 'substitute residential care' in 2014.⁴⁴²

In the *Institutional review of Australian Christian Churches* hearing, Mr Kirk Morton, the Risk and Compliance Coordinator with Hillsong Church, gave evidence that Hillsong Church is only caught within the scope of the New South Wales Ombudsman's reportable conduct scheme on a 'technicality', because it runs one camp through fixed accommodation.⁴⁴³

The implications of religious institutions not falling within the scope of the New South Wales reportable conduct scheme was highlighted by Bishop William Wright of the Catholic Diocese of Maitland–Newcastle. On 24 November 2015, Bishop Wright wrote to the New South Wales Attorney General on behalf of 11 Catholic dioceses in New South Wales expressing concern that:

while our schools and out-of-home care services have been subject to Part 3A of the [Ombudsman Act] ... it has been an anomaly that the core of our churches, our parishes and various communities of faith, have been largely excluded from the scrutiny and support of the Ombudsman's office with consequent potential risk implications for children.

We are aware that this apparent gap in the legislative protection of children at a parish level was recently and particularly exposed in the context of the issue of children attending parish sponsored or auspiced residential camps.⁴⁴⁴

The same issue of partial or lack of coverage of religious institutions does not affect the Victorian reportable conduct scheme. That scheme specifically covers entities that are a 'religious body' within the meaning of section 81 of the *Equal Opportunity Act 2010* (Vic).⁴⁴⁵ This is defined to mean 'a body established for a religious purpose' or 'an entity that establishes, or directs, controls or administers, an educational or other charitable entity that is intended to be, and is, conducted in accordance with religious doctrines, beliefs or principles'.⁴⁴⁶ An 'employee' of a religious body is defined as 'a minister of religion, a religious leader or an employee ... or officer of the religious body'.⁴⁴⁷

The Victorian reportable conduct scheme does not apply to an entity that does not exercise care, supervision or authority over children, whether as part of its primary functions or otherwise.⁴⁴⁸ The State of Victoria advised us that, in its view, ‘pastoral care’ is a form of ‘care, supervision or authority’.⁴⁴⁹

21.13.2 Recommendations regarding the scope of reportable conduct schemes

As we discuss in Volume 7, *Improving institutional responding and reporting*, we recommend that the handling of child sexual abuse complaints should be subject to the oversight of a reportable conduct scheme only where institutions:

- exercise a high degree of responsibility for children
- engage in activities that involve a heightened risk of child sexual abuse due to institutional characteristics, the nature of their activities engaging with children, or engagement with children who have additional vulnerability.

There is overwhelming evidence before us that warrants religious institutions being covered by the recommended reportable conduct schemes. A high proportion of child sexual abuse cases which we have examined in public hearings occurred in religious institutions. In our case studies regarding religious institutions we heard evidence of multiple examples of seriously inadequate institutional responses. The particular nature and characteristics of religious institutions, such as the closed governance and complicated legal structures, may have also contributed to the heightened risk of abuse to children.

Some religious leaders, including bishops from the New South Wales dioceses of the Anglican Church and also the Catholic Church, have supported an extension of the scheme to cover their churches and community group activities involving children.⁴⁵⁰

In relation to the Catholic Church, in his evidence to the *Institutional review of Catholic Church authorities* hearing, Archbishop Timothy Costelloe, the Catholic Archbishop of Perth, highlighted that a contributing factor to the poor response by Catholic Church leaders to child sexual abuse complaints was:

a cultural question: the Church, in a sense, saw itself largely as ... a law unto itself, that it was somehow or other so special and so unique and, in a sense, so important that it stood aside from the normal things that would be a part of any other body that works or exists in a society.

I think there was a ... profound cultural presupposition, perhaps, about the uniqueness of the Church and the specialness of the church, in a sense the untouchability of the Church, that it didn't have to answer to anybody else; it only had to answer to itself.

I think if you look at that at the global level of the church, you can then take it down and say, well, that's probably going to be the way many bishops in their own dioceses might also think of themselves, as a law unto themselves and not having to be answerable to anybody ... I think that can then trickle down to the priest in the parish. I would see that as one of the major causes of this inability to deal with this terrible crisis, and in that sense I would see it as a fundamental cultural issue.⁴⁵¹

In the same hearing, Archbishop Christopher Prowse, the Catholic Archbishop of Canberra and Goulburn, gave evidence about the positive impact that the reportable conduct scheme in New South Wales has had in his archdiocese in terms of addressing this cultural issue by increasing accountability and transparency. Archbishop Prowse stated that he supported the reportable conduct scheme and had been advocating for it to be adopted in the Australian Capital Territory 'so that it becomes a knee-jerk reaction, that the Church is not working on its own; it's working with the governmentalities of the time'.⁴⁵² He gave evidence that:

the government structures that are up now and the legislation, which is very helpful, helps us to say – I, as archbishop, for instance, can't be making unilateral decisions about these matters without going to these other instrumentalities and working through it in that way.⁴⁵³

We also heard evidence from professional standards professionals about the positive impact that the New South Wales scheme has had. Ms Claire Pirola, Manager of the Safeguarding and Professional Standards Office in the Catholic Diocese of Parramatta stated that Part 3A has 'shifted culture ... quite profoundly' in the agencies working under the scheme.⁴⁵⁴ Mr Tynan, Manager of Zimmerman Services in the Catholic Diocese of Maitland–Newcastle, gave evidence that Zimmerman Services 'in fact was established as a consequence of the New South Wales Ombudsman'.⁴⁵⁵

Catholic archbishops Coleridge, Hart, Wilson and Costelloe all gave evidence that they were aware of the advantages of the reportable conduct scheme and were supportive of the idea of such schemes being introduced to cover their respective archdioceses.⁴⁵⁶

Bishop Wright, in his 2015 letter to the New South Wales Attorney General on behalf of 11 Catholic dioceses, requested legislative changes so that all the children in their parishes would be covered by the Ombudsman's reportable conduct scheme.⁴⁵⁷ In the *Institutional review of Anglican Church institutions* hearing Archbishop Glenn Davies, the Anglican Archbishop of Sydney, gave evidence that he also wrote to the New South Wales Attorney General, on behalf of all Anglican bishops in New South Wales, requesting that the reportable conduct scheme cover all parish activities.⁴⁵⁸

In the *Institutional review of Anglican Church institutions* hearing Mr Blake SC stated that it would be a 'good thing' that the Victorian scheme will apply to religious institutions generally. He commented that:

the concept of reportable conduct I think is very helpful and I think the experience of the church in New South Wales and working with the Ombudsman has been helpful, too. It has assisted the Church. So I can only see benefit if that were replicated around Australia.⁴⁵⁹

Anglican Archbishop Philip Freier stated that he welcomed the rollout of the Victorian reportable conduct scheme.⁴⁶⁰

In the *Institutional review of Australian Christian Churches* hearing, Mr Morton, Risk and Compliance Coordinator at Hillsong Church, gave evidence that Hillsong Church wants to be part of the reportable conduct scheme and that religious institutions should fall 'fairly and squarely' within the scope of the New South Wales reportable conduct scheme, like they will under the Victorian scheme.⁴⁶¹ Pastor Keith Ainge, the head of Hillsong's Safe Church Office, gave evidence that the office believes that:

[Being under the reportable conduct scheme is] an incredibly positive thing for us and we have found the support of the Deputy Ombudsman and his office for us has been outstanding. We're happy to be a part of the reportable conduct scheme. We believe, in fact, that all churches should be under the reportable conduct scheme because of the benefit that it gives to the churches in being able to understand situations.⁴⁶²

In our *Institutional review of Yeshiva/h* hearing, Rabbi Mendel Kastel, the Chief Executive Officer of Jewish House, also gave evidence about the important impact of the reportable conduct scheme for religious institutions. He stated that:

A lot of the work that we've done, we've worked very closely with the New South Wales Ombudsman's Office, and I think it is important to recognise the incredible work that they do and the importance of having religious institutions and other institutions as part of the reportable conduct scheme so that it gives us more of a framework to be able to manage, within our own organisations, if something comes up, how to deal with it, how to deal with the people around it, et cetera. Their guidance has been invaluable. Even though many of us are not part of their scheme yet, I think it is important to add our voice, as so many others, that they include and broaden their purview.⁴⁶³

In Volume 7, *Improving institutional responding and reporting*, we recommend the implementation of legislated reportable conduct schemes in every state and territory. We recommend that the reportable conduct schemes should include institutions that provide activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children (see Recommendation 7.12, set out in Appendix A).

Endnotes

- 1 Exhibit 56-0001, 'National Child Safe Policy Framework (Version 2)', Case Study 56, UCA.2000.004.0528 at 0536–0537; Exhibit 55-0002, 'Response from A Macpherson (Corney and Lind Lawyers) to T Giugni (Royal Commission) enclosing response from the ACC', Case Study 55, ACC.0013.001.0001_R at 0002_R–0003_R, 0005_R; Exhibit 49-001, 'Statement of Commissioner Floyd John Tidd', Case Study 49, TSAS.0014.001.0001 at 0005; Exhibit 49-004, 'Joint Statement of Commissioner Floyd Tidd and Lt Colonel Christine Reid', Case Study 49, TSAE.0054.001.0001 at 0035–0036; Exhibit 49-007, 'The Salvation Army Australia – National Professional Standards Council Terms of Reference', Case Study 49, TSAE.0054.001.0338; Exhibit 50-0004, 'Truth Justice and Healing Council, Submission in connection with Case Study 50: Final hearing into Catholic Church authorities in Australia – The Catholic Church: Then and Now 2016', 22 December 2016, Case Study 50, SUBM.2463.001.0001_R at 0091_R–0092_R.
- 2 See, for example, Transcript of T Costelloe, Case Study 50, 24 February 2017 at 26082:31–46; Transcript of M Coleridge, Case Study 50, 20 February 2017 at 25689:28–36.
- 3 Transcript of M Coleridge, Case Study 50, 8 February 2017 at 24963:43–24964:1; Transcript of C Prowse, Case Study 50, 21 February 2017 at 25806:2–12.
- 4 Royal Commission into Institutional Responses to Child Sexual Abuse, *Redress and civil litigation*, Sydney, 2015, p 8.
- 5 The Hon. Christian Porter MP, *Press conference, National Redress Scheme*, 4 November 2016, Perth, www.christianporter.dss.gov.au/transcripts/20161104-redress-scheme (viewed 4 September 2017).
- 6 The Hon. Christian Porter MP, *Press conference, National Redress Scheme*, 4 November 2016, Perth, www.christianporter.dss.gov.au/transcripts/20161104-redress-scheme (viewed 4 September 2017).
- 7 Royal Commission into Institutional Responses to Child Sexual Abuse, *Redress and civil litigation*, Sydney, 2015, p 6.
- 8 Royal Commission into Institutional Responses to Child Sexual Abuse, *Redress and civil litigation*, Sydney, 2015, p 40.
- 9 Royal Commission into Institutional Responses to Child Sexual Abuse, *Redress and civil litigation*, Sydney, 2015, p 41.
- 10 Royal Commission into Institutional Responses to Child Sexual Abuse, *Redress and civil litigation*, Sydney, 2015, p 46.
- 11 Royal Commission into Institutional Responses to Child Sexual Abuse, *Redress and civil litigation*, Sydney, 2015, p 41.
- 12 Royal Commission into Institutional Responses to Child Sexual Abuse, *Redress and civil litigation*, Sydney, 2015, p 46.
- 13 Royal Commission into Institutional Responses to Child Sexual Abuse, *Redress and civil litigation*, Sydney, 2015, p 41.
- 14 Royal Commission into Institutional Responses to Child Sexual Abuse, *Redress and civil litigation*, Sydney, 2015, p 46.
- 15 Royal Commission into Institutional Responses to Child Sexual Abuse, *Redress and civil litigation*, Sydney, 2015, p 346.
- 16 Royal Commission into Institutional Responses to Child Sexual Abuse, *Redress and civil litigation*, Sydney, 2015, p 46.
- 17 Royal Commission into Institutional Responses to Child Sexual Abuse, *Criminal justice: Executive summary and parts I–II*, Sydney, 2017, pp 545–570; Royal Commission into Institutional Responses to Child Sexual Abuse, *Criminal justice: Parts III–VI*, Sydney, 2017, pp 149–224.
- 18 Transcript of N Owen, Case Study 50, 20 February 2017 at 25660:44–25661:6.
- 19 Transcript of N Owen, Case Study 50, 20 February 2017 at 25661:9–18.
- 20 Transcript of A Hywood, Case Study 52, 22 March 2017 at 27153:5–17.
- 21 Transcript of A Hywood, Case Study 52, 22 March 2017 at 27153:5–17.
- 22 Transcript of A Hywood, Case Study 52, 22 March 2017 at 27153:5–17.
- 23 Volume 7, *Improving institutional responding and reporting*, Chapter 3.
- 24 Volume 7, *Improving institutional responding and reporting*, Chapter 3.
- 25 Royal Commission into Institutional Responses to Child Sexual Abuse, *Redress and civil litigation*, Sydney, 2015, p 41.
- 26 Volume 7, *Improving institutional responding and reporting*, Chapter 3.
- 27 Volume 7, *Improving institutional responding and reporting*, Chapter 3.
- 28 Volume 7, *Improving institutional responding and reporting*, Chapter 3.
- 29 Exhibit 50-0004, 'Integrity in Ministry: A Document of Principles and Standards for Catholic Clergy & Religious in Australia, Australian Catholic Bishops Conference and Catholic Religious Australia, June 2004 (reprinted April 2010)', Case Study 50, CTJH.057.11004.0037 at 0043.
- 30 Exhibit 50-0004, 'Integrity in Ministry: A Document of Principles and Standards for Catholic Clergy & Religious in Australia, Australian Catholic Bishops Conference and Catholic Religious Australia, June 2004 (reprinted April 2010)', Case Study 50, CTJH.057.11004.0037 at 0043.
- 31 Exhibit 50-0004, 'Integrity in the Service of the Church: A Resource Document of Principles and Standards for Lay Workers in the Catholic Church in Australia, National Committee for Professional Standards, September 2011 (reprinted February 2013)', Case Study 50, WEB.0179.001.0010 at 0014.
- 32 Exhibit 50-0004, 'Integrity in the Service of the Church: A Resource Document of Principles and Standards for Lay Workers in the Catholic Church in Australia, National Committee for Professional Standards, September 2011 (reprinted February 2013)', Case Study 50, WEB.0179.001.0010 at 0014.
- 33 See Exhibit 50-0004, 'Integrity in the Service of the Church: A Resource Document of Principles and Standards for Lay Workers in the Catholic Church in Australia, National Committee for Professional Standards, September 2011 (reprinted February 2013)', Case Study 50, WEB.0179.001.0010 at 0020, 0022; Exhibit 50-0004, 'Integrity in the Service of the Church: A Resource Document of Principles and Standards for Lay Workers in the Catholic Church in Australia, National Committee for Professional Standards, September 2011 (reprinted February 2013)', Case Study 50, WEB.0179.001.0010 at 0050–0051.
- 34 Exhibit 50-0004, 'Integrity in Ministry: A Document of Principles and Standards for Catholic Clergy & Religious in Australia, Australian Catholic Bishops Conference and Catholic Religious Australia, June 2004 (reprinted April 2010)', Case Study 50, CTJH.057.11004.0037 at 0048, 0050.
- 35 Exhibit 50-0004, 'Integrity in Ministry: A Document of Principles and Standards for Catholic Clergy & Religious in Australia, Australian Catholic Bishops Conference and Catholic Religious Australia, June 2004 (reprinted April 2010)', Case Study 50, CTJH.057.11004.0037 at 0050.

36 Exhibit 50-0004, 'Integrity in Ministry: A Document of Principles and Standards for Catholic Clergy & Religious in Australia, Australian Catholic Bishops Conference and Catholic Religious Australia, June 2004 (reprinted April 2010)', Case Study 50, CTJH.057.11004.0037 at 0050.

37 Exhibit 50-0009, 'Statement of Bishop Paul Bird – General Statement', Case Study 50, CTJH.500.90001.0208 at 0210; Exhibit 50-0011, 'Professional Standards, Catholic Diocese of Ballarat, Code of Conduct for Caring for Children', Case Study 50, CTJH.120.90001.0005 at 0010–0011, 0015–0024; Exhibit 50-0009, 'Statement of Archbishop Denis Hart – General Statement', Case Study 50, CTJH.500.90001.0516 at 0520; Exhibit 50-0011, 'Catholic Archdiocese of Melbourne, May our children flourish: Code of Conduct for Caring for Children', Case Study 50, CTJH.221.90001.0275; Exhibit 50-0011, 'Marist Brothers Province of Australia, Child Protection Policy: Keeping Children Safe', Case Study 50, CTJH.053.90001.0063 at 0080–0081.

38 See, for example, Exhibit 50-0011, 'Marist Brothers Province of Australia, Child Protection Policy: Keeping Children Safe', Case Study 50, CTJH.053.90001.0063 at 0080–0081; Exhibit 50-0011, 'Professional Standards, Catholic Diocese of Ballarat, Code of Conduct for Caring for Children', Case Study 50, CTJH.120.90001.0005 at 0015–0022; Exhibit 50-0011, 'Catholic Archdiocese of Melbourne, May our children flourish: Code of Conduct for Caring for Children', Case Study 50, CTJH.221.90001.0275 at 0282–0289.

39 Exhibit 50-0011, 'National Committee for Professional Standards, Appropriate Physical Contact with Children: Guidelines for Church Workers, including Clergy and Religious', Case Study 50, CTJH.078.90001.0245.

40 Exhibit 50-0011, 'National Committee for Professional Standards, Appropriate Physical Contact with Children: Guidelines for Church Workers, including Clergy and Religious', Case Study 50, CTJH.078.90001.0245 at 0246.

41 Exhibit 52-0003, 'Faithfulness in Service (Consolidated) 2016', Case Study 52, ANG.0374.001.0001 at 0002.

42 Exhibit 52-0003, 'Faithfulness in Service (Consolidated) 2016', Case Study 52, ANG.0374.001.0001 at 0008.

43 Exhibit 52-0003, 'Faithfulness in Service (Consolidated) 2016', Case Study 52, ANG.0374.001.0001 at 0013, 0022.

44 Exhibit 52-0003, 'Faithfulness in Service (Consolidated) 2016', Case Study 52, ANG.0374.001.0001 at 0029–0030.

45 Exhibit 49-0003, 'Statement of Floyd Tidd', Case Study 49, STAT.1271.002.0001 at 0003.

46 Exhibit 49-0007, 'The Salvation Army Policy – Keeping Children Safe – Code of Conduct', Case Study 49, TSAS.0014.001.0133 at 0133.

47 Exhibit 49-0007, 'The Salvation Army Policy – Keeping Children Safe – Code of Conduct', Case Study 49, TSAS.0014.001.0133 at 0134.

48 Exhibit 49-0007, 'The Salvation Army Policy – Keeping Children Safe Policy', Case Study 49, TSAS.0014.001.0118 at 0126–0127.

49 Exhibit 56-0001, 'Code of Ethics and Ministry Practice for Ministers of the Church in Australia', Case Study 56, UCA.2000.005.0003; Exhibit 56-0001, 'Code of Ethics and Ministry Practice for Lay Preachers in the Uniting Church in Australia', Case Study 56, UCA.2000.007.0001; Exhibit 56-0001, 'Code of Conduct for Lay Leaders', Case Study 56, UCA.2000.005.0001.

50 Exhibit 56-0001, 'National Child Safe Policy Framework (Version 2)', Case Study 56, UCA.2000.004.0528 at 0535.

51 Exhibit 56-0001, 'Statement of Anne Cross', Case Study 56, UCA.2000.999.0001 at 0012.

52 Exhibit 55-0002, 'ACC Ministerial Code of Conduct', Case Study 55, ACC.0014.001.0153.

53 Exhibit 55-0002, 'ACC Safer Churches Manual', Case Study 55, ACC.0014.001.0086 at 0100.

54 Exhibit 55-0001, 'Hillsong Church Forms & Supporting Documents – Working with Children and Young People Code of Conduct', Case Study 55, HIL.0001.010.0160.

55 Exhibit 53-0001, 'Practice and Behaviour Guidelines – the Yeshiva Centre Synagogues (Attachment 8)', Case Study 53, YSV.3001.001.0209 at 0209, 0210; Exhibit 53-0001, 'Practice and Behaviour Guidelines – Yeshivah–Beth Rivkah College and Pre-Schools (Attachment 6)', Case Study 53, YSV.3001.001.0196 at 0198, 0199.

56 Exhibit 53-0001, 'Practice and Behaviour Guidelines – the Yeshiva Centre Synagogues (Attachment 8)', Case Study 53, YSV.3001.001.0209 at 0213; Exhibit 53-0001, 'Practice and Behaviour Guidelines – Yeshivah–Beth Rivkah College and Pre-Schools (Attachment 6)', Case Study 53, YSV.3001.001.0196 at 0200.

57 Exhibit 50-0011, 'Professional Standards, Catholic Diocese of Ballarat, Code of Conduct for Caring for Children', Case Study 50, CTJH.120.90001.0005 at 0012–0013.

58 Exhibit 50-0011, 'Professional Standards, Catholic Diocese of Ballarat, Code of Conduct for Caring for Children', Case Study 50, CTJH.120.90001.0005 at 0013.

59 Exhibit 50-0011, 'Catholic Archdiocese of Melbourne, May our children flourish: Code of Conduct for Caring for Children', Case Study 50, CTJH.221.90001.0275.

60 Exhibit 50-0011, 'Catholic Archdiocese of Melbourne, May our children flourish: Code of Conduct for Caring for Children', Case Study 50, CTJH.221.90001.0275 at 0291; Exhibit 50-0011, 'Professional Standards, Catholic Diocese of Ballarat, Code of Conduct for Caring for Children', Case Study 50, CTJH.120.90001.0005 at 0025.

61 Exhibit 50-0011, 'Catholic Archdiocese of Melbourne, May our children flourish: Code of Conduct for Caring for Children', Case Study 50, CTJH.221.90001.0275 at 0291; Exhibit 50-0011, 'Professional Standards, Catholic Diocese of Ballarat, Code of Conduct for Caring for Children', Case Study 50, CTJH.120.90001.0005 at 0026.

62 Exhibit 49-0007, 'The Salvation Army Policy – Keeping Children Safe Policy', TSAS.0014.001.0118 at 0126–0127.

63 Exhibit 49-0007, 'The Salvation Army Policy – Reporting and Notification of Sexual and Physical Abuse Procedure', TSAS.0014.001.0036 at 0037.

64 Exhibit 49-0007, 'The Salvation Army Policy – Reporting and Notification of Sexual and Physical Abuse Procedure', TSAS.0014.001.0036 at 0036, 0043.

65 Exhibit 49-0007, 'The Salvation Army Procedure – Reporting and Notification of Sexual and Physical Abuse Procedure', TSAS.0014.001.0036 at 0037.

66 Transcript of M Eustance, Case Study 50, 16 February 2017 at 25606:32–45.
67 Transcript of C Pirola, Case Study 50, 16 February 2017 at 25619:43–25620:1.
68 See, for example, the description of clericalism from Father Tom Doyle: Transcript of T Doyle, Case Study 50,
7 February 2017 at 24823:40–24824:5.
69 For example, Maree Keenan wrote that: ‘One symptom commonly seen in the past in the laity was an attitude that it
was sinful to make any unkind accusation against a priest. There was also a belief that the priests and bishops could and
would not do wrong. The effect of clericalism on clergy was the belief that they were not only set apart and set above
the laypeople, but they were also thought to be above the civil or criminal law.’: M Keenan, *Child sexual abuse and the
Catholic Church: Gender, power, and organizational culture*, Oxford University Press, Oxford, 2012, p 43.
70 Name changed, private session, ‘Lloyd Michael’.
71 Transcript of C Pirola, Case Study 50, 16 February 2017 at 25621:1–3.
72 Transcript of C Pirola, Case Study 50, 16 February 2017 at 25621:25–32.
73 Transcript of C Pirola, Case Study 50, 16 February 2017 at 25622:1–10.
74 Transcript of C Pirola, Case Study 50, 16 February 2017 at 25622:12–19.
75 Exhibit 50-0011, ‘Statement of Bishop Wright’, Case Study 50, STAT.1159.001.0001_R at 0039_R–0040_R.
76 Exhibit 49-0002, ‘Statement of Commissioner Floyd Tidd’, Case Study 49, STAT.0686.001.0001_R at 0059_R.
77 Exhibit 49-0002, ‘Statement of Commissioner Floyd Tidd’, Case Study 49, STAT.0686.001.0001_R at 0059_R.
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- 333 Exhibit 50-0009, 'Statement of Archbishop Julian Porteous – General Statement', Case Study 50, CTJH.500.90001.0059 at 0069; Exhibit 50-0009, 'Statement of Archbishop Anthony Fisher – General Statement', Case Study 50, CTJH.500.90001.0548_R at 0571_R; Exhibit 50-0009, 'Statement of Archbishop Denis Hart – General Statement', Case Study 50, CTJH.500.90001.0516 at 0521; Transcript of M Coleridge, Case Study 50, 24 February 2017 at 26117:43–46.
- 334 Exhibit 50-0009, 'Statement of Archbishop Timothy Costelloe – General Statement', Case Study 50, CTJH.500.90001.0034 at 0049; Exhibit 50-0009, 'Statement of Archbishop Anthony Fisher – General Statement', Case Study 50, CTJH.500.90001.0548_R at 0571_R.
- 335 Exhibit 50-0009, 'Statement of Father Brian McCoy – General/Education Statement', Case Study 50, CTJH.500.90001.0668_R at 0684_R; Transcript of G Chambers, Case Study 50, 22 February 2017 at 25922:3–27.
- 336 Exhibit 50-0011, 'Oceania Guideline, Protocol for the Management of Christian Brothers who have Sexually Abused Children', Case Study 50, CTJH.056.90001.0267 at 0269–0273; Exhibit 50-0011, 'Child Protection Policy: Additional Notes for Brothers', Case Study 50, CTJH.053.90001.0001 at 0004.
- 337 Exhibit 50-0011, 'Oceania Guideline, Protocol for the Management of Christian Brothers who have Sexually Abused Children', Case Study 50, CTJH.056.90001.0267 at 0268.
- 338 Exhibit 50-0009, 'Statement of Brother Peter Carroll – General Statement', Case Study 50, CTJH.500.90001.0160 at 0191; Exhibit 50-0011, 'Marist Brothers Province of Australia, The Dismissal of a Brother who has Sexually Abused a Young Person', Case Study 50, CTJH.053.90001.0106.

339 Exhibit 50-0009, 'Statement of Archbishop Timothy Costelloe – General Statement', Case Study 50, CTJH.500.90001.0034 at 0049; Exhibit 50-0009, 'Statement of Archbishop Anthony Fisher – General Statement', Case Study 50, CTJH.500.90001.0548_R at 0571_R; Exhibit 50-0009, 'Statement of Archbishop Julian Porteous – General Statement', Case Study 50, CTJH.500.90001.0059 at 0069; Exhibit 50-0009, 'Statement of Archbishop Mark Coleridge – General Statement', Case Study 50, CTJH.500.90001.0768_R at 0778_R, 0780_R.

340 See, for example, Transcript of P Clinch, Case Study 50, 22 February 2017 at 25858:10–26; Transcript of P Carroll, Case Study 50, 22 February 2017 at 25869:38–25870:14.

341 1983 Code of Canon Law, Canon Law Society of America (translator), Canon Law Society of America, Washington DC, 1983, www.vatican.va/archive/ENG1104/___P6B.HTM (viewed 14 September 2017), canon 1608.

342 See, for example, Transcript of G Chambers, Case Study 50, 22 February 2017 at 25922:31–25923:11; Exhibit 50-0009, 'Statement of Father Brian McCoy – General/Education Statement', Case Study 50, CTJH.500.90001.0668_R at 0684_R.

343 Transcript of P Clinch, Case Study 50, 22 February 2017 at 25861:11–26.

344 Exhibit 50-0009, 'Statement of Archbishop Coleridge – General Statement', Case Study 50, CTJH.500.90001.0768_R at 0790_R.

345 See International Covenant on Civil and Political Rights, opened for signature 16 December 1996, 999 UNTS 171 (entered into force 23 March 1976), Art 18(3).

346 Exhibit 52-0003, 'Guidelines for parish safety where there is a risk of sexual abuse by a person of concern', Case Study 52, ANG.0050.001.0003.

347 Exhibit 52-0003, 'Guidelines for parish safety where there is a risk of sexual abuse by a person of concern', Case Study 52, ANG.0050.001.0003 at 0003.

348 Exhibit 52-0003, 'Guidelines for parish safety where there is a risk of sexual abuse by a person of concern', Case Study 52, ANG.0050.001.0003.

349 See, for example, Transcript of G Milles, Case Study 52, 21 March 2017 at 27086; Transcript of M Elliot, Case Study 52, 21 March 2017 at 27086; Transcript of L Bryant, 21 March 2017 at 27087.

350 Transcript of M Elliot, Case Study 52, 21 March 2017 at 27086:18–29.

351 Transcript of M Elliot, Case Study 52, 21 March 2017 at 27093:12–18; Transcript of G Milles, Case Study 52, 21 March 2017 at 27093: 20–29; Transcript of L Bryant, Case Study 52, 21 March 2017 at 27093: 41–44; Transcript of C Sargent, Case Study 52, 21 March 2017 at 27094:9–12; Transcript of T Chambers-Clark, Case Study 52, 21 March 2017 at 27094:25–36.

352 Exhibit 52-0014, 'Safe Ministry to Children Canon 2017', Case Study 52, SUBM.052.006.0019 at 0035.

353 Exhibit 49-0007, 'The Salvation Army Policy – Management of Persons Convicted/Proven and/or Persons Alleged to Have Committed a Sex Offence', Case Study 49, TSAS.0014.001.0053 at 0056; Exhibit 49-0002, 'Statement of Commissioner Floyd Tidd', Case Study 49, STAT.0686.001.0001_R at 0053_R.

354 Exhibit 49-0007, 'The Salvation Army Policy – Management of Persons Convicted/Proven and/or Persons Alleged to Have Committed a Sex Offence', Case Study 49, TSAS.0014.001.0053 at 0053–0055.

355 Exhibit 49-0007, 'The Salvation Army Policy – Management of Persons Convicted/Proven and/or Persons Alleged to Have Committed a Sex Offence', Case Study 49, TSAS.0014.001.0053 at 0065.

356 Exhibit 49-0007, 'The Salvation Army Policy – Management of Persons Convicted/Proven and/or Persons Alleged to Have Committed a Sex Offence', Case Study 49, TSAS.0014.001.0053 at 0065.

357 Exhibit 49-0007, 'The Salvation Army Policy – Management of Persons Convicted/Proven and/or Persons Alleged to Have Committed a Sex Offence', Case Study 49, TSAS.0014.001.0053 at 0066.

358 Exhibit 49-0007, 'The Salvation Army Policy – Management of Persons Convicted/Proven and/or Persons Alleged to Have Committed a Sex Offence', Case Study 49, TSAS.0014.001.0053 at 0056, 0061.

359 Exhibit 49-0007, 'The Salvation Army Policy – Management of Persons Convicted/Proven and/or Persons Alleged to Have Committed a Sex Offence', Case Study 49, TSAS.0014.001.0053 at 0069.

360 Exhibit 49-0007, 'The Salvation Army Policy – Management of Persons Convicted/Proven and/or Persons Alleged to Have Committed a Sex Offence', Case Study 49, TSAS.0014.001.0053 at 0056.

361 Exhibit 49-0007, 'Joint Statement of Commissioner Floyd Tidd and Lt Colonel Christine Reid', Case Study 49, TSAE.0054.001.0001 at 0038.

362 Exhibit 56-0001, 'Statement of Reverend Heather den Houting', Case Study 56, UCA.2000.999.0017 at 0054.

363 Exhibit 56-0001, 'Statement of Reverend Heather den Houting', Case Study 56, UCA.2000.999.0017 at 0053–0054.

364 Exhibit 56-0001, 'Statement of Reverend Heather den Houting', Case Study 56, UCA.2000.999.0017 at 0054.

365 Exhibit 56-0001, 'Statement of Reverend Heather den Houting', Case Study 56, UCA.2000.999.0017 at 0054.

366 Exhibit 56-0001, 'Statement of Reverend Heather den Houting', Case Study 56, UCA.2000.999.0017 at 0055.

367 Exhibit 50-0009, 'Statement of Bishop James Foley – General/Education Statement', Case Study 50, CTJH.500.90001.0626 at 0005.

368 Exhibit 50-0011, 'Diocese of Cairns – Safeguarding Agreement (draft)', Case Study 50, CTJH.180.90001.0274 at 0274.

369 Exhibit 50-0011, 'Diocese of Cairns – Safeguarding Agreement (draft)', Case Study 50, CTJH.180.90001.0274 at 0276–0277.

370 Exhibit 50-0009, 'Statement of Bishop James Foley – General/Education Statement', Case Study 50, CTJH.500.90001.0626 at 0005.

371 Transcript of W Alcorn, Case Study 55, 24 March 2017 at 27345:19–27.

372 Transcript of W Alcorn, Case Study 55, 24 March 2017 at 27345:22–25.

373 Transcript of S Stanton, Case Study 55, 24 March 2017 at 27345:31–27345:42.

374 Transcript of S Stanton, Case Study 55, 24 March 2017 at 27345:34–42.

375 Exhibit 55-0001, 'Hillsong Safe Church Policy', Case Study 55, HIL.0001.010.0008 at 0008–0009; Exhibit 55-0001, 'Safe Church Training Manual', Case Study 55, HIL.0001.010.0014 at 0061.

376 Exhibit 55-0001, 'Hillsong Church Standard Operating Procedure – Ministry to Known Offenders and Other Persons of Concern', Case Study 55, HIL.0001.010.0107 at 0107.

377 Exhibit 55-0001, 'Hillsong Church Standard Operating Procedure – Ministry to Known Offenders and Other Persons of Concern', Case Study 55, HIL.0001.010.0107 at 0108.

378 Exhibit 55-0001, 'Hillsong Church Standard Operating Procedure – Ministry to Known Offenders and Other Persons of Concern', Case Study 55, HIL.0001.010.0107 at 0109.

379 Exhibit 55-0001, 'Hillsong Church Standard Operating Procedure – Ministry to Known Offenders and Other Persons of Concern', Case Study 55, HIL.0001.010.0107 at 0109.

380 Transcript of M Kastel, Case Study 53, 23 March 2017 at 27241:47–27242:8.

381 Transcript of B Elton, Case Study 53, 23 March 2017 at 27243:31–36.

382 Transcript of B Elton, Case Study 53, 23 March 2017 at 27243:33–44.

383 Transcript of A Block, Case Study 53, 23 March 2017 at 27244:6–22.

384 Exhibit 54-0001, 'Letter from Watchtower Australia to All Bodies of Elders regarding Protecting Minors from Abuse', Case Study 54, WAT.0024.001.0001 at 0004–0005; Exhibit 54-0001, 'Child Protection Guidelines for Branch Office Service Desks', Case Study 54, WAT.0024.001.0006 at 0011–0012.

385 Exhibit 54-0001, 'Child Protection Guidelines for Branch Office Service Desks', Case Study 54, WAT.0024.001.0006 at 0009–0010.

386 Exhibit 54-0001, 'Child Protection Guidelines for Branch Office Service Desks', Case Study 54, WAT.0024.001.0006 at 0010.

387 Volume 7, *Improving institutional responses to complaints of child sexual abuse*, Chapter 3.

388 Volume 7, *Improving institutional responses to complaints of child sexual abuse*, Chapter 3.

389 Volume 7, *Improving institutional responses to complaints of child sexual abuse*, Chapter 3.

390 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions*, Sydney, 2016, p 17.

391 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions*, Sydney, 2016, p 17.

392 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions*, Sydney, 2016, p 17.

393 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions*, Sydney, 2016, pp 19–20.

394 Transcript of M Gutnick, Case Study 53, 23 March 2017 at 27223:5–11; Transcript of J Huppert, Case Study 53, 23 March 2017 at 27225:6–8; Transcript of P Feldman, CT Groner, Y Smukler & D Slavin, Case Study 53, 23 March 2017 at 27301:34–27302:32.

395 Transcript of A Block, Case Study 53, 23 March 2017 at 27224:30–33.

396 Transcript of A Block, Case Study 53, 23 March 2017 at 27224:35–37.

397 Transcript of A Block, Case Study 53, 23 March 2017 at 27224:39–47.

398 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The Response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 71.

399 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The Response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 71.

400 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The Response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 70.

401 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The Response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 71.

402 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The Response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 71.

403 Transcript of T O'Brien, Case Study 54, 10 March 2017 at 26544:43–26545:21.

404 Transcript of T O'Brien, Case Study 54, 10 March 2017 at 26540:12–21.

405 Transcript of CNE, Case Study 43, 1 September 2016 at 17708:24–29. See also Transcript of CNR, Case Study 43, 5 September 2016 at 17934:9–11; Transcript of CQT, Case Study 43, 6 September 2016 at 18034:27–33; Transcript of P Carroll, Case Study 43, 8 September 2016 at 18276:12–22.

406 Transcript of M O'Hearn, Case Study 43, 2 September 2016 at 17797:20–23, 17798:1–18.

407 Transcript of M O'Hearn, Case Study 43, 2 September 2016 at 17798:26–34.

408 Transcript of M O'Hearn, Case Study 43, 2 September 2016 at 17803:42–17804:1.

409 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at 17797:20–46, 17807:5–33; Exhibit 50-0011,
 ‘Statement of Bishop Wright’, Case Study 50, STAT.1159.001.0001_R at 0029_R–0030_R.
 410 Exhibit 50-0011, ‘Statement of Bishop Wright’, Case Study 50, STAT.1159.001.0001_R at 0030_R.
 411 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at 17798:22–24.
 412 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at 17808:11–20.
 413 Royal Commission into Institutional Responses to Child Sexual Abuse, *Criminal justice: Executive summary and parts I–II*,
 Sydney, 2017, p 123.
 414 Exhibit 56-0001, ‘National Child Safe Policy Framework (Version 2)’, Case Study 56, UCA.2000.004.0528 at 0537.
 However, in *Case Study 56: Institutional review of Uniting Church in Australia*, Reverend Heather den Houting, General
 Secretary of the Queensland Synod of the Uniting Church, gave evidence that this only related to current complaints
 of child sexual abuse, not historical complaints (that is, complaints raised by adults about their abuse as children):
 Transcript of H den Houting, Case Study 56, 10 March 2017 at 26576:18–19.
 415 Exhibit 56-0001, ‘Member of Adherent Sexual Abuse and Sexual Misconduct Complaints Policy’, Case Study 56,
 UCA.2000.004.0678 at 0690 (see also 0684).
 416 Exhibit 55-0002, ‘ACC Child Protection Policy’, Case Study 55, ACC.0014.001.0002 at 0012.
 417 Exhibit 50-0004, ‘Towards Healing: Principles and procedures in responding to complaints of abuse against personnel
 of the Catholic Church in Australia January 2016, Australian Catholic Bishops Conference and Catholic Religious Australia,
 2016’, Case Study 50, WEB.0179.001.0067 at 0089.
 418 Royal Commission into Institutional Responses to Child Sexual Abuse, *Criminal justice: Executive summary and parts I–II*,
 Sydney, 2017, pp 545–70.
 419 *Children’s Protection Act 1993* (SA) s 11(2)(ga).
 420 *Children’s Protection Act 1993* (SA) s 11(2)(gb).
 421 *Care and Protection of Children Act 2007* (NT) s 26.
 422 Transcript of C Prowse, Case Study 50, 21 February 2017 at 25739:14–36; Transcript of T Costelloe, Case Study 50,
 24 February 2017 at 26143:7–25; Transcript of P Wilson, Case Study 50, 24 February 2017 at 26143:27–29; Transcript
 of A Fisher, Case Study 50, 24 February 2017 at 26143:32–39; Transcript of D Hart, Case Study 50, 24 February 2017
 at 26143:41–44; Transcript of M Coleridge, Case Study 50, 24 February 2017 at 26143:46–26144:3.
 423 Transcript of G Blake, Case Study 52, 22 March 2017 at 27176:14–16.
 424 Transcript of P Freier, Case Study 52, 22 March 2017 at 27177:33–37; Transcript of S Macneil, Case Study 52, 22 March
 2017 at 27177:39; Transcript of G Davies, Case Study 52, 22 March 2017 at 27177:41; Transcript of G Smith, Case Study
 52, 22 March 2017 at 27177:43.
 425 Exhibit 53-0001, ‘Updated Response of the Rabbinical Council of Victoria to the Royal Commission’, Case Study 53,
 IND.0727.002.0001 at 0005.
 426 Transcript of C Geyer, Case Study 56, 10 March 2017 at 26579:14–24.
 427 Exhibit 49-0008, ‘Outline of expected evidence of David Eldridge’, Case Study 49, STAT.1284.001.0001 at 0013, 0014.
 428 Exhibit 49-0008, ‘Outline of expected evidence of David Eldridge’, Case Study 49, STAT.1284.001.0001 at 0014.
 429 *Crimes Act 1900* (NSW) s 316(1).
 430 See *Crimes Act 1900* (NSW) ss 316(4)–(5); *Crimes Regulation 2010* (NSW) cl 4(f).
 431 *Crimes Act 1958* (Vic) s 327(2).
 432 *Crimes Act 1958* (Vic) s 327(7)(b). The exceptions apply by reference to the privileges under Part 3.10 of Chapter 3
 of the *Evidence Act 2008* (Vic), which includes the privilege for religious confessions in s 127 of that Act.
 433 *Evidence Act 2008* (Vic) s 127(1).
 434 *Ombudsman Act 1989* (ACT) s 17G; *Ombudsman Act 1974* (NSW) s 25(C); *Child Wellbeing and Safety Act 2005* (Vic)
 ss 16M, 16K(1)(c).
 435 Royal Commission into Institutional Responses to Child Sexual Abuse, *Criminal Justice: Parts III–VI*, Sydney, 2017,
 pp 216–17.
 436 International Covenant on Civil and Political Rights, opened for signature 16 December 1996, 999 UNTS 171
 (entered into force 23 March 1976), Art 18.
 437 *Ombudsman Act 1974* (NSW) s 25(C).
 438 NSW Ombudsman, *Strengthening the oversight of workplace child abuse allegations: A special report*
to Parliament under s. 31 of the Ombudsman Act 1974, NSW Ombudsman, 2016, p 3.
 439 Transcript of L Bryant, Case Study 52, 21 March 2017 at 27105:9–15.
 440 Transcript of G Blake, Case Study 52, 22 March 2017 at 27178:15–19.
 441 Transcript of S Tynan, Case Study 50, 16 February 2017 at 25637:39–47.
 442 Transcript of Lt Col Reid, Case Study 49, 7 December 2016 at 24557:26–47.
 443 Transcript of K Morton, Case Study 55, 24 March 2017 at 27376:20–23.
 444 NSW Ombudsman, *Strengthening the oversight of workplace child abuse allegations: A special report*
to Parliament under s. 31 of the Ombudsman Act 1974, NSW Ombudsman, 2016, p 17.
 445 *Child Wellbeing and Safety Act 2005* (Vic) sch 4 cl 2.
 446 *Equal Opportunity Act 2010* (Vic) s 81.
 447 *Child Wellbeing and Safety Act 2005* (Vic) s 3(1).
 448 *Child Wellbeing and Safety Act 2005* (Vic) s 16C.
 449 Department of Health and Community Services, Correspondence, 21 April 2017.

- 450 NSW Ombudsman, *Strengthening the oversight of workplace child abuse allegations: A special report to Parliament under s. 31 of the Ombudsman Act 1974*, NSW Ombudsman, 2016, pp 17–18.
- 451 Transcript of T Costelloe, Case Study 50, 23 February 2017 at 26022:30–26023:10.
- 452 Transcript of C Prowse, Case Study 50, 21 February 2017 at 25728:7–22.
- 453 Transcript of C Prowse, Case Study 50, 21 February 2017 at 25734:43–25735:1.
- 454 Transcript of C Pirola, Case Study 50, 16 February 2017 at 25617:11–15.
- 455 Transcript of S Tynan, Case Study 50, 16 February 2017 at 25636:46–25637:19.
- 456 Transcript of M Coleridge, D Hart, P Wilson & T Costelloe, Case Study 50, 24 February 2017 at 26144:5–36.
- 457 NSW Ombudsman, *Strengthening the oversight of workplace child abuse allegations: A special report to Parliament under s. 31 of the Ombudsman Act 1974*, NSW Ombudsman, 2016, p 17–18.
- 458 Transcript of G Davies, Case Study 52, 22 March 2017 at 27179:38–46.
- 459 Transcript of G Blake, Case Study 52, 22 March 2017 at 27178:33–44.
- 460 Transcript of P Freier, Case Study 52, 22 March 2017 at 27180:9–15.
- 461 Transcript of K Morton, Case Study 55, 24 March 2017 at 27376: 23–36.
- 462 Transcript of K Ainge, Case Study 55, 24 March 2017 at 27376:41–27377:1.
- 463 Transcript of M Kastel, Case Study 53, 23 March 2017 at 27227:46–27228:11.

22 Redress and civil litigation for survivors of child sexual abuse in religious institutions

In our case studies and private sessions we heard from hundreds of survivors about their experiences of redress schemes and processes operated by religious institutions. Some survivors told us that engaging with these schemes was a positive experience that contributed to their process of healing. Many others told us their experience was difficult and led to further harm and re-traumatisation. We also heard from a number of survivors who faced barriers in bringing civil action against a religious institution.

In 2015 the Royal Commission released its *Redress and civil litigation* report.¹ Our Terms of Reference specifically directed us to inquire into what institutions and governments should do to address, or alleviate the impact of, past and future institutional child sexual abuse, including in ensuring justice for victims through the provision of redress by institutions.²

By deciding to make recommendations on redress and civil litigation as early as possible, and before the publication of this Final Report, we sought to give survivors and institutions more certainty on the issues. We also sought to enable governments and institutions to implement recommendations to improve civil justice for survivors as soon as possible.³

The report concluded that, for many survivors, existing civil litigation systems and redress schemes have not provided effective avenues for seeking or obtaining justice in the form of compensation or redress that is adequate to address or alleviate the impact on survivors of child sexual abuse. The report made a number of recommendations about improving redress and civil litigation for survivors, including the establishment of a single national redress scheme so that survivors have equal access to redress and equal treatment in redress processes, irrespective of the institution in which they were abused.

In May 2016 the Australian Government established a task force to consider the redress recommendations from the *Redress and civil litigation* report. It subsequently announced it will lead and operate a national redress scheme. Since the report's release, a number of state and territory governments have also taken steps to address our recommendations on civil litigation. A discussion of key developments since the report was released, including in relation to the proposed national redress scheme, can be found in Volume 17, *Beyond the Royal Commission*.

Providing appropriate redress to survivors and addressing barriers to civil litigation so that survivors have reasonable access to that avenue for justice remain important issues for religious institutions. As we outline in Part C, 'Nature and extent of child sexual abuse in religious institutions', a large number of survivors told us they were abused in religious institutions, particularly in schools or residential care settings. Given that many survivors take years, even decades, to disclose their experience of childhood sexual abuse,⁴ religious institutions need to continue to provide avenues through which survivors can obtain justice for past abuse. In our view, this can be best achieved by religious institutions participating in the national redress scheme. However, we recognise that, in some cases, religious institutions will need to provide other avenues for redress, including for survivors who approach them directly for particular outcomes or by ensuring reasonable access to a claim for civil damages.

In this chapter we first canvass what we know about the Australian Government’s proposed national redress scheme. We then discuss what we heard during our institutional review hearings about current and future approaches to redress in religious institutions, including what institutions told us about participating in the national redress scheme. Finally, we discuss steps taken by religious institutions since the release of our *Redress and civil litigation* report to address issues relating to civil litigation.

22.1 Redress for survivors of child sexual abuse in religious institutions

In our *Redress and civil litigation* report we distinguished between monetary payments in the form of compensatory damages obtained through civil litigation and monetary payments made under redress schemes. The monetary payments obtained under each process generally are intended to achieve quite different purposes and require the satisfaction of quite different criteria. Consistent with this and for the purposes of this chapter, ‘redress’ means redress obtained outside of civil litigation.⁵

22.1.1 National redress scheme

In May 2016, the Australian Government established a task force to consider the recommendations relevant to redress in our *Redress and civil litigation* report.

On 4 November 2016, the Commonwealth Minister for Social Services, the Hon. Christian Porter MP, and the Commonwealth Attorney-General, Senator the Hon. George Brandis QC, jointly announced a national redress scheme for victims of child sexual abuse in institutional contexts. In that announcement Minister Porter said that any state, territory, church or charity that has responsibility in the area will be able to opt in to the scheme. Institutions would opt in on the basis that they fund the cost of eligible redress claims made in relation to that institution.⁶

The Australian Government has indicated it will establish and operate a redress scheme based on four principles:⁷

1. a three-pronged approach to outcomes, involving individual monetary payments, trauma-informed and culturally adapted counselling over the life of the scheme, and personal and direct contact with responsible institutions
2. a responsible entity pays scheme, led and operated by the Commonwealth and open nationally for any state or territory government or non-government institution to opt in to

3. a best-practice scheme where participating entities will abide by agreed processes and design rules instituted by the Commonwealth
4. a scheme informed by an independent advisory council of specialists, including survivor groups, legal and psychological experts.

The scheme will commence in 2018 and last for 10 years, with provisions for review and extension. Minister Porter stated that there are ‘very few’ ways in which the scheme deviates from the recommendations in our *Redress and civil litigation* report, but one of the key deviations is a lower maximum payment of \$150,000 instead of the \$200,000 that was recommended in our report.⁸

On 16 December 2016 the Australian Government announced the establishment of the Independent Advisory Council on Redress. It stated:

[The council will provide advice on] the governing principles that underpin the scheme; elements of the scheme’s design, that may include eligibility and the principles around the processes of application, assessment, psychological counselling and direct personal response; how to best encourage state, territory and non-government institution participation in the scheme; and how the Commonwealth scheme will interact with other redress schemes.⁹

At the time of writing, we understand that work to implement the national redress scheme is continuing, including through the Advisory Council and inter-governmental negotiations, with a view to enabling the scheme to commence operations in 2018. We discuss the national redress scheme in further detail in Volume 17, *Beyond the Royal Commission*.

22.1.2 Current and future approaches to redress

So if you want to recommend one thing, it is that there has to be a primary concern on the care of the present victims, the ones who are there, those whose souls have either been damaged beyond repair or who are seriously suffering.¹⁰

Dr Thomas P Doyle OP, American Dominican priest, canon lawyer and survivor advocate

A number of the religious institutions we examined during our inquiry have in recent years improved the way they provide redress to survivors. As set out below, some have based these improvements on recommendations we made in our *Redress and civil litigation* report.

We heard that some religious institutions have established new redress schemes that strive to be consistent with our recommendations. Others have attempted to improve the way that existing schemes and processes are administered, including by adopting our interim principles for redress while they await the national redress scheme. Some religious institutions have established new processes and protocols that govern the way they respond to those survivors who make direct approaches to them for redress.

During our institutional review hearings, we asked leaders of religious institutions whether they would opt in to the national scheme. This section sets out some of their responses. While a majority indicated they intended to do so, some told us about difficulties they may encounter or that they needed more detail about the proposed scheme before coming to a decision.

Catholic Church

As at mid-2017 there are two formal redress processes operating in the Catholic Church in Australia – Towards Healing and the Melbourne Response. Both have been the subject of evidence during our public hearings. We discuss both of these schemes, including survivors' experiences of them, in detail in Section 13.9, 'Catholic Church responses to victims and survivors after the development of national procedures'.

Since its inception in 1996 and commencement in 1997, Towards Healing has operated as the primary mechanism through which a survivor of child sexual abuse can obtain redress from the Catholic Church, including acknowledgement of the damage he or she suffered, an apology, pastoral care and monetary reparation.¹¹ Many survivors have chosen to pursue redress through Towards Healing since it was established. However, during *Case Study 50: Institutional review of Catholic Church authorities (Institutional review of Catholic Church authorities)*, we heard that, in recent years, fewer survivors are electing to use Towards Healing. Survivors now frequently seek redress from Catholic Church authorities outside Towards Healing, either personally or through a lawyer or a victims' group.¹² We heard the outcomes through these approaches are similar to those available under Towards Healing and include monetary payments, access to counselling and apologies.¹³

As to the reason for the decline of the use of Towards Healing by survivors, Mr Sean Tynan, the Manager of the Diocese of Maitland-Newcastle's Zimmerman Services, gave his view that:

the public standing of Towards Healing has been significantly, if not permanently, damaged. Obviously the case study conducted by this Royal Commission exposed a circumstance that, if I were coming forward to seek compensation, I wouldn't have a bar of, if I can say that.¹⁴

The Melbourne Response was developed by solicitors for the Archdiocese of Melbourne at the request of then Archbishop of Melbourne, Archbishop George Pell, in mid-1996. It was publicly announced four weeks prior to Towards Healing in October 1996.

While it is distinct in certain aspects, the Melbourne Response contains similar provisions to those of Towards Healing. Survivors have access to similar outcomes, including counselling and monetary payments. In Section 13.7, ‘Development of national procedures in the Catholic Church’, we detail the developments in the Melbourne Response since our inquiry began, including a review of its operation conducted by the Hon. Donnell Ryan QC (the Ryan review) and the response of the current Archbishop of Melbourne and President of the Australian Catholic Bishops Conference, Archbishop Denis Hart, to Mr Ryan’s recommendations.¹⁵

In recent years, some Catholic Church authorities have established their own processes for dealing with claims prior to or during civil action for damages. The Bishop of Maitland-Newcastle, Bishop William Wright, gave evidence that, through Zimmerman Services, his diocese has developed its own voluntary *Catholic Diocese of Maitland Newcastle proposed protocol for settlement of civil claims brought outside of Towards Healing*.¹⁶ Similarly, the Diocese of Parramatta has developed its own approach to claims for redress outside of the Towards Healing process. The Bishop of Parramatta, Bishop Vincent Long Van Nguyen OFM Conv, told us that the diocese applies the principles that underpin Towards Healing but has established a Reparations Advisory Sub-committee with external independent professionals to advise it on the management of claims for redress.¹⁷

In its submission to our *Consultation paper: Redress and civil litigation*, the Truth, Justice and Healing Council (the Council) stated that:

Because the redress structure the Royal Commission is proposing will take some time to implement, the Catholic Church is giving consideration to modifying its present redress arrangements based on the principles for redress schemes outlined by the Royal Commission. However, the Council acknowledges that any interim arrangement will be far less satisfactory for survivors of abuse than an independent national scheme.¹⁸

While we note the alternative approaches adopted by some Catholic Church authorities outlined above, we are not aware of any modifications made to Towards Healing or the Melbourne Response based on the principles for redress schemes outlined in our consultation paper and subsequent *Redress and civil litigation* report.

During our *Institutional review of Catholic Church authorities* hearing, we received evidence as to whether Catholic Church authorities plan to opt in to the national redress scheme. Mr Francis Sullivan, chief executive officer of the Council, told us that the Catholic Church does not have the ability to opt in to the national scheme as one body; practically speaking, each bishop, provincial or major superior will need to opt in to the scheme.¹⁹ During that same hearing, each archbishop, bishop and religious superior who gave evidence told us that they would opt in to the national redress scheme.²⁰

In 2013, the Council foreshadowed that if compensation could be awarded under a national scheme that covers all institutions then Towards Healing could continue ‘to operate as a scheme for providing a pastoral response and assistance to victims of any kind of abuse’ by Church personnel, including sexual abuse.²¹

In our view, Towards Healing may not be the most appropriate mechanism by which the Catholic Church can provide a pastoral response to survivors. We discuss what we learned about survivors’ experiences of Towards Healing in Section 13.9.

In *Case Study 43: The response of Catholic Church authorities in the Maitland-Newcastle region to allegations of child sexual abuse by clergy and religious (Catholic Church authorities in Maitland-Newcastle)*, and in our *Institutional review of Catholic Church authorities* case study we received evidence that Zimmerman Services in the Catholic Diocese of Maitland-Newcastle is regarded by both those who have used the service and other Catholic Church authorities as adopting good practice in terms of support for victims.²²

We heard from Zimmerman Services that the Healing and Support team provides a supportive response to those who have been affected by childhood sexual abuse perpetrated by personnel of the diocese, including victims and their family members.²³ The head of the Healing and Support team, Ms Maureen O’Hearn, gave evidence that, if a person comes forward and says they have been abused, the Healing and Support team’s role is not to test the allegation but instead accept their account and offering support.²⁴ We heard that the Healing and Support team follows two practice guidelines produced by the organisation Adults Surviving Child Abuse (ASCA); the *Guideline for the treatment of complex trauma* and the *Guideline for trauma informed care and service delivery*.²⁵ In our view, these aspects reflect positive practice for support and pastoral care of survivors.

We also understand that other models for providing pastoral assistance to victims have been developed and are in operation in the Diocese of Parramatta²⁶ and the Archdiocese of Canberra and Goulburn²⁷ and that, in certain respects, these models mirror the approach taken in the Diocese of Maitland-Newcastle.

The Catholic Church, through Catholic Professional Standards Limited, should develop a new standard for pastoral response to survivors, outside of the national redress scheme, which incorporates best practice, having regard to the recommendations set out in our *Redress and civil litigation* report and those processes already in operation in particular Catholic Church authorities.

Anglican Church

As at mid-2017, the Anglican Church of Australia had not adopted a national redress scheme.²⁸ However, in 2009, the Professional Standards Commission of its General Synod developed a set of principles to guide redress provided by individual dioceses.²⁹ These principles were adopted by the Standing Committee of the General Synod by resolution in October 2009 and subsequently shared with the 23 dioceses.³⁰ To date, each diocese has been responsible for the development, adoption and implementation of redress processes operating within its own jurisdiction consistent with the principles.³¹

In Section 12.5, ‘Contemporary Anglican Church responses to child sexual abuse’, we discuss the various redress processes operating in Anglican dioceses, including what we heard of survivors’ experiences of those processes.

During *Case Study 52: Institutional review of Anglican Church institutions (Institutional review of Anglican Church institutions)*, we heard evidence that the Anglican Church of Australia had begun developing an interim national Anglican redress scheme and is considering whether to and how it would opt in to the national redress scheme.³² We also heard that the Province of Victoria is developing a provincial redress scheme as an interim measure prior to the implementation of either the Anglican redress scheme or the national scheme. The Province of Victoria’s redress scheme was designed to respond to the recommendations in our *Redress and civil litigation* report with respect to interim arrangements for redress.³³

Ms Anne Hywood, the General Secretary of the General Synod of the Anglican Church of Australia, told us that following the release of the *Redress and civil litigation* report its Royal Commission Working Group recommended that the Anglican Church develop an independent incorporated entity to provide redress services to Anglican institutions such as dioceses, agencies and schools.³⁴ This body was to be an interim measure until there was a decision about national redress.

The General Synod held two consultation forums which discussed a national redress scheme – on 1 June 2016 and 21 September 2016.³⁵ Ms Hywood told us that in the first meeting there was some anxiety about moving to an independent scheme:

Much of the anxiety about moving to an independent scheme revolved around anxiety that opportunity for an apology and direct personal response and very direct care and support to survivors when they came forward, might be lost in something slightly more bureaucratic.³⁶

Ms Hywood told us that the mood had shifted substantially by the meeting in September and there was a ‘greater recognition of the importance of an independent scheme’,³⁷ including support to progress to developing such a scheme.³⁸

Following the announcement of the proposed national redress scheme, the Standing Committee of the General Synod engaged with the Australian Government about its potential participation in the scheme. Ms Hywood also told us that the government advised her that they wanted to engage with one Anglican entity that would represent all Anglican institutions. She said that they were already considering an independent incorporated body for the purposes of an interim Anglican redress scheme, so that type of structure may be able to facilitate an engagement with the national scheme.³⁹

The Bishop of Grafton, Bishop Dr Sarah Macneil, told us that, while it was a decision that would be made with Bishop-in-Council or the Synod, the Diocese of Grafton would wish to join the national scheme. Bishop Dr Macneil told us that she would argue ‘very strongly’ that, if the Anglican Church of Australia sets up an independent entity to interact with the national scheme, it would be something the Diocese of Grafton would join.⁴⁰

Likewise, the Archbishop of Sydney, Archbishop Glenn Davies, said it was not his decision to make and that the Standing Committee or Synod would have to decide. Archbishop Davies said the following about an independent national scheme:

I do think survivors need to have choice. We shouldn’t be making decisions for survivors. If they do want pastoral care, we offer pastoral care support with chaplains and contact persons and I would not like to see that lost.⁴¹

Archbishop Philip Freier, in his capacity as Archbishop of Melbourne, indicated that, while his diocese is supportive of the national scheme, it is likely it will leave open for survivors the option of approaching the diocese directly for redress. He explained that it wants to leave open the ‘choice of survivors to participate how they wanted to’. He also noted that the national scheme will only be running for a period of time and will not cater to contemporaneous or future matters. He said that the diocese wishes to ‘put something in place that gave people the confidence we were going to be fully accountable into the future’, not just until the national scheme ended.⁴²

Following the *Institutional review of Anglican Church institutions* public hearing in March 2017, the General Synod adopted the *Redress for the Survivors of Abuse Canon 2017*. The canon authorises the Standing Committee to establish an independent corporate entity to co-ordinate and manage redress for survivors of child sexual abuse in the Anglican Church. The body will engage with the Australian Government redress scheme on behalf of Anglican dioceses and associated institutions. The entity will also provide redress to survivors who do not wish to engage with the national scheme.⁴³ It represents a move away from diocesan-based redress schemes towards a national redress scheme for the Anglican Church.

The Salvation Army

The Salvation Army Eastern Territory (Eastern Territory) and The Salvation Southern Territory (Southern Territory) have separate processes for responding to claims for redress from survivors of child sexual abuse as at mid-2017.

In the Eastern Territory, a 'claims process' is employed, which can include the provision of an ex-gratia payment, an apology and counselling. Ex-gratia payments are calculated by a Personal Injuries Complaints Committee, comprising both Salvation Army and external representatives, by the application of a matrix.⁴⁴

The Southern Territory developed a redress scheme in the 1990s to compensate victims of child sexual abuse in Salvation Army homes. It continues to operate the scheme today with some modification to the procedure.⁴⁵

We examined and made findings about these processes in our case studies relating to The Salvation Army. These are discussed in detail in Chapter 14, 'The Salvation Army'.

During *Case Study 49: Institutional review of The Salvation Army, Australia Eastern Territory and Australia Southern Territory (Institutional review of The Salvation Army)*, we received evidence about recent changes made to the redress processes in both Salvation Army territories.

We received evidence that, although the Southern Territory had not changed its redress policies since *Case Study 33: The response of The Salvation Army (Southern Territory) to allegations of child sexual abuse at children's homes that it operated (The Salvation Army children's homes, Australia Southern Territory)*, it had changed its procedures.⁴⁶ Commissioner Floyd Tidd, National Commander of The Salvation Army Australia, told us that the Southern Territory still utilises its 'model scheme' as governed by its *Serious complaint handling and litigation policy*; however, it assesses any new claims for redress by reference to the interim principles set out in our *Redress and civil litigation* report. Commissioner Tidd told us that the Southern Territory's external lawyers now assess survivors' compensation according to the matrix set out in our report.⁴⁷

We also received evidence that, since *Case Study 10: The Salvation Army's handling of claims of child sexual abuse 1989 to 2014*, the Eastern Territory had sought to reform the way it engages with survivors who seek redress. We received evidence that, under the Eastern Territory's new approach, when a survivor makes a claim, a care plan is developed to support their engagement through the Eastern Territory's redress framework. This plan identifies the supports chosen by the survivor, the survivor's intention or desired outcomes, and who is responsible for their chosen supports. Further, case managers are assigned to work with survivors to review and update their care plan as regularly as necessary 'to ensure that their restoration journey is responsive to their needs'.⁴⁸ Monetary payments are assessed by two barristers and a representative from Salvos Legal. The assessment is made according to the matrix suggested by the Royal Commission.⁴⁹

In the *Institutional review of The Salvation Army* public hearing, Commissioner Tidd told us that The Salvation Army in Australia (both the Southern Territory and the Eastern Territory) are committed to the national redress scheme.⁵⁰ We note that both territories plan to amalgamate as part of the Australian One Project, with the goal of uniformity in all policies and procedures. Commissioner Tidd told us he is meeting with representatives of the Australian Government to work out how The Salvation Army at a national level participates in the proposed scheme.⁵¹ We discuss the Australian One Project further in Chapter 20, 'Making religious institutions child safe'.

Uniting Church

We did not examine the provision of redress by any Uniting Church institution during our case studies. However, during *Case Study 56: Institutional review of Uniting Church in Australia (Institutional review of Uniting Church in Australia)*, we received evidence about the Uniting Church's current and proposed approaches to redress for survivors of child sexual abuse in its institutions.

During that hearing, representatives of the Uniting Church told us that in August 2015, following the release of the Royal Commission's *Redress and civil litigation* report, it established a Redress Implementation Working Group within its National Task Group.⁵² The role of the group was initially to consider the report and its recommendations and to assist the Uniting Church and synods to develop a response.⁵³

The representatives told us that the Uniting Church used the Royal Commission's report, together with its own experience with redress, to develop a National Interim Redress Framework. The framework was approved by the Assembly Standing Committee in December 2015.⁵⁴

According to representatives of the Uniting Church, the National Interim Redress Framework provides an overarching guide for synods, all of which have given it formal endorsement. The framework embraces the key elements of the Royal Commission's recommendations, including the need to be survivor focused, particularly on the needs of vulnerable survivors, and to provide a direct personal response, an apology, counselling, psychological care and monetary payments.⁵⁵

We received evidence that synods of the Uniting Church in Australia are at varying stages in development and implementation of redress schemes:

- the Queensland, Northern and New South Wales/Australian Capital Territory synods have interim redress schemes⁵⁶
- the South Australian and Western Australian synods are working toward the development of interim procedures and currently use an existing ex-gratia process⁵⁷
- the Victorian and Tasmanian synod does not have an interim redress scheme and relies on a previously existing process.⁵⁸

During our *Institutional review of Uniting Church in Australia* hearing, Ms Colleen Geyer, General Secretary of the National Assembly of the Uniting Church, told us that the Uniting Church supports the national redress scheme and would look to be part of it.⁵⁹

Jehovah's Witnesses

During *Case Study 54: Institutional review of Church of the Jehovah's Witnesses and its corporation, the Watchtower Bible and Tract Society of Australia*, Watchtower Australia told us that:

Since the hearing of Case Study No. 29, Jehovah's Witnesses continue to handle redress for victims of child sexual abuse on a person-by-person basis, taking into consideration the facts of each case. The majority of instances of child sexual abuse reported to Jehovah's Witnesses have been familial and/or acquaintance abuse.⁶⁰

During the public hearing, held in March 2017, Mr Terrence O'Brien, Director of the Watchtower Bible and Tract Society of Australia, told us that the Jehovah's Witness organisation is developing a redress process 'particularly since the release of the paper on redress from the Royal Commission'.⁶¹ He did not provide any further details or suggest a time frame for the development of this process.

Mr O'Brien told us that his organisation has not engaged with or reached a position on the proposed national redress scheme.⁶² According to Mr O'Brien, the organisation is 'still trying to determine what sort of extent of claims we would have'.⁶³ He gave evidence that it was 'still a little bit too unclear' for them to commit themselves to the national scheme 'definitively', but they have not ruled it out.⁶⁴ Mr O'Brien said that 'if there are any victims who are victims through institutional abuse from Jehovah's Witnesses, we would do everything in our power to assist them financially and spiritually'.⁶⁵

Australian Christian Churches and Hillsong Church

During *Case Study 55: Institutional review of Australian Christian Churches and affiliated Pentecostal churches (Institutional review of Australian Christian Churches)*, representatives of the Australian Christian Churches (ACC) told us that its organisation 'supports and promotes providing all necessary and appropriate care for survivors'.⁶⁶ However, ACC also stated it is 'limited in its jurisdictional ability to enforce any policies or procedures on local churches with regard to financial redress'.⁶⁷ According to the ACC, the reason for this is that each of their affiliated churches is 'individually constituted' and operates as an independently incorporated entity – each ACC-affiliated church must consider its own approach to financial redress.⁶⁸

The ACC told us that the local church's insurance policy would be called upon to respond to any claims stemming from an instance of child sexual abuse. It is an ACC constitutional requirement that each local church maintain an appropriate insurance policy, including coverage for public liability.⁶⁹

The ACC told us that it is supportive of the national redress scheme.⁷⁰ However, during the *Institutional review of Australian Christian Churches* public hearing, we heard that 'there is genuine concern at most levels of the ACC', particularly in small churches, about its capacity to contribute to the scheme. Pastor Wayne Alcorn, the National President of the ACC, explained that over 70 per cent of their churches have fewer than 200 in their congregations and most have very limited, if any, resources. Pastor Alcorn told us he is aware of misunderstanding as to what the scheme would look like and how local churches could contribute.⁷¹

Pastor Brian Houston, Senior Pastor of Hillsong Church, told us during the *Institutional review of Australian Christian Churches* hearing that Hillsong Church does not currently have a specific redress policy.⁷² We heard that Hillsong Church does have a policy within which aspects of redress are included, but it does not cover elements of financial redress. Pastor Keith Ainge, the Head of Hillsong Church's Safe Church Office, told us that there is a process they could follow in the event a claim for financial redress is made.⁷³ That process is not set out in any policy.

Pastor Houston told us that Hillsong Church would consider the national scheme and is waiting to see what the scheme would look like.⁷⁴

Yeshiva Bondi, Yeshivah Melbourne and Jewish institutions

At the time of *Case Study 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions*, we found that there was no evidence Yeshivah Melbourne ever considered creating a formal redress policy in relation to victims of child sexual abuse.⁷⁵ We also did not receive any evidence that Yeshiva Bondi had considered developing a policy on redress. During the public hearing, Rabbi Pinchus Feldman, Head Rabbi of Yeshiva Centre Bondi, told us that, if victims wished to approach Yeshiva Bondi to receive some form of apology or redress directly from the institution, they 'certainly may' do so.⁷⁶

In *Case Study 53: Institutional review of Yeshivah Melbourne and Yeshiva Bondi (Institutional review of Yeshiva/h)*, Rabbi Chaim Tsvi Groner, a rabbi at Yeshivah Centre Melbourne told us that, towards the end of 2015, Yeshivah Melbourne introduced a redress scheme, which operated independently of the institution. We heard that the scheme remained open for a period of 13 months⁷⁷ and that, during this time, approximately 10 victims came forward and were provided with redress.⁷⁸

Rabbi Groner told us that the scheme remained open for only 13 months because Yeshivah Melbourne understood that to be one of the Royal Commission's recommendations in its *Redress and civil litigation* report. We did not make any recommendations in that report suggesting individual redress schemes operated by institutions be open for a particular duration. During the hearing, Rabbi Groner undertook to re-examine our recommendations regarding redress schemes.⁷⁹

In the *Institutional review of Yeshiva/h* hearing, Rabbi Feldman told us that Yeshiva Bondi had still not developed and was not considering developing a financial redress scheme. Rabbi Feldman said that neither he nor Yeshiva Bondi have the financial means to provide redress.⁸⁰ Rabbi Feldman also gave evidence that all liability up to 2003, when he ceased to be the spiritual head of the then Yeshiva College Ltd, has been assumed by the incoming directors who took over that college and now operate it under a different name – Kesser Torah College. Rabbi Feldman remains the spiritual leader of the Yeshiva Centre which now operates the Yeshiva College Bondi, a separate entity. He told us that the 'new directors [of Kesser Torah College] took over responsibility for whatever had occurred in the past'.⁸¹

During our *Institutional review of Yeshiva/h* hearing, we received evidence from a number of Jewish leaders in Australia that they were supportive of a national redress scheme and would participate in it.⁸²

Rabbi Groner indicated that Yeshivah Melbourne had a positive attitude towards the national redress scheme and would consider being a part of it.⁸³ Rabbi Feldman told us that Yeshiva Centre Bondi would consider participating 'Within the framework of our limitations'.⁸⁴ Rabbi Yehoshua Smukler, Principal of Yeshivah-Beth Rivkah Colleges, Melbourne and Rabbi Dovid Slavin, Executive Director, Yeshiva College Bondi, each indicated they were supportive of the scheme and would consider their participation.⁸⁵

22.1.3 Reconsideration of previous monetary payments

In Part D, 'Institutional responses to child sexual abuse in religious institutions', we discuss what survivors told us about the monetary payments they received through redress schemes and processes operated or applied by religious institutions or by way of settlement prior to or during civil action against a religious institution. A number of survivors told us they were upset by the amount of the payments they received.

Reconsideration of previous monetary payments was not the subject of a recommendation in our *Redress and civil litigation* report. However, the issue of inadequacy of monetary payments made by some religious institutions to survivors of child sexual abuse arose in several of our case studies.

For example, during the public hearing for *Case Study 28: Catholic Church authorities in Ballarat*, Brother Peter Clinch, Province Leader of the Oceania Province of the Congregation of Christian Brothers, conceded that many settled claims for compensation made by survivors of child sexual

abuse against the Christian Brothers were inadequate and ‘unjust’.⁸⁶ In acknowledging these mistakes, Brother Clinch also stated his impression that the Christian Brothers had likely been ‘protecting’ themselves in seeking to minimise the amount offered in monetary payments.⁸⁷

Since the commencement of our inquiry, some religious institutions have undertaken to reconsider monetary payments that have been made to survivors through redress schemes or processes or by way of settlement prior to or during civil action. During our institutional review hearings, we received evidence about the extent to which certain religious institutions have reconsidered previous monetary payments and the processes they have used.

Catholic Church

In November 2014, the Council released its *Guidelines for responding to requests from survivors of child sexual abuse whose claims have been subject to settlements (Council settlement guidelines)*.⁸⁸ The *Council settlement guidelines* were developed to assist dioceses and religious institutes to respond to any requests by individuals to review settlements previously made with them. The *Council settlement guidelines* acknowledge that some survivors had found the redress provided to them through Towards Healing and the Melbourne Response to be insufficient having regard to the severity of the abuse they suffered and the effect it has had on them.⁸⁹ However, the *Council settlement guidelines* do not cover compensation paid under the Melbourne Response. According to the Council, the issue of how those cases should be reviewed was being considered as part of the Ryan review of the Melbourne Response.⁹⁰ This is discussed below, as well as in Section 13.7.

The *Council settlement guidelines* provide that claims previously denied or previously settled, either under Towards Healing or at common law, regardless of whether or not a deed of release was entered into, may be reopened if either:⁹¹

- the Catholic Church authority considers that the process by which the determination was made or the settlement was reached was inadequate or unfair
- the Catholic Church authority considers that the amount paid was not fair and reasonable having regard to the severity of the abuse and its effect on the claimants.

During our *Institutional review of Catholic Church authorities* public hearing, the Council informed us that:

Over the past four years, many dioceses and religious orders have also committed to revisiting past claims, making adjustments to payments and other compensation provided to abuse survivors ... Claims and payments have now been revisited extensively by many dioceses and religious orders across Australia.⁹²

Evidence we received during the course of our *Institutional review of Catholic Church authorities* hearing suggests that most Catholic Church authorities have adopted and applied the *Council settlement guidelines* where a survivor has requested a review of their previous settlement. As set out below, in some cases, Catholic Church authorities have initiated contact with survivors or their lawyers and offered them the opportunity to have their settlement reviewed.

The Marist Brothers told us they initiated contact with a number of survivors since the commencement of the Royal Commission.⁹³ The Provincial of the Marist Brothers in Australia, Brother Peter Carroll, said the Marist Brothers had re-examined the settlement of one of the survivors who gave evidence during *Case Study 4: The experiences of four survivors with the Towards Healing process* and *Case Study 13: The response of the Marist Brothers to allegations of child sexual abuse against Brothers Kostka Chute and Gregory Sutton (Marist Brothers)*, and provided an additional payment.⁹⁴ Brother Carroll gave evidence that since the commencement of the Royal Commission, 36 past settlements have been or are being reconsidered by the Marist Brothers. Twenty of those requests are still being considered, while the 16 claims which have been re-examined all resulted in additional payments being made to the complainants. The additional payments have totalled approximately \$2.7 million.⁹⁵

The Congregation of Christian Brothers told us that, since the completion of *Case Study 11: Congregation of Christian Brothers in Western Australia response to child sexual abuse at Castledare Junior Orphanage, St Vincent's Orphanage Clontarf, St Mary's Agricultural School Tardun and Bindoon Farm School (Christian Brothers)*, 201 claims for re-examination had been received, 165 of which resulted in additional payments being made, totalling nearly \$14 million.⁹⁶

The Archdiocese of Sydney told us that, as at 2 February 2015, at least 14 claimants had 're-engaged with the archdiocese seeking further financial or other assistance'. Around \$3.5 million in additional payments were made by the archdiocese in respect of these claimants.⁹⁷

We also heard during our *Institutional review of Catholic Church authorities* hearing that, rather than adopting the *Council settlement guidelines*, the dioceses of Maitland-Newcastle and Parramatta adopted their own processes for reviewing past claims.

The Bishop of the Diocese of Maitland-Newcastle, Bishop William Wright gave evidence that his diocese has developed its own voluntary *Proposed protocol for producing a revised settlement for a previously settled claim* in February 2015.⁹⁸ The protocol provides that only claims where the settlement sum may be considered manifestly inadequate will be reconsidered.⁹⁹ The diocese also produced an *Information sheet for a person wanting to revisit a previously settled claim* to assist survivors who believe their original settlement was inadequate and would like their previous settlement to be revisited. We received evidence that, as at November 2016, the diocese has reassessed eight previously finalised claims. An additional \$1.062 million was paid in compensation, as well as \$50,000 in treatment and other costs.¹⁰⁰

We heard that in 2015 the Diocese of Parramatta established a Reparations Advisory Sub-committee to advise the diocese on the management of new claims for redress and claims previously finalised. Bishop Long gave evidence that the sub-committee consists of external independent professionals who review and consider applications for claims to be reviewed, with reference to the *Reparations review guidelines* that have been developed by the diocese. The guidelines do not impose a cap on the monetary amount that the sub-committee will recommend to the bishop. Bishop Long gave evidence that the diocese has reviewed a ‘significant’ number of finalised claims for redress.¹⁰¹

As noted above, the *Council settlement guidelines* do not apply to payments under the Melbourne Response in the Archdiocese of Melbourne.¹⁰²

The Archbishop of Melbourne, Archbishop Denis Hart, gave evidence in our *Institutional review of Catholic Church authorities* hearing that, following the recommendations of the Ryan review, the archdiocese engaged an actuary to review and advise on the amounts to be paid by way of additional payment to those who have previously received compensation for complaints of child sexual abuse.¹⁰³ He announced on 18 November 2016 that, the cap on compensation under the Melbourne Response would increase from \$75,000 to \$150,000 from 1 January 2017, in accordance with the recommendations of the Ryan review. He told us that additional payments will be made to survivors of child sexual abuse who have already been through the Melbourne Response and received payments. Survivors, according to Archbishop Hart, will receive a monetary payment by way of top-up, being the difference between what they would have received if a cap of \$150,000 was in place at the relevant time, less payments already received and adjusted for inflation.¹⁰⁴

Archbishop Hart has been reported in the media as stating that all survivors need to do to access a top-up payment is fill out an application form – they do not need to re-engage with the archdiocese.¹⁰⁵

Anglican Church

We received some evidence in our *Institutional review of Anglican Church institutions* hearing of the steps the Anglican Church has taken to reconsider monetary payments made to victims of child sexual abuse.

We recall that, in our case studies on the Anglican Church, we examined how claims of victims of child sexual abuse were assessed, leading to small or inconsistent settlement amounts for survivors. For example, in *Case Study 3: Anglican Diocese of Grafton’s response to child sexual abuse at the North Coast Children’s Home (North Coast Children’s Home)*, the amounts offered to victims in a group claim were substantially lower than if the relevant Pastoral Care and Assistance Scheme had been followed by the Diocese of Grafton.¹⁰⁶ The Diocese of Grafton also received individual claims from former residents of North Coast Children’s Home.¹⁰⁷

These claims were not dealt with under the relevant Pastoral Care and Assistance Scheme and inconsistent responses resulted. For example, survivors CB and CC were refused financial compensation but offered a support person, while survivor CD received a compensation but no pastoral support.¹⁰⁸

During our *Institutional review of Anglican Church institutions* hearing, we heard that since the *North Coast Children's Home* case study the Anglican Diocese of Grafton has reviewed redress settlements provided to survivors of child sexual abuse in that home. We heard the diocese reassessed the settlements and brought them in line with its current Pastoral Care and Assistance Scheme cap. We were told that further redress payments were made to most of the survivors in that case.¹⁰⁹

The Salvation Army

During *The Salvation Army children's homes, Australia Southern Territory* hearing, the Southern Territory made a commitment to review settled claims internally to ensure they were assessed fairly and consistently relative to other claims received by the Southern Territory.

Commissioner Tidd told us during that case study that he instructed law firm Clayton Utz, with the assistance of counsel, to conduct a review of all 418 claims that have been settled between the Southern Territory and survivors since 1996. The purpose of the review was to 'identify whether comparison payments made in respect of settled claims were assessed fairly and consistently'.¹¹⁰ Commissioner Tidd gave evidence that if, as a result of the review, there is a recommendation that a survivor was treated unfairly or inconsistently relative to the bulk of other survivors, he anticipated receiving a recommendation to 're-open' that claim and make a further payment, assessed according to the principles identified in the Royal Commission's *Redress and civil litigation* report.¹¹¹

Commissioner Tidd gave evidence that the Southern Territory did not propose to re-open the claims of legally represented claimants unless new information has come to light after a claim has settled. He told us that that the Southern Territory can be 'confident' that the represented survivors' interests were protected and that compensation payments were assessed 'fairly and consistently relative to the bulk of other settled claims'. We concluded in our report on *The Salvation Army children's homes, Australia Southern Territory* case study that it was unclear how a survivors' legal representative would have been able to ensure that their claims were assessed 'fairly and consistently relative to the bulk of the other settled claims', as only the Southern Territory knew how it had settled the bulk of the other claims received.¹¹²

During our *Institutional review of The Salvation Army* hearing, Commissioner Tidd gave evidence about the outcome of the claims review. He told us that of the 422 claims reviewed, 198 were reassessed and 73 were granted top-ups, totalling \$960,000. The average top-up was \$13,239. Commissioner Tidd told us that the claims were not reassessed if The Salvation Army felt they had been managed consistently in the first instance.¹¹³

During the same hearing we also received evidence about the Eastern Territory's approach to reconsideration of previous monetary payments. We heard that, as at the time of the hearing, the Eastern Territory had reviewed 196 settled claims relating to child sexual abuse to determine whether or not their matrix for assessing monetary payments was applied appropriately in each case. They identified 59 where the matrix was not applied or was not applied appropriately.¹¹⁴ We received evidence that, between 2014 and 2016, the Eastern Territory assessed 27 claims for reassessment from survivors, totalling approximately \$1.26 million. Five claims were recorded as not finalised 'to date'.¹¹⁵

We heard that neither the Southern Territory nor Eastern Territory directly approached survivors they determined had not received an appropriate settlement in the first instance. We heard that in the Southern Territory, in the event the survivor was legally represented at the time of receiving payment, an approach would be made through the relevant legal representative. However, to avoid re-traumatisation, unrepresented survivors were not approached directly but instead advertisements were placed in both print media and online about the review of previous claims. Additional payments were made only after survivors approached them.¹¹⁶ We heard similar evidence in relation to the Eastern Territory,¹¹⁷ although it is unclear whether it approached survivors' legal representatives where appropriate.

22.1.4 Collective forms of direct personal response

In our *Redress and civil litigation* report, we noted that, for many survivors of child sexual abuse, apologies, delivered in public or private, can be an important part of the healing process.¹¹⁸ We also noted that some survivors can identify as part of a group and desire collective forms of direct personal response from an institution. For example, we heard from a number of survivors and survivor advocacy groups who have advocated for permanent memorials to be erected or commemorative events to be held as part of collective redress outcomes.¹¹⁹ We acknowledge that some survivors wish to have a symbolic acknowledgement of their experiences in the form of a permanent memorial or plaque, usually at a significant or important site and most commonly at the site of the relevant institution.¹²⁰

In our *Redress and civil litigation* report we acknowledge there may be a wish for broader community involvement as part of survivors' healing, and this can be addressed through collective forms of redress.¹²¹ In its submission to our *Consultation paper: Redress and civil litigation*, Micah Projects, a non-government organisation, stated that:

Whilst the consequence of sexual and other forms of abuse is a very personal experience ... a significant moral and ethical injury has occurred within communities, where institutions entrusted to care and protect vulnerable children have failed, covered up and betrayed not only the individual but the community as a whole. Collective processes can begin a journey of moral repair for victim/survivors and the community together, which creates opportunity for healing and reconciliation.¹²²

As outlined in Volume 3, *Impacts*, child sexual abuse can have ripple effects which spread beyond a victim's family and friends to other children and staff in the institution, entire communities and wider society. In the case of religious communities, where religious institutions play a central role, child sexual abuse can fracture and divide, particularly where large-scale sexual abuse is revealed or religious institutions have attempted to conceal the abuse.

In recent years, a number of leaders from the religious institutions we examined have sought to provide collective forms of direct personal response to survivors and the broader community. This engagement has taken a number of forms, including public apologies, permanent memorials, healing ceremonies and 'prayers of lament'.

As the Royal Commission concludes, these sorts of collective processes can play a powerful role in healing survivors and affected communities. However, we acknowledge that they will not work in the same way for everyone. Religious institutions need to carefully consult both survivors and communities to ensure that whatever process they adopt is appropriate to the wishes and needs of those parties.

We discuss institutional memorials for victims and survivors of child sexual abuse in Australia further in Volume 17, *Beyond the Royal Commission*. We recommend in that volume that a national memorial should be commissioned by the Australian Government for victims and survivors of child sexual abuse in an institutional setting.

Catholic Church

In the Catholic Church, Pope Francis has taken steps to acknowledge child sexual abuse in the Catholic Church and the Church's failure to appropriately respond. On 28 December 2016, Pope Francis sent a letter to the Catholic bishops worldwide, which was also published on the Vatican's website, about injustices to children. The pope said the Catholic Church 'weeps bitterly' over the sexual abuse of children by priests. He wrote that the Catholic Church:

recognizes the sins of some of her members: the sufferings, the experiences and the pain of minors who were abused sexually by priests. It is a sin that shames us ... We regret this deeply and we beg forgiveness. We join in the pain of the victims and weep for this sin. The sin of what happened, the sin of failing to help, the sin of covering up and denial, the sin of the abuse of power.¹²³

This has been the strongest public acknowledgement by the Holy See of its responsibility for the sexual abuse of children by its clergy.

Since the commencement of our inquiry, some Catholic Church authorities have held healing ceremonies within their communities to acknowledge the past suffering and child sexual abuse that occurred in institutions under their control. For example, during our *Institutional review of Catholic Church authorities* hearing, we heard that in November 2016 the provincial of the

Marist Brothers, Brother Carroll, attended and spoke at a healing ceremony, held at Marist College Canberra, called the 'Liturgy of Lament'.¹²⁴ Marist College Canberra was the subject of our *Marist Brothers* case study in 2014.

It was reported in the media that the healing ceremony included a public statement of apology, the unveiling of a permanent memorial plaque, and a commitment that the school 'will do everything in its power' to prevent such acts from happening again.¹²⁵ Explaining the reason behind the healing ceremony, Brother Carroll told us:

I think the principal of the school there and the community in the school believed there was the need for some tangible sort of symbolic expression of sorrow and regret to those people.¹²⁶

The memorial plaque reads:

In remembrance of the students who were victims of sexual abuse at this school. Marist College Canberra acknowledges your pain and apologises for our failure to listen, to intervene and to protect. Let it never happen again. We are committed to the healing process and to reconciling our past with our hope for the future.¹²⁷

Some news outlets reported that survivors responded positively to this event and welcomed the measure as a step in the right direction by the school and an important symbol of a changed attitude and approach towards survivors of child sexual abuse. A former student of Marist College Canberra and survivor was reported in the *Canberra Times* as saying, 'I see it as a sign that the school has finally found some determination in the battle against sexual abuse and that they are done with the days of hushing up until it goes away'.¹²⁸

Some survivors were disappointed that the Archbishop of Canberra and Goulburn, Archbishop Christopher Prowse, did not attend the ceremony. One survivor, Mr Damian De Marco, who gave evidence in our *Marist Brothers* case study, explained to the *Canberra Times* that the non-attendance reveals a fundamental lack of understanding of the cultural issues that engendered child sexual abuse in Catholic schools. Mr De Marco was reported as saying that:

There is nothing that could have been more important for him to be at, this is of such massive significance ... He has the right to decide which schools operate and don't operate in his archdiocese. It's his responsibility to ensure that every child is safe in his archdiocese. And he had something better to do?¹²⁹

During the *Institutional review of Catholic Church authorities* hearing, Archbishop Prowse said it was a mistake not to attend and that he was sorry.¹³⁰ Archbishop Prowse told us:

I thought about it, and I agreed with [the survivors]. I made a public apology and asked for forgiveness for that. It was a mistake on my part. I had more of a diocesan perspective rather than just the local one.¹³¹

Archbishop Prowse gave evidence that the next step for him in the archdiocese would be to move towards a liturgical response, but first allow time for survivors to continue to share their stories. He told us that he would like to ‘engage more and more with groups of victims’ before considering hosting a diocesan-wide gathering for ‘a more prayer-focused apology’.¹³²

The attendance of senior leaders of the Catholic Church at healing ceremonies is of great importance and can play a significant role in the reconciliation and healing process for survivors and the wider community.

A number of other schools managed by or affiliated with Catholic Church authorities have also hosted public apologies and established permanent memorials for survivors and families affected by child sexual abuse.

For example, in May 2016, Xavier College in Melbourne, operated by the Society of Jesus, held a ceremony to dedicate a memorial to survivors. Provincial of the Australian Province of the Society of Jesus, Father Brian McCoy SJ, told us that the memorial and dedication ceremony were ‘conceptualised and organised’ by a survivors’ advisory group made up of survivors and representatives of the college.¹³³ Father McCoy told us that two identical memorial plaques were made so that one could be placed in the college chapel and the other on the college grounds, recognising that some survivors felt uncomfortable entering the chapel because of their experience of sexual abuse by religious leaders of the school.¹³⁴ The plaque reads in part:

Xavier College acknowledges that some students have suffered harm and abuse in their time at our school. The College acknowledges its past failures in this regard. To those whose experiences have been painful we offer an apology. Xavier College commits itself to creating a place of learning that is safe and welcoming for present and future generations of students.¹³⁵

In December 2016, the Salesian College at Rupertswood, Sunbury, hosted a public apology by the Salesians of Don Bosco and unveiled a ‘sorry stone’ plaque on its school grounds. The college’s principal, Mr Mark Brockhus, was reported as saying that the apology and monument were a starting point in confronting the college’s past which has impacted on dozens of victims. He said, ‘The apology is about making a sincere statement in a public setting which deals with the trust that was abused and broken in the past’.¹³⁶ In the apology, Salesians Provincial, Father Greg Chambers, said:

Unfortunately we have seriously betrayed the trust placed on us and denied our mission and our responsibilities, particularly at Salesian College Sunbury. Today we say ‘sorry’ unconditionally and wholeheartedly to the victims and their families for the deep hurt our wrongdoing has caused. As a province community, we wish to apologise most sincerely and ask for their forgiveness.¹³⁷

Similarly, in June 2017, St Stanislaus College in Bathurst and the Congregation of the Mission hosted a public apology and 'Liturgy of Sorrow and Hope' to formally apologise to all former students who were sexually abused while at the school.¹³⁸ The Head of School, Dr Anne Wenham, was reported as saying, 'It is impossible for me to walk in the shoes of survivors, I can only listen and be sensitive to their response ... [and] hope that it leads to some form of healing'.¹³⁹ Dr Wenham told the *Western Advocate* that it was the school's intention that the apology and liturgy may offer 'one step' in the healing process for survivors as well as their family and friends.¹⁴⁰

In the lead-up to the apology and liturgy, the media reported criticisms by some survivors of the decision to stage the apology as part of a religious service. Ms Deirdre Kinghorn, the mother of survivor Mr Jason Thorpe, said they would have preferred an apology in a 'neutral, informal setting'.¹⁴¹ The mother of another survivor was reported in the media criticising the decision to stage an apology as a religious ceremony. She said it was 'astonishing' because 'a lot of the boys were abused in prayer meetings'.¹⁴² Some survivors and other members of the school community held a silent protest vigil rather than attend the apology and liturgy.¹⁴³

In addition, we heard about broader efforts to assist religious communities to understand and respond to the issue of child sexual abuse. For example, Ms O'Hearn, head of the Zimmerman Services Healing and Support team, gave such evidence as part of our *Catholic Church authorities in Maitland-Newcastle* case study. She said Zimmerman Services ran an Insights Program for the wider community to assist them in dealing with their response to the issues in the diocese in relation to child sexual abuse. We heard that Zimmerman Services held a number of community meetings to give people an opportunity to talk about the issue of child sexual abuse and the way they felt about it. It also ran training sessions on processes and developed a DVD of a survivor and the survivor's mother talking to allow people in the community to hear about the experience of survivors and their families.¹⁴⁴

Anglican Church

Ms Anne Hywood, General Secretary of General Synod of the Anglican Church, told us during our *Institutional review of Anglican Church institutions* hearing that in 2004 the General Synod publicly apologised, as one church, to those who had been sexually abused in the Anglican Church's care.¹⁴⁵ The Anglican Church apologised 'unreservedly' to those harmed by child sexual abuse that was perpetrated by people holding positions of power and trust in the Church. Members of the synod committed to listening to survivors and responding with compassion to all those harmed and to 'deal appropriately, transparently and fairly' with those accused of child sexual abuse.¹⁴⁶

We also heard evidence of special services for survivors conducted by individual Anglican dioceses. Anglican Bishop Dr Chris Jones, the Chief Executive Officer of Anglicare Tasmania and Chair of Anglicare Australia, gave evidence that the Anglican Church in Tasmania conducted two services with then Bishop of Tasmania, John Harrower, in 2004 in Hobart and Launceston.¹⁴⁷ The services were for people who had been sexually abused in the Anglican Church, the family or the community as well as their support persons.¹⁴⁸ Archbishop Davies of the Anglican Diocese of Sydney told us in his statement that at the diocesan level a 'Tears and Hope' service is held each year for survivors of child sexual abuse, hosted by a local parish in Sydney.¹⁴⁹ Since becoming archbishop, he told us that he has addressed the congregation in 2013, 2014, and 2015, offering an apology for the 'shameful' acts of church workers.¹⁵⁰

In our *Institutional review of Anglican Church institutions* hearing, the Diocese of Sydney provided us with the draft *Wayne Guthrie protocol* – a set of guidelines for responding to secondary victims who have experienced the premature death of a family member due to child sexual abuse.¹⁵¹ The protocol is named after Wayne Guthrie – a survivor of child sexual abuse and advocate who died prematurely and before he was able to give evidence in *Case Study 36: The response of the Church of England Boys' Society and the Anglican Dioceses of Tasmania, Adelaide, Brisbane and Sydney to allegations of child sexual abuse*.¹⁵² According to the draft protocol, a premature death is the death of a person before they reach the expected life age of 75. The protocol states that victims of child sexual abuse may die prematurely due to suicide, medical or social complications.¹⁵³ After the premature death of a survivor of child sexual abuse, the Professional Standards Unit of the Diocese of Sydney is to contact secondary victims, including family members, and seek their views about what they need.¹⁵⁴ If appropriate, the diocese is to offer support to secondary victims, including pastoral support, counselling and an apology.¹⁵⁵ Mr Lachlan Bryant, Director of Professional Standards for the Anglican Diocese of Sydney, told us that he hoped this protocol could assist them to have a more trauma-informed approach in such circumstances.¹⁵⁶

The Anglican Church also told us about initiatives directed towards parish communities affected by child sexual abuse. Bishop Gregory Thompson, former Bishop of the Diocese of Newcastle told us in our *Institutional review of Anglican Church institutions* hearing that one of the challenges the diocese faces is increasing an understanding of the nature of child sexual abuse, including helping communities understand the 'long-term, lived trauma' of those who have experienced child sexual abuse. He said that over the 18 months leading up to the public hearing the diocese trained parish recovery teams that help parishes come to terms with the idea that their former priest has been an offender.¹⁵⁷ The Diocese of Sydney refers to parish recovery teams in the *Wayne Guthrie protocol*.¹⁵⁸

The Salvation Army

During our *Institutional review of The Salvation Army* hearing, we received evidence about the extent to which The Salvation Army in Australia has publicly responded to survivors and affected communities.

We heard, for example, that in February 2015 representatives of The Salvation Army participated in the National Day of Prayer and Fasting at Parliament House in Canberra. At their request, a repentance segment was included in the day, during which then Southern Territory Territorial Commander, Commissioner James Condon, washed the feet of a survivor from the Gill Memorial Home for Boys.¹⁵⁹ In a media release relating to the event, Commissioner Condon was quoted:

We want to pray for those we have hurt. As an organisation, The Salvation Army is committed to ensuring no harm ever occurs again and has absolutely no tolerance for abuse of any kind. We understand that in the past we have breached the trust placed in us and we must seek to rebuild that broken trust.¹⁶⁰

Commissioner Tidd also stated that there was a national apology issued in 2010 to former residents of its children's homes who experienced abuse of any sort.¹⁶¹

We heard that the Eastern Territory approved the placing of a memorial plaque at each former children's home as a way of commemorating all those who entered the doors of a children's home run by The Salvation Army. Where The Salvation Army no longer owns the actual property or the site of a former children's home, a plaque is placed at the nearest facility.¹⁶²

We also received evidence that the Eastern Territory intends to develop a reflective space or memorial at one of its former children's homes. Lieutenant Colonel Christine Reid, Secretary for Personnel of the Eastern Territory, and Commissioner Tidd, in a joint statement, said they 'recognise that survivors wish to stop and reflect on their life. Providing a reflective space/ memorial will assist some survivors in their restoration journey'.¹⁶³

Lieutenant Colonel Reid and Commissioner Tidd also told us that senior Salvation Army representatives have attended annual reunions at the Riverview Training Farm for Boys (also known as Endeavour Training Farm) in Riverview, Queensland, organised each year by a survivor of child sexual abuse. They told us that they are committed to the ongoing support of reunions, noting that some survivors find them instrumental in their restoration journey.¹⁶⁴

Commissioner Tidd said in his statement tendered during *The Salvation Army children's homes, Australia Southern Territory* case study that Southern Territory representatives had publicly expressed apologies, shame and regret in relation to child sexual abuse in its homes.¹⁶⁵ Commissioner Tidd said in his statement that, while such apologies had been made, 'no apology can undo the wrong and erase the pain still felt by care leavers who suffered in a [Southern Territory] home'.¹⁶⁶

Jewish institutions

During our *Institutional review of Yeshiva/h* hearing, Mr Anton Block, the President of the Executive Council of Australian Jewry, told us that Tzedek, the Australian-based support and advocacy group for Jewish survivors of child sexual abuse, hosted a night of healing in March 2017. The night was supported by the Executive Council of Australian Jewry, the Rabbinical Council of Victoria, the Rabbinic Council of Australia and New Zealand and the Jewish Community Council of Victoria. The purpose of the evening was for communal leaders and survivors to speak and share their feelings.¹⁶⁷

The *Australian Jewish News* reported that during the event Rabbi Yaakov Glasman, President of the Rabbinic Council of Australia and New Zealand, told the audience:

The failure of the rabbis, collectively, or individually is a greater failure than any other communal leader ... The rabbis, more than anyone else, need to take stock ... and to understand the hurt that has been caused through their actions ... and inactions.¹⁶⁸

22.2 Civil litigation involving religious institutions

In Australia, the process for obtaining civil justice for personal injury is by an award of damages through civil litigation, usually by way of monetary payments in the form of compensatory damages.¹⁶⁹ There are a range of reasons a survivor may choose to bring civil proceedings against an institution as opposed to seeking a monetary payment through a specific redress scheme or process operated by that institution. In some cases, we heard survivors brought civil proceedings after feeling that a redress process run by a religious institution failed them.¹⁷⁰

In our *Redress and civil litigation* report we highlighted that, if survivors choose to pursue civil litigation, there are a number of challenges they may face, including that a financial outcome is far less certain and the process can be protracted and prove costly. Many of those who pursue civil litigation against a religious institution share challenges faced by those who pursue civil litigation against other institutions. Survivors of child sexual abuse in religious institutions can also face specific barriers due to the legal structure of some of those institutions.

In our *Redress and civil litigation* report, we focused on the topics of limitation periods, the duty of institutions, identifying a proper defendant and principles for managing litigation. We distilled these topics from what we had heard in private sessions, public hearings and our consultations.¹⁷¹ We considered that our recommendations for reform in these areas were most likely to improve the capacity of the civil litigation systems to provide justice to survivors. In this way, it may be possible to ensure that survivors have reasonable access to civil litigation as an avenue for justice that is comparable to that of other injured persons.¹⁷²

We have heard in both our case studies and consultations that limitation periods and proper defendant issues – sometimes referred to as technical legal defences – are prominent barriers for survivors who are attempting to bring civil claims against a religious institution. In a number of our case studies, we were critical of particular religious institutions and their reliance on technical legal defences. Our *Redress and civil litigation* report set out how these defences placed claimants at a disadvantage and discouraged survivors from commencing civil proceedings.¹⁷³

In this section, we canvass what we have heard about the steps taken by religious institutions since our *Redress and civil litigation* report in relation to civil litigation.

22.2.1 Addressing barriers to civil litigation against religious institutions

Limitation periods

Limitation periods are the time limits within which legal proceedings must be commenced. They are set out in legislation in each state or territory in Australia, sometimes referred to as the ‘statute of limitations’.¹⁷⁴ While state and territory legislation often allows limitation periods to run from a time later than when the sexual abuse itself occurred or to be extended by a court’s exercise of discretion, the existence of the periods still creates significant barriers for survivors.

Many survivors who consider pursuing civil litigation would already be well outside the basic limitation period for personal injury claims.¹⁷⁵ A number of survivors told us in private sessions that they have been given legal advice that they cannot commence civil litigation because of the relevant limitation period.¹⁷⁶ Some might have good grounds to support an application for an extension of time; however, many may be advised that their claims are too late.¹⁷⁷

As discussed in Part D, we have heard evidence that, in the past, religious institutions have often challenged survivors’ attempts to extend a limitation period. In our *Christian Brothers* case study, Mr Clifford Walsh, one of the survivors who had participated in civil action against the Christian Brothers in 1993, gave the following evidence:

What I couldn’t understand is how the Christian Brothers could raise a limitation defence. We were kids. It seemed to me that we couldn’t do anything about the abuse when it was happening, and by the time we were able as a group to do something about it, in particular being in the right mental state to do so, we were told it was too late. We were just being abused all over again.¹⁷⁸

During *The Salvation Army children's homes, Australia Southern Territory* case study we heard evidence that statute of limitation defences were pleaded in all proceedings involving the Southern Territory in South Australia and Victoria.¹⁷⁹ We heard that the Southern Territory never refused to resolve a claim that was outside the statute of limitations, but it relied on the statute of limitations defence in an attempt to defeat proceedings.¹⁸⁰ Ultimately, we found that, in relying on technical legal defences, the Southern Territory placed claimants at a disadvantage in that claimants may have been prepared to accept settlement offers that they would not have otherwise accepted.¹⁸¹

We concluded in our *Redress and civil litigation* report that the current limitation periods are inappropriate, given the length of time it takes for survivors to disclose the child sexual abuse.¹⁸² We recommended that state and territory governments introduce legislation to remove any limitation period, with retrospective effect, that applies to a claim for damages brought by a person, where that claim is founded on the personal injury of the person resulting from sexual abuse of the person in an institutional context when the person is or was a child.¹⁸³

During our institutional review hearings, some religious leaders gave evidence that they no longer raise the limitation period issue or object to an extension of time when a claim is brought against the institution. For example, the Catholic Archbishop of Sydney, Archbishop Anthony Fisher OP, gave evidence that, in responding to legal proceedings, the archdiocese 'has not, at least since the Ellis case, and will not, rely on limitation periods in defending legal proceedings'.¹⁸⁴

The Southern Territory also confirmed during *The Salvation Army children's home, Australia Southern Territory* case study that its current and future approach will be 'by reference to its own moral standards' and not by reliance on technical or inflexible legal precepts such as the statute of limitations, other than vicarious liability in exceptional circumstances.¹⁸⁵ The Eastern Territory told us that it does not rely on or enforce limitation periods in relation to survivors' claims, other than in exceptional circumstances.¹⁸⁶

The Archbishop of Brisbane and former primate of the Anglican Church of Australia, Archbishop Phillip Aspinall, told us about some of the difficulties the Anglican Diocese of Brisbane encountered when attempting to not rely on limitation periods for claims brought by survivors.¹⁸⁷ Archbishop Aspinall stated that insurers handling claims on behalf of the diocese had often relied on limitation periods, which presented a 'significant difficulty' for the diocese. The diocese did not want to see a survivor's claims denied by a technicality. On the other hand, he explained, should the diocese forgo the 'limitation defence', the insurers would not indemnify the diocese.¹⁸⁸

Archbishop Aspinall gave evidence that the diocese attempted to persuade and encourage insurers not to rely on any limitation defence but that the insurers refused to give a blanket assurance. Accordingly, the diocese decided to 'agitate' politically for a change in the law surrounding limitation periods.¹⁸⁹

The Catholic Archbishop of Brisbane, Archbishop Mark Coleridge, gave evidence in January 2016 that, in two litigated matters in which the archdiocese was then involved, the limitation period had been pleaded.¹⁹⁰ He said the archdiocese had not pleaded this in any other cases. He told us that before it was pleaded in those two matters the archdiocese made a judgment that the lapse of time had a burdensome effect on the archdiocese. Archbishop Coleridge said this was because of the particular circumstances of the cases – exemplary or punitive damages were being sought based on allegations that a deceased archbishop had knowledge of the child sexual abuse.¹⁹¹ The archdiocese came to the view that the delay meant that a fair trial of those particular factual matters may not have been possible. He said it seems ‘most unlikely’ it would make such a pleading in future.¹⁹²

We heard about state and territory government responses to our *Redress and civil litigation* report during *Case Study 51: Institutional review of Commonwealth, state and territory governments (Institutional review of Commonwealth, state and territory governments)*, held in March 2017. We heard that New South Wales, Victoria, Queensland and the Australian Capital Territory have enacted legislation that gives effect to the Royal Commission’s recommendations in relation to limitation periods.¹⁹³ In New South Wales and Victoria the amendments made to the statute of limitations go beyond the recommendations of the Royal Commission. We understood from the hearing that Tasmania was in the process of drafting a bill that would give effect to the Royal Commission’s recommendations and that the Northern Territory had approved the preparation of a bill to that effect.¹⁹⁴ The Northern Territory has since enacted legislation.¹⁹⁵ Western Australia told us it was committed to introducing laws to give effect to our recommendations on limitation periods.¹⁹⁶ At the time of the hearing, South Australia said it had not acted in relation to the issue.¹⁹⁷ Further information on state and territory responses with respect to limitation periods is available in Volume 17, *Beyond the Royal Commission*.

Identifying a proper defendant

As noted above, identifying a proper defendant against whom to commence civil action can present as a significant issue for survivors of abuse in religious institutions.¹⁹⁸

Many religious institutions exist as unincorporated associations and therefore have no legal personality that is able to be sued.¹⁹⁹ In relation to the Catholic Church, for example, the Truth, Justice and Healing Council (the Council) has noted that:

under Australian law, a church or a diocese is generally treated as a voluntary or unincorporated association. They are not entities which can be sued under the civil law. Action could perhaps be brought against the relevant bishop or religious leader (or other person in some position of managerial or other control over an accused at the time of the events in question) personally, but only if the bishop or religious leader or other person were still alive. Any successor to such a person bears no personal legal responsibility for acts done or not done by his predecessors.²⁰⁰

Another problem is that the assets of religious institutions can be bound up in trusts. The trust may have no relation to the abuse by which it could be made liable. This point specifically arose in *Trustees of the Roman Catholic Church for the Archdiocese of Sydney v Ellis*.²⁰¹ In that case, the Supreme Court of New South Wales held that trustees of the Catholic Church for the Archdiocese of Sydney could not be vicariously liable for the child sexual abuse of Mr John Ellis because:

- the legislation establishing the trustees as a corporate entity gave the trustees only a limited role in holding property, with no responsibility for ecclesiastical, liturgical and pastoral activities²⁰²
- as a matter of fact, the trustees played no role in the appointment or oversight of priests at the relevant times.²⁰³

In addition to the above, even where a religious institution is incorporated at the time of the child sexual abuse, they may have been subsequently deregistered or wound up or they may exist but have no assets to meet a claim.

We explored issues relating to identifying a proper defendant for civil action against religious institutions in a number of case studies. Our discussion of those case studies is set out in our *Redress and civil litigation* report.²⁰⁴ We explore the issues as they relate to the Catholic Church in Section 13.9.

In our *Redress and civil litigation* report, we concluded that the difficulties for survivors in identifying a correct defendant when they are commencing litigation against unincorporated religious institutions should be addressed.²⁰⁵ We recommended that state and territory governments should introduce legislation to provide that, where a survivor wishes to commence proceedings for damages in respect of institutional child sexual abuse where the institution is alleged to be an institution with which a property trust is associated, then unless the institution nominates a proper defendant to sue that has sufficient assets to meet any liability arising from the proceedings, the property trust is a proper defendant to the litigation.²⁰⁶ We also recommended that institutions adopt model litigant guidelines that should include an obligation to provide assistance to claimants to identify a proper defendant.²⁰⁷ Model litigant guidelines are discussed further in Section 22.2.2 below.

During our institutional review hearings, some religious leaders told us that they now assist survivors or their lawyers by nominating an appropriate defendant when those institutions are presented with a claim for child sexual abuse.

The Council has told us that, in the Catholic Church, a single solution to the issue of identifying a proper defendant is not possible, 'as the civil law existence of church authorities is generally covered by State or Territory laws'.²⁰⁸ However, the Council's *Guidelines for Church authorities in responding to civil claims for child sexual abuse* (Council civil claims guidelines), which were prepared to help Catholic Church authorities properly respond to civil claims, include

a commitment by the Catholic Church to ‘assist a claimant identify the correct defendant to respond to legal proceedings’.²⁰⁹ The *Council civil claims guidelines* are discussed further below.

A number of bishops in the Catholic Church, including Archbishop Denis Hart of the Archdiocese of Melbourne and the Bishop of Ballarat, Bishop Paul Bird, told us they have made themselves available as the defendant in civil proceedings.²¹⁰ Bishop Bird also told us that, for child sexual abuse claims dating back to the 1960s, he has agreed to put himself forward as a defendant and as a stand-in for his predecessors, Bishop James O’Collins and Bishop Ronald Mulkearns.²¹¹ The Archdiocese of Brisbane gave evidence that they will nominate the trustees of their particular authority as the proper defendant in civil claims.²¹²

Some Catholic Church authorities told us during our *Institutional review of Catholic Church authorities* hearing that they are yet to make firm decisions regarding the question of identifying a defendant against which proceedings may be brought. For example, Archbishop Prowse, told us the archdiocese is ‘considering various options, including the establishment of a new trust with sufficient assets to meet liability for claims’ for the Archdiocese of Canberra and Goulburn.²¹³ Similarly, the Archbishop of Sydney, Archbishop Fisher, told us the archdiocese has ‘considered various options for ensuring that there is an appropriate legal entity for claimants to sue, including establishing the office of the Archbishop as a corporation sole’.²¹⁴ As the Archdiocese of Sydney is still exploring the options, Archbishop Fisher has advised that ‘claims in relation to priests may be brought against the Estate of the Archbishop at the time of the alleged offence, and that in the absence of insurance, the Archdiocese will indemnify that Estate’.²¹⁵

The Salvation Army Southern Territory pleaded the defence arising from *Trustees of the Roman Catholic Church for the Archdiocese of Sydney v Ellis* (explained above) between 2008 and 2010, but told us during *The Salvation Army children’s homes, Australia Southern Territory* case study that it will no longer rely on the defence.²¹⁶ The Eastern Territory adopted the same position. The position of both territories was affirmed during our *Institutional review of The Salvation Army* hearing.²¹⁷

During our *Institutional review of Anglican Church institutions* hearing, we received evidence that some Anglican dioceses, particularly in Victoria, have taken steps to incorporate as legal entities.²¹⁸ In part, this was to overcome any room for the dioceses to plead the defence arising from *Trustees of the Roman Catholic Church for the Archdiocese of Sydney v Ellis* in the event a survivor brought a civil claim against those dioceses.²¹⁹ We heard that, as a matter of practice in the Anglican Church, where a diocese is an unincorporated body and there have been claims of child sexual abuse, the diocese has sought to put forward a proper defendant to respond.²²⁰

During our *Institutional review of Commonwealth, state and territory governments* hearing, we heard that, as of March 2017, no state or territory had implemented reforms as a result of our recommendation with respect to identifying a proper defendant. Several told us they had commenced but not concluded consultations on the issue, or were planning consultations.²²¹ Others told us they would consider the outcome of reform work undertaken in other jurisdictions²²² or had not yet decided on a response.²²³ Victoria passed legislation,

which commenced on 1 July 2017, confirming the ability of an organisation to nominate an ‘appropriate’ defendant where it is not itself capable of being sued.²²⁴ Further information about state and territory responses to our recommendation regarding identifying a proper defendant is available in Volume 17, *Beyond the Royal Commission*.

22.2.2 Model litigant guidelines for claims of child sexual abuse

Case study 11 reminded the Brothers that a defensive litigious approach is not an appropriate manner in which to deal with disclosure of historical child sexual abuse.²²⁵

**Brother Peter Clinch, Province Leader,
Oceania Province of the Christian Brothers Congregation**

In our *Redress and civil litigation* report, we recommended that both government and non-government institutions that receive, or expect to receive, civil claims for institutional child sexual abuse adopt their own set of guidelines for responding to claims for compensation for allegations of child sexual abuse. Those guidelines should be designed to minimise potential re-traumatisation and unnecessarily adversarial responses.²²⁶

In that report, we set out what we heard about the approach of institutions in defending civil litigation involving child sexual abuse.²²⁷ We heard evidence of litigation being handled by lawyers of institutions in an overly adversarial manner with little sensitivity to the potential re-traumatising effect of litigation.²²⁸ We received evidence from a number of defendants and their representatives to the effect that they now consider the litigation they were involved in should have been handled differently. For example, in *Case Study 8: Mr John Ellis’s experience of the Towards Healing process and civil litigation*, Cardinal George Pell gave the following evidence:

The legal battle was hard fought, perhaps too well fought by our legal representatives who won a significant legal victory. I would now say, looking back, that these legal measures, although effective, were disproportionate to the objective and to the psychological state of Mr Ellis as I now better understand it.²²⁹

During our institutional review hearings, we heard that, since the release of our *Redress and civil litigation* report, a number have developed or adopted model litigation guidelines consistent with our recommendation.

As noted above, the Council published a set of guidelines in November 2015 on how Catholic Church authorities should respond when claims of child sexual abuse are brought against them. The *Council civil claims guidelines* commenced on 1 January 2016 and were designed to ‘promote justice and consistency’ in the way that the Catholic Church handles child sexual abuse claims and conducts litigation.²³⁰

The guidelines cover issues such as:²³¹

- providing records, making an early assessment of potential liability, keeping costs down and paying legitimate claims without litigation
- being mindful of the potentially traumatic experience for claimants during litigation and trying to avoid legal proceedings wherever possible
- apologising if the Catholic Church authority is aware that it or its representatives have acted improperly.

During the *Institutional review of Anglican Church institutions* public hearing, we heard that, with the exception of the Diocese of Wangaratta, Anglican Church authorities have not developed or adopted any model litigant guidelines. Mr Garth Blake SC, Chair of the Anglican Professional Standards Commission and Chair of the Royal Commission Working Group, accepted the utility of such guidelines and told us it is something the Anglican Church could do.²³²

During our *Institutional review of Uniting Church in Australia* hearing, we heard that the Uniting Church, at a national level, has developed principles for responding to civil claims for institutional child sexual abuse that follow those set out in the *Redress and civil litigation* report. The principles were agreed to and endorsed by its synods.²³³ We heard that during recent litigation in New South Wales, the principles were provided to their solicitors and to counsel, and counsel advised the court in those proceedings that the model litigant approach would be followed.²³⁴

During our *Institutional review of Australian Christian Churches* hearing, a representative of Hillsong Church told us that it does not currently have a model litigant policy, but Hillsong Church would consider it as part of its overall approach to redress once a national scheme is operational.²³⁵

The introduction or adoption of model litigation guidelines for responding to claims of child sexual abuse by some religious institutions is a positive step forward. As discussed in our *Redress and civil litigation* report, such guidelines can result in a more sensitive handling of claims, with more focus on the merits of the claim; an increased chance of early resolution; access to information about services and supports; and less reliance on limitation periods and other procedural requirements.²³⁶ Given the potential positive outcomes for both survivors and institutions, those religious institutions that do not yet have such guidelines should give consideration to developing and implementing them.

We discuss the extent to which state and territory governments have implemented our recommendations with respect to model litigant approaches in Volume 17, *Beyond the Royal Commission*.

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23 Recordkeeping and information sharing in religious institutions

This chapter considers what measures would improve recordkeeping and information sharing by religious institutions that care for or provide services to children.

Appropriate recordkeeping practices are critical for identifying, preventing and responding to child sexual abuse. Records are also important in alleviating the impact of child sexual abuse on survivors. Our case studies highlighted instances where religious institutions failed to adequately create and maintain records of child sexual abuse, which contributed to delays in or failures to identify and respond to risks and incidents of child sexual abuse. In some cases, religious institutions have withheld or failed to provide adequate access to records, exacerbating distress and trauma for many survivors.

Information sharing between institutions with responsibilities for children's safety and wellbeing is also critical to identify, prevent and respond to child sexual abuse. Our case studies have demonstrated instances where information on complaints of child sexual abuse against personnel in religious institutions was not shared with the appropriate individuals within and outside the institution, or the information that was shared was not provided in a timely or effective manner.

Problems with records and information sharing are not confined to the past. Current practices of religious institutions can be improved to better protect children and meet the needs of survivors.

In Volume 8, *Recordkeeping and information sharing*, we make a number of recommendations about improving recordkeeping and information sharing in institutions that care for and provide services to children. In this chapter, we build on the work in that volume and consider specific issues relevant to religious institutions.

23.1 Recordkeeping in religious institutions

In Volume 8, *Recordkeeping and information sharing*, we consider how to improve the recordkeeping practices of institutions that care for or provide services to children. The creation of accurate records and the exercise of good recordkeeping practices play a critical role in identifying, preventing and responding to child sexual abuse.

Our case studies have highlighted a number of failures in relation to recordkeeping and access to records in religious institutions, including:

- no records being created¹
- records having incomplete, inaccurate or insensitive content²
- records being improperly maintained, including through inappropriate indexing and storage³

- records being lost or misplaced⁴
- records being destroyed⁵
- records being unavailable, refused or minimal when sought by care leavers.⁶

In Chapter 19, ‘Common institutional responses and contributing factors across religious institutions’, we discuss the factors that may have enabled child sexual abuse and contributed to inadequate responses by religious institutions. We suggest that in responding to child sexual abuse, some religious institutions were motivated by a desire to protect the reputations of both the perpetrator and the institution. This factor may have also contributed to failures to create and adequately maintain records.

In Volume 8, *Recordkeeping and information sharing*, we note that poor records and recordkeeping practices can have an impact on survivors as well as on institutional conduct and accountability. Poor records can inhibit good governance; contribute to inconsistent practices and a loss of organisational memory; hinder the identification of perpetrators, victims and survivors; delay or obstruct responses to risks, allegations and instances of child sexual abuse; and prevent or frustrate disciplinary action, claims for redress, civil litigation and criminal proceedings.

In this section, we consider existing recordkeeping obligations for religious institutions. We then outline five high-level principles developed by the Royal Commission, which supplement our Child Safe Standards (see Volume 6, *Making institutions child safe*) and promote best practice in records and recordkeeping. Finally, we discuss how approaches, policies and procedures in religious institutions could be strengthened with reference to our principles on recordkeeping.

23.1.1 Existing recordkeeping obligations for religious institutions

Over the past three decades, every Australian jurisdiction has enacted laws with respect to the creation, management and retention of records created by or for government agencies and public bodies (referred to as ‘public records legislation’).⁷ In contrast, non-government bodies, including religious institutions, are subject to very few recordkeeping requirements, particularly in relation to child safety.

As discussed in Chapter 20, ‘Making religious institutions child safe’, some states have implemented mandatory child safe approaches that generally apply to all institutions providing services to children, including religious institutions. These approaches set obligations on those institutions regarding records that relate to child safety and wellbeing. The obligations, however, vary.

In 2016, Victoria legislated child safe standards for institutions that provide services for children.⁸ Standard 1 of the Victorian Child Safe Standards is 'Strategies to embed an organisational culture of child safety, including through effective leadership arrangements'. Institutions can implement this standard, in part, by demonstrating 'adequate record keeping of child safety issues and responses of any incidents'.⁹ Appropriate recordkeeping and secure storage of records are also indicators of Standard 5, 'Processes for responding to and reporting suspected child abuse', and Standard 6, 'Strategies to identify and reduce or remove the risk of abuse'.¹⁰

Similarly, Queensland has legislated that institutions falling under its Working With Children Check arrangements (the blue card system) must implement child and youth risk management strategies that address eight minimum requirements. Some recordkeeping obligations are included in these requirements. For example, institutions are required to have policies and procedures for handling disclosures and suspicions of harm and for recording and managing breaches of policies and procedures. Institutions are also required to establish and maintain employee and blue card registers.¹¹

South Australia has established principles of good practice for creating a child safe environment, including Principle 7 on reporting and responding appropriately to suspected abuse and neglect. Institutions are required to have systems for recording information to ensure implementation of and compliance with Principle 7.¹²

Other recordkeeping obligations are specific in application to particular types of institutions – for example, state and territory legislation that outlines recordkeeping obligations in schools.¹³ In some cases, non-government institutions are under the same obligations as their government counterparts (for example, all schools must create records relevant to student enrolments and attendance). However, this is unlikely to extend to allegations of child sexual abuse. In any event, they are generally not subject to the same obligations concerning maintenance and disposal as their government counterparts.¹⁴

Some recordkeeping obligations apply generally and are not directed specifically to documenting risks, allegations or incidents concerning children. For example, the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) (the Charities Act) sets out recordkeeping obligations for registered entities under the Act. Under the Charities Act, a registered entity must keep written records that correctly record its operations so that any recognised assessment activity can be carried out in relation to the entity. Records must be retained for seven years after the transaction, operations or acts covered by the record are completed.¹⁵ Some religious institutions, as registered entities under the Charities Act, must comply with these recordkeeping requirements.

Religious institutions that fall under the *Privacy Act 1988* (Cth) have obligations to provide individuals access to personal information. Under the Australian Privacy Principles (APPs), subject to limited exceptions, an APP entity must give an individual access to any personal information that the APP entity holds about them where requested.¹⁶ An individual can also request that APP entities amend records they hold that contain the individual's personal information where that information is inaccurate, out of date, incomplete, irrelevant or misleading.¹⁷ Access and amendment requests are to be free of charge, but APP entities can impose a charge that is 'not excessive' for processing access requests.¹⁸

23.1.2 The records and recordkeeping principles

In Volume 8, *Recordkeeping and information sharing*, we recommend that all institutions that engage in child-related work, including religious institutions, should implement five high-level principles (records and recordkeeping principles) for records and recordkeeping (see Recommendation 8.4, set out in Appendix A of this volume).

The records and recordkeeping principles are intended to promote best practice and have been shaped to provide flexibility, in recognition of the fact that the institutions within our Terms of Reference vary considerably in size, function, responsibility, funding, resources and regulation. The principles are intended to complement the existing recordkeeping obligations that institutions have and to be adaptable to the different circumstances that institutions face.

The records and recordkeeping principles are supplementary to our recommended Child Safe Standards – in particular, Standard 1, which provides that 'Child safety is embedded in institutional leadership, governance and culture'. As an element of Standard 1, staff and volunteers are to understand their obligations on information sharing and recordkeeping.

The records and recordkeeping principles are:

Principle 1: Creating and keeping full and accurate records relevant to child safety and wellbeing, including child sexual abuse, is in the best interests of children and should be an integral part of institutional leadership, governance and culture.

Principle 2: Full and accurate records should be created about all incidents, responses and decisions affecting child safety and wellbeing, including child sexual abuse.

Principle 3: Records relevant to child safety and wellbeing, including child sexual abuse, should be maintained appropriately.

Principle 4: Records relevant to child safety and wellbeing, including child sexual abuse, should only be disposed of in accordance with law or policy.

Principle 5: Individuals' existing rights to access, amend or annotate records about themselves should be recognised to the fullest extent.

In Volume 6, *Making institutions child safe*, we recommend that the Child Safe Standards should be mandatory for all institutions that engage in child-related work, including religious institutions. We also recommend that the standards should be monitored and enforced by independent oversight bodies in each state and territory. This would include assisting institutions to build their capacity on how they can implement the principles.

In Volume 8, *Recordkeeping and information sharing*, we also make a recommendation regarding document retention. Specifically, we recommend that, in order to allow for delayed disclosure of abuse by victims and to take account of limitation periods for civil actions for child sexual abuse, institutions that engage in child-related work should retain, for at least 45 years, records relating to child sexual abuse that has occurred or is alleged to have occurred. This minimum period of retention also takes into account the fact that retaining large volumes of records for extended periods may be difficult for some institutions (for example, those with limited resources, small staff numbers or limited physical storage space). (See Recommendation 8.1, set out in Appendix A.)

23.1.3 Improving recordkeeping in religious institutions

During our institutional review hearings, we received evidence about current approaches to recordkeeping in religious institutions, including various policies and procedures. In this section, we outline our review of those policies and procedures and set out how approaches, policies and procedures can be strengthened with reference to our records and recordkeeping principles.

We refer to recordkeeping in terms of the stages that occur over the life of a record: creation, maintenance and disposal. We also examine ways to improve survivors' access to institutional records about their childhood, including their experience of sexual abuse and how the relevant institutions responded to that abuse. The issue of appropriate access to records has arisen specifically in relation to religious institutions, given their historic role in providing residential care for children in particular homes.

Recordkeeping as an integral part of institutional leadership, governance and culture

Records and recordkeeping principle 1 states that creating and keeping full and accurate records relevant to child safety and wellbeing, including child sexual abuse, is in the best interests of children and should be an integral part of institutional leadership, governance and culture. This means that recordkeeping obligations should be embedded in policy and at all levels of leadership and governance. Leaders and staff should have a clear understanding of the purpose and value of good recordkeeping and be supported by adequate training and resources.

Our case studies have highlighted that religious institutions did not always have policies on or adopted a practice of recordkeeping.¹⁹

During our institutional review hearings, a number of religious institutions provided us with their policies and procedures relating to child safety, some of which set out their obligations in relation to records and recordkeeping.

A majority of the policies we examined included at least some reference to recordkeeping obligations for people in ministry, employees and volunteers in the institution. However, there was significant variance in how those policies were set out. Obligations were sometimes inserted into national codes of conduct and overarching child protection policies.²⁰ They also appeared in policies and procedures covering complaint handling, selection and training of people in religious ministry, human resource management, and documents relating to the participation of children in particular activities.²¹ These obligations were not always integrated into policies and procedures.

Some religious institutions, such as Hillsong Church, The Salvation Army Eastern Territory and the Catholic Diocese of Wagga Wagga, have adopted specific recordkeeping and file management protocols. They also highlight obligations in other relevant policies and procedures where those obligations are relevant to specific topics covered by the policies and procedures.²²

The benefit of these types of overarching recordkeeping and file management policies is that they can assist staff to understand the importance of adequate recordkeeping with respect to child safety and build a culture that is supportive of good recordkeeping. For example, the Hillsong Church explains in its policy that good recordkeeping assists in 'improving accountability and promotes decision-making'.²³ The Catholic Diocese of Wagga Wagga states in its recordkeeping protocol that accurate records can contribute to 'better outcomes in complaints handling, redress and criminal proceedings'.²⁴

The Marist Brothers have developed a set of principle-based obligations with respect to child safety that are designed to be applied by each Marist ministry across Australia. Marist Standard 2, 'Strategies to embed a child protection culture', expressly links a child safe culture with good recordkeeping. Marist ministries can provide evidence of meeting this standard if, among other things, they 'maintain adequate records of child protection issues and responses to child protection incidents'.²⁵

For recordkeeping to form an integral part of an institution's leadership, governance and culture, recordkeeping obligations should be reflected in all significant organisational policies, including primary child protection policies, codes of conduct and procedures for complaint handling, and human resource management. In larger institutions, specific recordkeeping and file management policies are beneficial, as they can provide overall clarity and understanding for staff and volunteers about all aspects of their recordkeeping obligations.

Recordkeeping policies should also clearly identify that all personnel have certain recordkeeping obligations. Policies and training in religious institutions should outline to personnel the rationale and value of recordkeeping to encourage a culture that is supportive of good recordkeeping.

Creation of records

Records and recordkeeping principle 2 recommends that full and accurate records be created about all incidents, responses and decisions affecting child safety and wellbeing, including child sexual abuse. This means that records created by institutions should be clear, objective and thorough. Institutions should ensure that records are created to document any identified incidents of grooming, inappropriate behaviour (including breaches of institutional codes of conduct), and child sexual abuse and all responses to such incidents.

Principle 2 highlights that records should be created at, or as close as possible to, the time that the documented incidents occur, and they should clearly indicate the author of the record (whether individual or institutional) and the date created.

In our case studies, we heard evidence of religious institutions failing to create records of allegations and responses to child sexual abuse within their institutions. This included failures by people in leadership positions to adequately document the receipt of and response to allegations.²⁶

Most of the religious institutions we examined as part of our institutional review hearings include in their policies and procedures obligations to create records about all incidents and responses to child sexual abuse.²⁷ Notably, the Uniting Church in Australia sets standards at a national level with respect to record creation. It requires all councils, institutions and individuals to keep consistent, full, accurate and up-to-date records that clearly document all incidents

and actions taken.²⁸ In its procedures for responding to complaints, the Catholic Diocese of Wagga Wagga advises personnel to record ‘immediately anything that you are told or that you observe’ and include the date, time and parties involved.²⁹ Yeshiva College Bondi suggests that personnel make a full record of events, chronologically and as soon as time permits.³⁰ Hillsong Church provides some helpful guidance around what should be included in a record about an incident, including by instructing personnel creating records to avoid ‘subjective language’.³¹ In its investigation procedure for responding to complaints of child sexual abuse, the Catholic Archdiocese of Canberra and Goulburn outlines recordkeeping obligations at critical stages of the process, including when and in what form records should be created.³²

We also received evidence that some religious institutions provide personnel with forms and templates for recording different types of allegations, such as those that come under mandatory reporting obligations, professional misconduct, and minor inappropriate behaviour.³³ Templates for recording information are useful, serving as both a prompt to create records and a reminder of what information should be obtained and recorded.

Some religious institutions establish record creation obligations in other key areas that affect child safety and welfare, such as human resource management and child participation. For example, at the national level, the Catholic Church lays out record creation obligations in relation to seminarians’ applications, written reports assessing seminarians’ progress and advice regarding their eventual parish appointments.³⁴ The Salvation Army Eastern Territory requires information about a worker’s Working With Children Check, training, acknowledgement of policies, and referee endorsement to be recorded.³⁵

In Volume 8, *Recordkeeping and information sharing*, we state that obligations to create records should identify the required qualities of those records. That is, records created should:

- be clear, objective and thorough and should be created as close in time to the incident as possible
- identify all incidents, including cases of grooming, inappropriate behaviour and breaches of institutional codes of conduct and all decisions and responses to such incidents
- identify the author and date of the record.

We consider that the policies of individual religious institutions should include clear obligations that full and accurate records must be created about all incidents, responses and decisions affecting child safety and wellbeing, including child sexual abuse. Explicit identification of this obligation and its implementation can help overcome some of the past failures in recordkeeping we heard about in religious institutions.

Setting record creation obligations in other key areas that can affect child safety and welfare, such as human resource management and child participation, is also good practice.

Maintenance of records

Our records and recordkeeping principle 3 states that records relevant to child safety and wellbeing, including child sexual abuse, should be maintained appropriately. This means, at a minimum, that records should be up to date and complete. Associated records should be collated or cross-referenced to ensure that persons using those records are aware of all relevant information. Institutions should ensure their records are indexed in a logical and secure manner that facilitates easy location and retrieval and that records are preserved in a suitable physical or digital environment that ensures they are not subject to degradation, loss, alteration or corruption.

In our case studies, we heard evidence that some religious institutions failed to appropriately maintain records. Records relevant to child sexual abuse were incomplete or lost.³⁶ Records about allegations and complaints of child sexual abuse were kept separate from personnel files and without cross-reference, which impeded appropriate responses to incidents of child sexual abuse.³⁷

Most of the religious institutions that we heard from in our institutional review hearings have obligations in their policies for employees to appropriately maintain records.

In terms of minimum requirements for maintenance of records, some religious institutions direct personnel to keep records on child welfare and safety up to date and complete.³⁸ Others go further by explicitly identifying each document type that should be included in order to form a complete file. The Catholic Archdiocese of Canberra and Goulburn, for example, specifically lists all the documents to be included in the investigation record, including the original allegation, copies of notifications made to statutory authorities, an investigation plan, an investigation report, records of evidence and copies of findings.³⁹ Hillsong Church also explicitly identifies in its recordkeeping procedure the records that should be kept in the case of each investigation, allegation or incident of harm.⁴⁰

Notably, The Salvation Army Eastern Territory uses an audit process to ensure its files are maintained appropriately. It requires client files to be reviewed every six months to ensure that case notes are complete and current and that entries in files are appropriate.⁴¹

As we set out above, some religious institutions direct personnel to use templates to record information relating to child safety. Explicitly identifying records that should be included in files and providing personnel with templates can also help to ensure the completeness of files.

The religious institutions we examined during our institutional review hearings commonly require records relating to child safety to be maintained in a secure manner, often in a locked cabinet.⁴² However, not all go beyond a general statement in their policies that records must be kept secure and confidential.⁴³ Of those that do, the Catholic Archdiocese of Adelaide provides detailed and practical guidance to staff on the security of records, including that files are not to be left unattended or accessible by unauthorised persons.⁴⁴ Hillsong Church gives directions about securely storing and sending records electronically.⁴⁵ In the Catholic Archdiocese of Canberra and Goulbourn, staff are required to keep an access log for their investigation files. Their investigation procedure states that ‘any person accessing an investigation record should record their activity in the investigation record’s access log that records the person’s identity, date of access and rationale for access’.⁴⁶

In Volume 8, *Recordkeeping and information sharing*, as part of records and recordkeeping principle 3, we state that associated records should be collated or cross-referenced to ensure that people using those records are aware of all relevant information. A number of the religious institutions we examined create guidelines for keeping records relating to allegations of child sexual abuse separate from other files such as personnel and student files. However, not all guidelines explicitly identify whether files should be cross-referenced to ensure someone accessing the file can identify associated material.⁴⁷

Volume 8 details that the maintenance of records requires them to be indexed in a logical manner that facilitates easy location, retrieval and association of related information. In addition, records should be preserved in a suitable physical or digital environment that ensures the records are not subject to degradation, loss, alteration or corruption.

During our institutional review hearings, some religious institutions advised us that they operate registers and databases for recording information about complaints of child sexual abuse.⁴⁸ For example, the Anglican Diocese of Melbourne requires its Office of Professional Standards to keep a register of all complaints made. The register must be kept in a safe and secure place, separate from other records, and must include the names of the complainant and the respondent, the history of the matter and the outcome.⁴⁹

In *Case Study 13: The response of the Marist Brothers to allegations of child sexual abuse against Brothers Kostka Chute and Gregory Sutton (Marist Brothers)*, we discussed the failure of the Marist Brothers to make written records of complaints, and the effect this had on their ability to monitor accused Brothers.⁵⁰ In *Case Study 50: Institutional review of Catholic Church authorities (Institutional review of Catholic Church authorities)*, Brother Peter Carroll, Provincial of the Marist Brothers in Australia, stated that, since that case study, the Marist Brothers have undertaken the recording and digitising of their records, establishing a database ‘so that material is available very quickly’.⁵¹

The Uniting Church in Australia told us that all complaints and allegations are referred to the relevant synod ‘to centralise our recordkeeping and our management of this information’. According to the Uniting Church, this allows the General Secretary to identify trends and patterns occurring across the synod.⁵²

Both the Catholic Church and the Anglican Church told us about their national registers that facilitate the screening of clergy and other personnel. We discuss these two registers in detail later in this chapter.

The Salvation Army Southern Territory told us it maintains secure online databases that hold relevant information about its staff. The Safety Management Online System for people working in ministry and the Volunteer Management System for other personnel contain information about Working With Children Checks, screening, induction and acknowledgements of codes of conduct.⁵³ Yeshiva College Bondi maintains an induction register for persons within the college that records their role, qualifications, receipt of induction documents and provider, and nature of their induction training.⁵⁴ Further, the Catholic Diocese of Darwin states that its Church leaders will maintain a register of personnel participation in training, while the Catholic Archdiocese of Brisbane maintains a Positive Notice Blue Card and Volunteer Register.⁵⁵

These types of administrative arrangements for collating and storing information can help personnel meet records and recordkeeping principle 3. Registers and databases can aid religious institutions to store information in a logical and secure but accessible way.

Disposal of records

Our records and recordkeeping principle 4 is that records relevant to child safety and wellbeing, including child sexual abuse, should be disposed of only in accordance with law or policy.

Defining exactly what records are relevant, or may become relevant, to incidents or alleged incidents of child sexual abuse is not simple and will depend on the nature of the institution and the records it holds.

In our view, institutions should ensure that records relating to child sexual abuse that has occurred or is alleged to have occurred are retained for at least 45 years.⁵⁶ These records include those relating to individual children and particular incidents or actions, such as:

- in the event of an allegation being made, records containing information about the whereabouts of workers
- records documenting actions taken to address allegations and cases of sexual abuse of children and related matters
- records documenting support to and remedial action for individuals.

There are also other categories of records that relate to the operations and procedures of institutions generally that are not necessarily relevant to child sexual abuse, but it is reasonable to expect that they may become relevant to an actual or alleged incident of child sexual abuse. These include:

- records related to the care and supervision of people under the age of 18 where workers (staff, contractors, volunteers and outsourced service providers) are in contact with children
- records documenting the provision of community services and programs to clients under the age of 18
- information that directs or sets requirements for protection of children from sexual abuse, including policies for programs involving children
- records of children and their care where workers are in contact with children involved in residential programs.

Where records in these other categories become relevant to an incident of child sexual abuse, they should become subject to the 45-year minimum retention period.

Our recommendation with respect to the minimum period of document retention takes account of the delayed disclosure of abuse by many victims and limitation periods for civil actions for child sexual abuse. We balance this with the consideration that retaining large volumes of records for extended periods may be difficult for some institutions that are small and have limited resources.

In our case studies relating to religious institutions, we heard evidence of records on child sexual abuse being destroyed. For example, in one case study, we heard that a former provincial of the Christian Brothers destroyed relevant records before a new province leader took over. The effect was that information about offending by a particular religious brother was not available to relevant people within the Christian Brothers.⁵⁷

Our review of recordkeeping policies received as part of our institutional review hearings suggests that very few religious institutions provide guidelines in their policies about the disposal of records relevant to child safety and welfare.

However, of those religious institutions that do provide guidelines, a number state they permanently retain records relating to complaints of child sexual abuse. For example, the Catholic Archbishop of Adelaide, Archbishop Philip Wilson, told us that since *Case Study 9: The responses of the Catholic Archdiocese of Adelaide, and the South Australian Police, to allegations of child sexual abuse at St Ann's Special School*, the archdiocese has retained records of incidents (including follow-up) indefinitely.⁵⁸

Similarly, the Marist Brothers' child protection policy requires reports of child sexual abuse to be retained indefinitely at the office of the Executive Director of Marist Ministries.⁵⁹ The Salvation Army Eastern Territory specifically provides that client files held at its Centre for Restoration will be securely stored indefinitely.⁶⁰ The Anglican Diocese of Melbourne states that all selection documents for lay parish church workers, including those related to unsuccessful applications for high-risk ministry positions, must be kept indefinitely in a secure location with restricted access.⁶¹

Other religious institutions set specific periods for document retention. Hillsong Church tells personnel that the period of record retention should be as required by legislation but not less than 30 years. Hillsong Church's standard operating procedure with respect to recordkeeping states that, prior to destroying records, its Safe Church Office should ensure that the records are no longer needed for any current or ongoing matters related to the allegation.⁶² We consider this requirement a prudent safeguard for ensuring that pertinent information is not destroyed.

As part of its submission to our *Consultation paper: Records and recordkeeping practices*, the Truth, Justice and Healing Council (the Council) told us that 'Records relevant to child sexual assault, as with other elements of a record, should be held for a period of not less than 100 years'.⁶³ The Council also stated that, if records are destroyed, organisations should keep a detailed record of the nature of the information contained in the record that was destroyed. The registers should include a destruction date and the legislation or organisational policy under which the records were destroyed.⁶⁴ As noted above, policies we received from some Catholic Church authorities suggest that records of complaints will be held indefinitely.⁶⁵

Very few policies we received as part of our institutional review hearings contained explicit guidance on the retention and disposal of records relevant to child sexual abuse. We consider that all religious institutions should have policies for the disposal of records relevant to child safety and wellbeing. The disposal policies of a religious institution should outline how long it retains different kinds of records; what kind of records it archives, and where and how they are archived; and what kind of records it destroys and under what circumstances.

In regard to retention periods, we welcome the commitment of some religious institutions to indefinitely retain records of complaints of child sexual abuse. In our view, many religious institutions are not small and under-resourced. It may be appropriate that they retain records relating to child safety for a period longer than 45 years.

In Section 13.11.6, 'Canon law', we recommend that the Australian Catholic Bishops Conference should request the Holy See amend canon law to remove the requirement to destroy documents relating to canonical criminal cases in matters of morals, where the accused cleric has died or ten years have elapsed from the condemnatory sentence. In line with our recommendation in Volume 8, *Recordkeeping and information sharing*, we recommend that the minimum requirement for retention of records in the secret archives should be at least 45 years. (See Recommendation 16.17.)

In line with the principle recommended in Volume 8, *Recordkeeping and information sharing*, religious institutions should ensure that records relevant to child safety and wellbeing, including child sexual abuse, should be disposed of only in accordance with law or policy.

Access to records

In Volume 8, *Recordkeeping and information sharing*, we recommend that individuals' existing rights to access, amend or annotate records about themselves should be recognised to the fullest extent. Individuals whose childhoods are documented in institutional records held by institutions should have a right to access records made about them. Full access should be given unless contrary to law. Specific, not generic, explanations should be provided in any case where a record, or part of a record, is withheld or redacted.

Individuals should be made aware of, and assisted to assert, their existing rights to request that records containing their personal information be amended or annotated, and to seek review or appeal of decisions refusing access, amendment or annotation.

During our institutional review hearings, some religious institutions told us they have been working to locate and consolidate historical records so that individuals are better able to access information about themselves.⁶⁶ For example, the Uniting Church in Australia told us that it has established a Heritage Service for those who were in the care of institutions run by the Presbyterian, Methodist and Uniting Churches in Victoria and Tasmania. The purpose of the service is to provide 'supported release' of records to past residents and their families. According to the Uniting Church, supported release means providing an application process that is accessible and sensitive, and discussing options for personal support and access to counselling and other services.⁶⁷

In our *Institutional review of Catholic Church authorities* hearing, Sister Berneice Loch rsm, Institute Leader of the Institute of Sisters of Mercy Australia and Papua New Guinea, gave evidence that, as a key response to *Case Study 26: The response of the Sisters of Mercy, the Catholic Diocese of Rockhampton and the Queensland Government to allegations of child sexual abuse at St Joseph's Orphanage, Neerkol*, changes were made to the archives and recordkeeping practices of the Sisters of Mercy. Sister Loch told us that the archives of the Sisters of Mercy were scattered and that, in order to best help people to access archival records, they needed to amalgamate these collections. Sister Loch said that they began with the professional standards files from the different collections so that they could be quickly accessed. We heard that the collection of the archives is an ongoing process.⁶⁸

Brother Carroll told us that, in a major recordkeeping project, the Marist Brothers have now 'consolidated, centralised, ordered and filed' all the Marist Brothers' documentation, much of which has been digitised. According to Brother Carroll, the province professional standards office staff and the province archivist have worked in collaboration to source historical material to make documents accessible in complaint handling and legal processes.⁶⁹

As part of its submission to our *Consultation paper: Records and recordkeeping practices*, the Council outlined the role of the MacKillop Family Services in giving former out-of-home care leavers access to their records. In 1997, MacKillop Family Services was formed as an amalgamation of the earlier works of the Christian Brothers, Sisters of Mercy and the Sisters of St Joseph. MacKillop Family Services now provides a range of 'integrated services for children, young people and families'. In the first six months of operation, the Heritage and Information Service was established to preserve thousands of personal and organisational stories. In its submission, the Council told us that the Heritage and Information Service of MacKillop Family Services provides 'comprehensive supported access to records by former residents of MacKillop's founding agencies'. The archives hold over 120,000 individual records of former residents and clients. The Council advised that between 2015 and 2016, MacKillop Family Services responded to 782 requests for information.⁷⁰

We welcome the efforts of religious institutions to locate and organise historical records on individuals who have accessed their services. A small number of religious institutions provided us with policies that addressed an individual's right to access these records.

The Salvation Army Southern Territory states in its *File management policy* that clients have a right to request access to the information that the Centre for Restoration holds about them. The *File management policy* outlines exceptions to this general principle, such as that access might pose a serious threat to life, health and safety of an individual and that access might prejudice a law enforcement investigation. In the case of refusal, written reasons must be provided to the client, who has a right to have the decision reviewed by a more senior official. Third-party information is redacted, unless consent from the third party has been given to release the information to the client. The policy also addresses the disclosure to clients of adverse information that appears on their file, as well as access to files by relatives of the client.⁷¹

In the Catholic Church, national guidelines on responding to civil claims for child sexual abuse provide that:

[Catholic Church authorities] should at all times act honestly, fairly and compassionately by: ... (c) facilitating access to records relating to the claimant, subject to considering the privacy entitlements of third parties and documents that are legally professionally privileged.⁷²

The Sisters of Mercy's *Process for responding to a professional standards complaint* states that access requests for records held internally are referred to the Archives Manager, who is responsible for copying and redacting records as required and for making an appropriate pastoral response to the individual making the records request.⁷³

It is clear that many of the religious institutions that provided us with their recent policies and procedures concerning recordkeeping have developed positive approaches which, if well implemented, will improve the capacity of survivors to obtain relevant records. In particular, as we have stated above, we welcome the efforts of religious institutions to locate and organise historical records on individuals who accessed their services.

The principles we have set out in Volume 8, *Recordkeeping and information sharing*, when properly and consistently applied by religious institutions, should have the effect of survivors having better access to historical material as well as more recently created documents concerning responses by institutions to complaints and claims of child sexual abuse.

Of particular importance is the recommendation that, in order to allow for the delayed disclosure of abuse by victims and take account of limitation periods for civil actions for child sexual abuse, institutions that engage in child-related work should retain, for at least 45 years, records relating to child sexual abuse that has occurred or is alleged to have occurred.

23.2 Information sharing by religious institutions

In Volume 8, *Recordkeeping and information sharing*, we consider the need for improvements in information sharing to help prevent and improve responses to child sexual abuse in a range of institutional contexts. We heard in our case studies and consultations about the importance of sharing information to protect children in institutional contexts. Information sharing in and between institutions with responsibilities for children's safety and wellbeing, and between those institutions and relevant professionals, is necessary in order to identify, prevent and respond to incidents and risks of child sexual abuse.⁷⁴

As outlined in Chapter 19, 'Common institutional responses and contributing factors across religious institutions', our inquiry has revealed how people in religious ministry against whom complaints of child sexual abuse were made, moved within and between religious institutions, and that information about their alleged offending was not adequately communicated to receiving institutions. We also heard about occasions when religious institutions prioritised confidentiality and secrecy over the protection of children. In our view, institutional culture and particular structure and governance arrangements have been key factors in preventing adequate information sharing by religious institutions.

As we explain in Volume 8, inadequate information sharing is not only an historical problem. The evidence and information before us indicates that there remain considerable barriers to information sharing in a timely and useful manner on matters relating to child safety, including in religious institutions. The sharing of personal and sensitive information is restricted by obligations under privacy legislation,⁷⁵ confidentiality or secrecy provisions in legislation governing the provision of services for children⁷⁶ and other laws.⁷⁷ Even where information sharing is legally permitted or required, there may be a reluctance to share information within or outside an institution. Concerns about privacy, confidentiality and defamation, and confusion about the application of complex and inconsistent laws, can create anxiety and inhibit the sharing of information.⁷⁸

In this section, we first consider some past and current issues relating to information sharing by religious institutions. We then look at current arrangements for information sharing as they relate to religious institutions.

In Volume 8, we recommend that Australian governments implement nationally consistent information exchange arrangements, in each jurisdiction, for intra-jurisdictional and inter-jurisdictional sharing of information related to children's safety and wellbeing, including information relevant to child sexual abuse in institutional contexts (see Recommendations 8.6 and 8.7, set out in Appendix A). We provide some further details about our recommended information exchange scheme, together with an overview of the considerations relevant to the inclusion of religious institutions in that scheme.

Finally, we examine how information sharing by religious institutions can be improved by:

- leaders promoting a culture of information sharing through the implementation of our Child Safe Standards
- enhancing the guidance and training provided to people in religious ministry, employees and volunteers
- national registers for information sharing for people in religious and pastoral ministry.

23.2.1 Common problems with information sharing by religious institutions

Our case studies have revealed several common problems with information sharing by religious institutions. These issues have contributed to inadequate responses to child sexual abuse, created heightened risks for children and, in some cases, contributed to the occurrence of child sexual abuse. In this section, we outline some of the common issues we have identified, both in the past and more recently. Our discussion here informs our examination in subsequent sections about improving information sharing by religious institutions.

Institutional culture

The most prominent issue we identified was the impact of institutional culture on information sharing by religious institutions. Culture has inhibited information sharing both within and between religious institutions and to external authorities.

Many of our case studies, particularly those examining responses to historical child sexual abuse, highlight occasions where confidentiality was prioritised over information sharing, placing children at risk of harm. At times, an emphasis on confidentiality and privacy was motivated by the desire to protect the reputation of both the offender and the religious institution. Our case studies have shown that, at least historically, leaders in religious institutions have been reluctant to share information on child safety and welfare with each other and to outside authorities, particularly when it related to perpetrators of child sexual abuse.

For example, in *Case Study 35: Catholic Archdiocese of Melbourne*, we were satisfied that there was a prevailing culture within the archdiocese, led by Archbishop Frank Little, of dealing with complaints internally and confidentially to avoid scandal to the Church.⁷⁹ There was evidence that Archbishop Little sometimes impressed upon his vicars general and others the need for confidentiality in relation to complaints. Former vicar general Monsignor Peter Connors said that Archbishop Little would at times speak to him about the behaviour of individual priests and would tell him the matter was confidential. Former vicar general Monsignor Hilton Deakin told us that, when it came to complaints of child sexual abuse, Archbishop Little held information about such matters ‘closely to himself’.⁸⁰

In *Case Study 6: The response of a primary school and the Toowoomba Catholic Education Office to the conduct of Gerard Byrnes*, we heard that in 2007 Principal Mr Terence Hayes did not inform senior education officers of the Toowoomba Catholic Education Office of the most serious complaints of child sexual abuse made against perpetrator Gerard Byrnes. The failure to communicate this most serious disclosure to those from whom he sought professional advice and guidance contributed to that advice being compromised.⁸¹

We heard that, where information relating to child sexual abuse was shared between leaders of religious institutions, at times it was inaccurate. In *Case Study 36: The response of the Church of England Boys’ Society and the Anglican Dioceses of Tasmania, Adelaide, Brisbane and Sydney to allegations of child sexual abuse (Church of England Boys’ Society)*, we heard that in 1994 Bishop Phillip Newell advised all his colleagues in the Diocese of Tasmania and other diocesan bishops and administrators in Australia that Louis Daniels, who had been the subject of allegations of child sexual abuse, had resigned for ‘personal reasons’. Bishop Newell failed to disclose the real reasons for Daniels’s departure. In late November 1994, following his resignation, Daniels moved to the Australian Capital Territory, where he applied for teaching positions within the Catholic Education Office and the public education system. He worked as a teacher in the Australian Capital Territory for the next two years.⁸² In *Case Study 28: Catholic Church authorities in Ballarat (Catholic Church authorities in Ballarat)*, we heard evidence that veiled and indirect language was used when describing the sexual behaviour of priests.⁸³

We received evidence that, in The Salvation Army, those responsible for transferring officers were not always aware of previous allegations and complaints made against those officers. That information was therefore not communicated to the receiving institutions.⁸⁴ This created greater opportunity for perpetrators to sexually abuse boys in Salvation Army homes.

In some cases, leaders of religious institutions did not share information with relevant individuals at a local level. In our *Marist Brothers* case study, we found that Brother Alman Dwyer, then Provincial of the Marist Brothers, did not share knowledge of complaints of child sexual abuse against Brother Kostka Chute with those who had a supervisory role over him in the school where he was appointed. This occurred even though Brother Chute had made an admission about the complaints to Brother Dwyer.⁸⁵ In 2008, Brother Chute was convicted of 19 child sex offences against six of his former students during the period 1985 to 1989. He pleaded guilty.⁸⁶

In *Case Study 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions*, we were told that Rabbi Yitzchok Dovid Groner, Director of Yeshivah Melbourne and head rabbi of the synagogue, dealt with many sensitive issues in strict confidence. We also received evidence that Rabbi Groner did not always share information with the Committee of Management of Yeshivah Melbourne. Committee members were not necessarily informed of sensitive matters, including allegations of violence, child abuse, and discipline. We considered that in his practice of keeping complaints confidential, Rabbi Groner, failed in his obligation to the students of Yeshivah College Melbourne.⁸⁷

In our *Catholic Church authorities in Ballarat* case study, we found that Bishop Ronald Mulkearns discussed allegations about priests with his consultors. The minutes of meetings between Bishop Mulkearns and his consultors were written in manuscript into the minute book and rather than being distributed, they were read out aloud at the next meeting for confirmation. We were told, that if homosexuality or sexual activity with children was mentioned in the consultor's meetings, this would not have been recorded in the minutes.⁸⁸ In these circumstances, there was one less source available to enable information on child safety and welfare to be shared from meeting to meeting.

We also heard evidence in several case studies about religious institutions not sharing information about allegations of child sexual abuse with relevant authorities, including the police and child protection authorities. For example, in *Case Study 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, we found that there was no evidence of the Jehovah's Witnesses organisation in Australia reporting to police or other secular authority a single one of the 1,006 perpetrators of child sexual abuse recorded in the case files held by Watchtower Bible and Tract Society of Australia.⁸⁹ We found this was a serious failure by the organisation to provide for the safety and protection of children in the organisation and in the community.⁹⁰

Structure and governance

We have also heard that structure and governance arrangements in particular religious organisations can create barriers to sharing information. As discussed in Chapter 20, some religious organisations comprise multiple autonomous institutions and agencies. The independent and autonomous nature of those institutions has at times inhibited the sharing of information between them for the purposes of child safety. We acknowledge that, in some respects, structure and governance arrangements can contribute to a culture in which information is not shared.

During the *Institutional review of Catholic Church authorities* hearing, we heard about difficulties with information sharing between and within Catholic Church authorities.

The Catholic Archbishop of Perth, Archbishop Timothy Costelloe SDB, told us about the silo mentality of some archdioceses that are made up of institutions and agencies. Archbishop Costelloe told us that the mindset of these independent institutions and agencies can result in a lack of collaboration and information sharing generally.⁹¹ He stated:

Contrary to the popular understanding, the Church is highly decentralised and individual agencies, organisations and institutions within the Church often have a high level of autonomy and independence ... The desire to work together to address the many issues related to the tragedy and scandal of sexual abuse of minors is not in doubt – but it is in a sense ‘in competition’ with the determination of each agency to protect its legitimate independence.⁹²

Archbishop Costelloe agreed that the lack of information exchange could have an impact on ‘safeguarding issues’.⁹³

In the same hearing, Ms Karen Larkman, Director for Safeguarding and Ministerial Integrity with the Catholic Archdiocese of Sydney, told us that the challenge of information sharing can be felt across Catholic Church authorities and across religious orders.⁹⁴ The circumstances Ms Larkman referred to include the sharing of information across Catholic Church dioceses or information sharing between a religious order and a diocese.

In *Case Study 52: Institutional review of Anglican Church institutions (Institutional review of Anglican Church institutions)*, Reverend Professor Peter Sandeman, Chief Executive Officer of AnglicareSA, told us that one of the lessons learned from the *Church of England Boys’ Society* case study was that:

the volunteers can come across from school communities, parish communities and Anglicare programs, volunteers. We really need to share the information so that we can identify the red flags, and we haven’t been doing that, and that’s a big lesson for us. We need to work with the dioceses, with the parishes and with the schools to share that information.⁹⁵

Concerns about confidentiality and privacy

During our institutional review hearings we heard that religious leaders and people in ministry have concerns about the implications of confidentiality and privacy obligations when sharing information about individuals who are the subject of allegations of child sexual abuse.

In our *Institutional review of Anglican Church institutions* hearing, Mr Greg Milles, Director of Professional Standards, dioceses of Queensland, Northern Territory and Rockhampton, told us that the laws of defamation can be an impediment to information sharing. He stated that a lack of clarity about what information can be shared and at what point creates uncertainty about whether an individual can act without leaving himself or herself open to accusations of defamation. Mr Milles said that he had found himself in this situation previously.⁹⁶

Mr Michael Elliott, Director of Professional Standards for the Anglican dioceses of Grafton and Newcastle, agreed with this sentiment. He said that, historically, perpetrators of child sexual abuse have used the threat of defamation to ‘great effect to stymie’ the response to complaints.⁹⁷ He said that, although that has changed, there are still some who believe that defamation is a common defence mechanism for perpetrators who have had allegations made about them.⁹⁸ Mr Lachlan Bryant, Director of Professional Standards for the Anglican Diocese Sydney, said that because his diocese is well resourced he has the benefit of a solicitor as in-house counsel to provide advice when these situations arise, but added that reform in this area would be welcome to make the situation clearer.⁹⁹

Rabbi Eli Cohen, immediate past president of the Rabbinical Council of New South Wales, told us that there are concerns within the Jewish community about when it is appropriate to share information.¹⁰⁰ Rabbi Mendel Kastel, Chief Executive Officer of Jewish House, told us that there have been cases where a person who is the subject of allegations has moved from one congregation to another, and the receiving rabbi has been told.¹⁰¹ Rabbi Kastel raised concerns in regard to information sharing about individuals who have not been formally charged and the possibilities of defaming that person. He stated that:

the issue of information sharing is a tricky one and now it’s handled on an informal basis, but it would be great if there was a more formal ruling as to how we deal with that kind of information so that it makes it easier for us. For instance, if we put it out on to an email group with all the rabbis, but then it gets out and dealt with, et cetera; so guidance in that sort of way I think would be very helpful.¹⁰²

Rabbi Cohen stated that ‘If there were clearer guidelines then we would be better protected and we would be able to protect the congregations better’.¹⁰³

Obtaining information from the police

During our institutional review hearings, some religious institutions raised issues with obtaining information from the police and other government agencies about people both convicted of and alleged to have committed offences of child sexual abuse. In the *Institutional review of Catholic Church authorities* hearing, Ms Larkman gave evidence that her office has faced difficulties in getting information from the police for the purposes of conducting risk assessments in relation to clergy who were the subject of a complaint. As an example, Ms Larkman said that recently an allegation was made to police about a member of clergy and police decided not to investigate further. She told us that it has proved difficult to obtain information from the police about the allegation for the purpose of conducting a risk assessment.¹⁰⁴

The difficulty of obtaining information from the police was also expressed by the directors of professional standards of the Anglican dioceses of Sydney, Melbourne, Grafton and Newcastle, and Western Australia. They welcomed legislative reform in this area that might help them to perform their duties.¹⁰⁵

In our *Criminal justice* report, we concluded that police and institutions should try to avoid the need for the institution to duplicate steps already taken by the police, particularly in relation to interviewing victims and other affected parties.¹⁰⁶ Information sharing is a critical part of achieving this. We discuss information sharing with and by the police further in Volume 8, *Recordkeeping and information sharing*.

23.2.2 Current arrangements for sharing information relevant to religious institutions

Information relevant to child sexual abuse is often personal and sensitive. In general terms, personal information which has been properly collected by an agency or organisation for certain purposes, as required or permitted by law, may be disclosed for those (and related) purposes.¹⁰⁷ Disclosure of personal information related to child sexual abuse is otherwise restricted by privacy legislation,¹⁰⁸ child protection legislation¹⁰⁹ and other laws such as defamation; by obligations of confidentiality;¹¹⁰ by ethical codes; and, in some cases, under contracts.¹¹¹

Restrictions on the disclosure of personal information may be overcome by consent¹¹² or specified exemptions and arrangements under privacy legislation.¹¹³ Across Australia there are also numerous laws that operate to require or permit the exchange of information related to institutional child sexual abuse, including personal and sensitive information. Such laws overcome privacy and confidentiality restrictions on the disclosure of personal information by authorising or requiring information sharing contrary to those restrictions. In addition, a number of administrative arrangements support information sharing consistently with either these laws or privacy laws.

In Volume 8, *Recordkeeping and information sharing*, we discuss the existing laws and arrangements that apply to information sharing in a range of institutional contexts, including in religious institutions. In this section, we very briefly discuss existing laws and arrangements that are particularly relevant to religious institutions sharing information related to child sexual abuse.

Information sharing under privacy laws

Privacy laws regulate the collection, use and disclosure of information, including personal and sensitive information. The Commonwealth and most states and territories have privacy legislation.¹¹⁴ Privacy laws are not institution specific – Commonwealth privacy law generally regulates private sector organisations with an annual turnover of more than \$3 million, and health service providers.¹¹⁵ Many religious institutions would therefore be subject to Commonwealth privacy law by virtue of their annual turnover.

Privacy laws permit the disclosure of information in a number of circumstances.

First, information may be disclosed with the consent of the person who has provided the information and to whom it relates.¹¹⁶

Second, personal information that has been properly collected by an agency or organisation for certain purposes, as required or permitted by law, may be disclosed for those purposes.¹¹⁷ In addition, privacy laws also allow personal information to be disclosed for a purpose other than the purpose for which it was collected in certain circumstances. In the context of our work, these circumstances include:

- where disclosure of personal information is necessary to lessen or prevent significant threats to life, health, or safety
- for the purposes of employment referee checks
- for the purposes of investigating or reporting concerns about serious misconduct and unlawful activities, and for law enforcement purposes.¹¹⁸

Third, the *Privacy Act 1988* (Cth) allows private sector employers, including religious institutions, to disclose to a prospective employer personal information that is directly related to their relationship with a past or current employee. This includes conduct (within the course of employment) relating to children.¹¹⁹

These provisions are limited in their capacity to facilitate the exchange of information related to institutional child sexual abuse. For instance, individuals may not consent to the disclosure of information that relates to the risk that individual poses or may pose to children, presenting a clear limitation. In addition, jurisdictions vary as to whether threats to life, health or safety must be serious,¹²⁰ or both serious and imminent.¹²¹ Threats of child sexual abuse are not always imminent, and opportunities to identify risk may be missed if information cannot be shared unless it indicates a serious threat.¹²²

Arrangements for sharing information within jurisdictions

Each Australian jurisdiction has established a number of different arrangements for sharing information within that jurisdiction for the purpose of protecting children. Where these arrangements are established by legislation, they may explicitly or implicitly overcome privacy restrictions to enable personal information to be shared without consent.

In Volume 8, *Recordkeeping and information sharing*, we discuss some of these arrangements and their limitations. We consider information sharing under regulatory schemes, including Working With Children Checks and reportable conduct schemes. We also consider the efficacy of information sharing arrangements (information exchange schemes) that permit or require specified classes of agencies, organisations and individuals to exchange information relevant to children's safety and wellbeing with each other and/or with their jurisdictional child protection agency.¹²³ These information exchange schemes apply in varying degrees, depending on the jurisdiction, to institutions that have responsibilities related to children's safety and wellbeing.

A number of stakeholders, including those representing religious institutions, told us about the benefits of the New South Wales information exchange scheme under Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* (NSW).¹²⁴ This scheme was introduced in 2009 in response to the Hon. James Wood's Special Commission of Inquiry into Child Protection Services in New South Wales. The Chapter 16A scheme covers healthcare, welfare, education, children's services and residential services (such as out-of-home-care) operated by or affiliated with religious institutions.¹²⁵ However, it appears to exclude ministerial services conducted in churches and parishes and within their religious communities.¹²⁶

Similarly, the Northern Territory information exchange scheme, established by Part 5.1A of the *Care and Protection of Children Act 2007* (NT), does not appear to include religious institutions unless they are otherwise included, for example, as a provider of education or out-of-home care.¹²⁷

23.2.3 Prescribed bodies information exchange scheme

In Volume 8, *Recordkeeping and information sharing*, we recommend that Australian governments implement a nationally consistent information exchange scheme for intra-jurisdictional and inter-jurisdictional sharing of information related to children's safety and wellbeing, including information relevant to child sexual abuse in institutional contexts. The scheme would facilitate timely and appropriate sharing of relevant information with those who need that information in order to prevent, identify and respond to child sexual abuse in institutional contexts (see Recommendation 8.6, set out in Appendix A).

We have not made recommendations specifying the types of institutions that should be included in this scheme. Rather, we recommend that Australian governments consider the need for a range of prescribed bodies, including service providers, government and non-government agencies, law enforcement agencies and regulatory and oversight bodies, to be included. In our discussion of the recommended scheme we have set out what are, in our view, relevant considerations for Australian governments to take into account in determining that range of bodies. Below we outline the considerations relevant to the inclusion of religious institutions in the scheme.

Inclusion of religious institutions in the prescribed bodies information exchange scheme

We heard in evidence and in consultations about the need for improvement in information sharing arrangements in religious institutional contexts. We heard that there is strong support for including some religious institutions in the proposed information exchange scheme. At the same time, we recognise that inclusion of all religious institutions in such a scheme would present challenges. The relevant considerations for inclusion of religious institutions are discussed here and considered further in Volume 8, *Recordkeeping and information sharing*.

The consideration of the inclusion of religious institutions in our information exchange scheme needs to be informed by the variety of the services they provide to children. As we outline above, religious institutions vary in whether and how they are included under existing information exchange schemes, like Chapter 16A – the New South Wales information exchange scheme. Some religious institutions may not be included at all because they only provide religious services. Larger religious institutions may provide services that fall under the scope of existing information exchange schemes and services that do not. For example, schools and out-of-home care agencies managed by or affiliated with a religious institution come under the scope of Chapter 16A. A parish delivering religious services connected to the same religious institution may not.

In our case studies and consultations, representatives from religious institutions indicated strong support for the proposal that all the services provided by some religious institutions be included in any proposed information exchange scheme. In a submission to our *Discussion paper: Strengthening information sharing arrangements*, the Truth, Justice and Healing Council (the Council) said that it is ‘imperative that the [Catholic] Church, its schools, social welfare organisations and parishes should be prescribed bodies for the purposes of the information sharing scheme’.¹²⁸

In our consultations on information sharing, representatives from one religious institution told us that there is little point in a scheme with religious institutions unless their main activities are included. They stated that it was essential that ‘children’s services’ is defined in a way that includes Sunday schools and youth groups.¹²⁹

The Bishop of the Catholic Diocese of Maitland–Newcastle, Bishop William Wright, made a similar observation with respect to how religious institutions were captured under the New South Wales reportable conduct scheme. In 2015, Bishop Wright wrote to the New South Wales Attorney General on behalf of 11 Catholic dioceses in New South Wales. He stated:

While our schools and out-of-home care services have been subject to Part 3A of the [Ombudsman Act], thus affording enhanced protection for children in those circumstances, it has been an anomaly that the core of our churches, our parishes and various communities of faith, have been largely excluded from the scrutiny and support of the Ombudsman’s office with consequent potential risk implications for children.¹³⁰

In our *Institutional review of Anglican Church institutions* hearing Mr Bryant, Director of Professional Standards for the Anglican Diocese of Sydney, told us he did not believe his diocese was a prescribed body under the New South Wales reportable conduct regime. He said that in the Anglican Diocese of Sydney, it is only when children are provided with ‘substitute residential care’ that they fall under the oversight and purview of the New South Wales Ombudsman. He said that some camps run by some parishes in Sydney may be captured.¹³¹

Mr Sean Tynan, Manager of Zimmerman Services in the Catholic Diocese of Maitland-Newcastle, stated that the only reason Catholic clergy fall under reportable conduct is because of their relationships with schools, particularly primary schools. It was Mr Tynan’s understanding that, if a primary school is removed from a parish, the cleric then no longer falls under any reportable conduct scheme.¹³²

A similar anomaly described by Bishop Wright, Mr Bryant and Mr Tynan exists in Chapter 16A.

In material provided as part of our *Institutional review of Catholic Church authorities* hearing, the Catholic Archdiocese of Canberra and Goulburn stated its view that there is ‘no question’ that Catholic systemic schools and the out-of-home care agency, CatholicCare, are both prescribed bodies under Chapter 16A in New South Wales. The archdiocese also suggested that ‘the whole of the archdiocese may be considered a prescribed body’. It drew on the relationship the archdiocese has with schools and out-of-home care services.¹³³

It is unclear whether all archdioceses and dioceses of the Catholic Church in New South Wales consider that they are within the scope of Chapter 16A.

As we outline above, in many circumstances, people in religious ministry, employees and volunteers exercise functions that allow them to work across and move between the services in religious institutions. Some exercise functions that allow them to move between institutions, often across state jurisdictions, within broader religious organisations.

Religious institutions pointed to difficulties with sharing information across state jurisdictions in the absence of nationally consistent information exchange schemes. As noted above, information sharing arrangements on child safety and welfare differ in each state. In our *Institutional review of Anglican Church institutions* hearing, Mr Elliott, Director of Professional Standards for the Anglican dioceses of Grafton and Newcastle, told us that, although legislation in the nature of Chapter 16A gave some protection around the sharing of information, we should keep in mind that the legislation is inconsistent across different states.¹³⁴

The Council stated that it is its current experience that, if an institution in New South Wales is aware of a risk an adult might pose to children in New South Wales and that adult moves interstate, the only option is to make a risk of significant harm report to the New South Wales Department of Family and Community Services (FACS). The Council said that it is then up to New South Wales FACS to share the information forward. The Council was of the opinion that this avenue required a higher threshold than Chapter 16A and could prove ineffective. The Council stated that a national approach to information exchange is necessary in order to prevent a person who poses a risk to children from easily moving across jurisdictions.¹³⁵

In our *Institutional review of Catholic Church authorities* hearing, when discussing Chapter 16A, Archbishop Anthony Fisher OP of the Archdiocese of Sydney identified potential difficulties in exchanging information with other Catholic institutions interstate. He stated that:

It is the case, for instance, that some of the religious orders that work in our diocese, their headquarters might be in another state, religious coming to us might be coming from another state. Again, I think that kind of exchange, if it were a national expectation, would certainly assist me here in Sydney.¹³⁶

The Catholic archbishops of Brisbane, Melbourne, Perth and Adelaide all agreed that, if there were an easier way to exchange information of a child protection nature in each of their archdioceses or states, they would wish that to occur.¹³⁷ The Archbishop of Canberra and Goulburn, Archbishop Christopher Prowse, stated he would be in favour of an information exchange scheme throughout Australia like the scheme that operates in New South Wales.¹³⁸

We also heard about the importance of professional standards bodies in Catholic and Anglican dioceses, and their equivalents in other institutions, being able to share information about adults who may pose a risk to children. These bodies have been established to advise and assist with matters relating to child sexual abuse in church settings, including complaint handling.

In our *Institutional review of Catholic Church authorities* hearing, Mr Tynan told us that, although Chapter 16A is designed to enhance ‘our ability to share information to protect children’ he thought that ‘in practice, there are potentially some limitations’. He stated that it would be helpful if Chapter 16A was clarified and strengthened – in particular, in regard to ‘the provision of information between entities that aren’t strictly providing the range of services to children that are mentioned in 16A, that may hold relevant information’. Mr Tynan provided the Professional Standards Office (PSO) as an example of one such entity. We understand Mr Tynan to be referring to the New South Wales PSO. He stated that the PSO is probably not ‘technically’ covered by Chapter 16A. Mr Tynan stated that although Zimmerman Services, the child protection body of the Diocese of Maitland–Newcastle, exchanges information with the PSO in relation to clergy, there are ‘obviously some limitations there and uncertainties’.¹³⁹

Religious professional standards bodies differ in their remit. That is, some may cover only matters relating to religious services in their jurisdiction, and not schools or out-of-home care services, while other religious professional standards bodies might encompass all or combinations of these services in their area. For example, Ms Anne Hywood, General Secretary of the General Synod of the Anglican Church in Australia, told us that the Anglican Diocese of Brisbane manages complaints relating to schools, while other dioceses do not.¹⁴⁰

We heard from stakeholders about the importance of entities in the Anglican Church being able to share information, including information about clergy contained on their national registers. However, we have also been told that there is some concern that sharing this information potentially breaches privacy law and could give rise to defamation.¹⁴¹ Mr Milles, Director of Professional Standards for the Anglican dioceses of Queensland, Northern Territory, North Queensland and Rockhampton, responded to a discussion on whether privacy laws present impediments to obtaining and disclosing information relevant to his work. He said that legislative support for information sharing, such as the ‘very broad’ protection in the Northern Territory, would be good to have in Queensland.¹⁴² The inclusion of some religious institutions in an information exchange scheme would overcome these concerns.

Consideration of the inclusion of religious institutions in an information sharing scheme needs to be informed by the diversity in characteristics of religious institutions that engage in child-related work. As we outline in Chapter 20, religious institutions are diverse in size, nature, resources, governance, and the types of activities and services they provide to children. Some religious institutions are small and poorly resourced. Their sole function may be to provide worship services to the community and children may only interact with them through attendance at those services with their family. It may not be possible or practical to require these religious institutions to share information through formal information exchange schemes or obligations because they may not have the capacity to receive, share or store sensitive information.

As outlined in Volume 8, *Recordkeeping and information sharing*, on the whole we are of the view that governments should give further consideration to the extent to which religious institutions are prescribed under our recommended information exchange scheme. Governments should note that there is strong stakeholder support from some larger religious institutions to be included in a national information exchange scheme. If governments intend to include some or all religious institutions as prescribed bodies, consideration should be given to ensuring that these institutions' professional standards or equivalent bodies are also included.

23.2.4 Promoting a culture of information sharing

Improved information sharing is also a core component of our Child Safe Standard on institutional leadership, governance and culture. For information to be shared effectively, both within and between institutions and to authorities, there must be organisational and professional cultures with strong governance and leadership, which understand and observe the proper limits of privacy. The Council submitted that 'If senior leadership are supportive of the organisation being open and transparent the organisation is more likely to be "open" in its information exchanges'.¹⁴³

During our institutional review hearings, we received evidence about current approaches to information sharing by religious institutions, including various policies and procedures. Here, and in the subsequent sections, we discuss what we found as part of our review of those approaches, policies and procedures.

Only some of the religious institutions we examined emphasise in their policies the importance of sharing information for the safety and wellbeing of children and provide commitments to doing so in light of confidentiality and privacy obligations. The nature and extent of these commitments vary.

The Catholic Archdiocese of Perth states in *The safeguarding project: Safeguarding handbook (Safeguarding handbook)* that the effective protection of a child often depends on the willingness of personnel to share and exchange relevant information.¹⁴⁴ The Salvation Army Eastern Territory's *SafeSalvos manual – caring for kids, youth and other vulnerable people (SafeSalvos manual)* offers a similar statement, noting that, to protect children from further harm, it is essential that information be shared between agencies.¹⁴⁵ The Salvation Army's policy at the national level states that in particular cases, 'The need to protect persons at risk may override the duty of confidentiality'.¹⁴⁶

The proposed complaint handling protocol of the Anglican Diocese of Melbourne states: 'We will respect and not abuse confidentiality and will not use confidentiality in a way that seeks to protect the Church'.¹⁴⁷ A commitment such as this acknowledges the past emphasis of some religious institutions on the protection of reputation. It clearly signals to leaders and people in ministry that information sharing on child welfare and safety is now to be prioritised.

In contrast to this, Yeshiva College Bondi's *Code of conduct framework* states that personnel have a duty to 'maintain confidentiality and protect the reputation of both individuals and the College in the wider community'.¹⁴⁸ In certain circumstances it may be appropriate to direct personnel to maintain the requirements of confidentiality. However, a duty to protect the reputations of individuals and the college in the wider community may send an inconsistent signal to personnel about the priority to be given to sharing information on the welfare and safety of children and protecting the religious institution.

All religious institutions should embed obligations for information sharing on child safety and welfare in their child protection policies. It is essential that the policies of all religious institutions contain clear statements that emphasise information sharing on child safety and wellbeing. This would indicate to both those within the institution and those in the broader community that the best interests of the child should be made the priority. Coupled with express obligations to report and share information in appropriate circumstances, an explicit emphasis on information sharing can assist religious institutions to overcome the cultures of secrecy that have in the past characterised their responses to child sexual abuse. Such an emphasis may also promote information sharing in larger institutions where a silo mentality can impede proper information flow.

We note that the implementation of the Child Safe Standards in religious institutions would work to create a positive institutional culture where the importance of information sharing is recognised by institutions, their staff and volunteers. We discuss implementing the Child Safe Standards in religious institutions in Chapter 20.

23.2.5 Improving information sharing by religious institutions through guidance and training

Consistent with our Child Safe Standard on leadership, governance and culture, leaders of child safe institutions should ensure that staff have a good working knowledge of their information sharing powers and responsibilities.¹⁴⁹ Building the capacity of those working in religious institutions to understand when and in what circumstances they can and should share and access information from within and outside their institution or organisation can result in better outcomes for child safety and welfare. Education and training, along with clear guidelines in policy and procedure, can also help overcome risk-averse organisational cultures that inhibit information sharing.

General guidance

The policies of some, but not all, religious institutions we examined give some general guidance and direction on when and how to share information related to child safety and welfare. Of those that do provide such guidance, most appropriately outline obligations to report suspected child sexual abuse to authorities and note exceptions to confidentiality and privacy when the sharing of information is required by law.¹⁵⁰

The Catholic Archdiocese of Canberra and Goulburn provides a good example of guidance on information sharing relevant to child safety and welfare in policy and procedure, particularly in its investigation procedures. It sets out in clear terms relevant confidentiality, privacy and information sharing legislation; and with whom and under what circumstances information can and should be shared.¹⁵¹ It also attempts to provide some clarity for staff about their position under legal arrangements for sharing information, as discussed above.

Some religious institutions provide guidance to people in religious ministry about the balance between confidentiality in exercising their ministry and sharing information where there are concerns for the safety and welfare of a person. For example, the Australian Christian Churches (ACC) *Ministerial code of conduct* states:

Trust is essential in pastoral ministry. Those involved in pastoral care must note that both formal interviews and casual conversations in a ministry context are pastoral encounters where confidences are shared and confidential information received. This information must not be disclosed, and must be treated with the utmost care. Exceptions include when disclosure is required by law (subpoena or abuse notifications), there are concerns for the safety of the person or others, or when the information is in the public domain.¹⁵²

In the Uniting Church in Australia, the following guidance is provided to people who work in pastoral ministry in that organisation:

Information received in the context of the pastoral relationship shall remain confidential unless: ... retaining such information would result in significant physical, emotional or sexual harm to another person or persons; ...¹⁵³

Guidance on information sharing for risk management

Based on what we heard during our institutional review hearings, information sharing for the purposes of risk management appears to be the area in which religious institutions need to provide greater guidance for staff. As noted above, we heard that people in religious ministry and employees have concerns about the implications of confidentiality and privacy obligations when sharing information about individuals who are the subject of allegations of child sexual abuse with other institutions for the purposes of managing the risk that person may pose to children.

We acknowledge that the type of information that may be shared for the purposes of risk management can differ. Generally, it will involve information about adults who work in or are otherwise involved with institutions that provide services or activities for children, including:

- information about criminal convictions and charges for child sexual abuse offences
- findings from reportable conduct investigations or other disciplinary proceedings
- unsubstantiated or untested allegations that an adult may have sexually abused a child or children.

As outlined in Volume 8, *Recordkeeping and information sharing*, sharing information about adults who pose or may pose a risk is important because it can assist institutions to manage that risk and make protective decisions. This may include decisions about whether and to what extent such persons should be allowed to participate or work in the institution and whether conditions or restrictions should be placed on their responsibilities or activities in the institution.

Of the types of information that may be shared for the purposes of risk management, unsubstantiated or untested allegations remain of most concern because of the potential for those allegations to affect the individual who is the subject of the allegation.¹⁵⁴ This is particularly so where that information is shared outside of an institution or to a related institution within a broader organisation.

In general, those religious institutions we examined require information to be shared internally about individuals who are the subject of allegations or suspicions of child sexual abuse and those convicted of child sexual abuse.¹⁵⁵ In most cases, information is required to be shared about both classes of individuals to the same extent; however, some religious institutions create a distinction between the two.¹⁵⁶

Some religious institutions require information to be shared among individuals in positions of leadership both within the institution and to related bodies or persons. This includes, for example, information sharing between people in religious ministry, directors of professional standards bodies and those in charge of managing risk within a local parish.¹⁵⁷

We also heard that some religious institutions have established formal protocols or policies for sharing information about complaints of child sexual abuse between different institutions within broader religious organisations. During our *Institutional review of Anglican Church institutions* hearing, we received evidence that the Anglican Church of Australia has developed a *Statement of principles for the sharing of information between directors of professional standards* (*Statement of principles*).¹⁵⁸ The *Statement of principles* applies to information sharing relevant to appointment, risk management and investigation, that is not required to be on the Anglican National Register, which we discuss further below.¹⁵⁹

Mr Bryant, Director of Professional Standards in the Anglican Diocese of Sydney, told us that the professional standards directors' network is a 'key place' for information sharing between Anglican dioceses. Both Mr Elliott, Director of Professional Standards in Grafton and Newcastle, and Ms Claire Sargent, Director of Professional Standards in the dioceses of Melbourne, Ballarat, Bendigo and Wangaratta, gave evidence that among the Anglican directors of professional standards, there is generally a good flow of information.¹⁶⁰

In its *Statement of principles*, the Anglican Church identifies the tension between sharing information relevant to appointments, risk management or an investigation; and fairness for the respondent or applicant.¹⁶¹ While acknowledging privacy issues, Reverend Professor Peter Sandeman, Chief Executive Officer of AnglicareSA, told us about the importance of sharing suspicions of grooming by people who move between locations so that any red flags regarding that person can be collated and examined holistically.¹⁶²

The extent of information that should be shared about the person who is the subject of an allegation or conviction of child sexual abuse is also specified in the policies of some religious institutions. In the Catholic Church, *Towards healing: Principles and procedures in responding to complaints of sexual abuse against personnel of the Catholic Church in Australia* states that the outgoing Catholic Church authority shall share all information necessary about a priest or religious for the receiving authority to evaluate the seriousness of the alleged or a substantiated complaint against them. This includes information about all treatment undertaken and any risk management measures.¹⁶³

Guidance on how to share sensitive information is provided by some religious institutions. This may help to address concerns about fairness for people who are subject of suspicions and allegations. The Anglican Church's *Statement of principles* states that, when sharing information between directors of professional standards in the Anglican Church, the information should be accurate, and there should be a clear explanation of which parts of the information shared are objective facts and which parts are opinions or assumptions.¹⁶⁴ The disclosure should specify whether the matter has been investigated and, if so, whether the allegation was found to be substantiated, unsubstantiated or false.¹⁶⁵ Likewise, Yeshiva College Bondi's *Child protection policy* states that, when sharing information with staff members, parents, students and the community about the suspension of an employee, it should be explained that the decision to impose initial risk management measures is not indicative that the 'accused individual' has committed the alleged conduct.¹⁶⁶

As shown above, some religious institutions currently permit or compel their employees, including people in religious ministry, to share sensitive information about allegations and convictions for the purpose of risk assessment within and outside their institutions. The guidance that religious institutions provide on information sharing and legal obligations of confidentiality and privacy varies.

We consider that religious institutions' policies for information sharing should provide guidance on what, when, how and with whom information to manage risks to children's safety can and should be shared with internal and external institutions. Policies should accurately and clearly outline legal obligations of confidentiality and privacy in a manner that personnel can easily understand. By providing clear direction and guidance to people working in ministry about their information sharing obligations and limitations, religious institutions can allay their concerns about confidentiality, privacy and fairness that act as barriers to information sharing. They can also minimise inappropriate information sharing. It is important that institutional policies on information sharing are based on appropriate legal advice about obligations with respect to confidentiality and privacy. They should also provide guidance on how these obligations should be balanced with the need to share information in order to protect children and meet the institution's duty of care.

To the extent that religious institutions provide particular services to or for children, such as education, they may be able to share sensitive information for risk management purposes with certain other institutions under existing laws, such as Chapter 16A in New South Wales. In Volume 8, *Recordkeeping and information sharing*, we discuss the sharing of untested and unsubstantiated allegations and other sensitive personal information in the context of a legislated information exchange scheme. We outline the need for robust measures to address significant concerns raised by the sharing of this type of information. A statutory framework can provide the safeguards needed to protect against inappropriate sharing and misuse of this information.

We note that currently some religious institutions are subject to reportable conduct obligations under state/territory legislation.¹⁶⁷ In Volume 7, *Improving institutional responding and reporting*, we recommend that state and territory governments should establish nationally consistent reportable conduct schemes that include religious institutions (see Recommendations 7.9 – 7.12, set out in Appendix A). Reportable conduct oversight bodies, such as the New South Wales Ombudsman, may provide guidance to religious institutions on the sharing of sensitive information in the context of reportable conduct allegations.

Training

Training for staff on their information sharing obligations and issues, beyond mandatory reporting obligations, was not a common feature of those policies and procedures we examined. One exception to this was the Catholic Archdiocese of Perth, in its *Safeguarding handbook*, which highlights some of the issues that can arise for staff and volunteers in the area. It states that the issue of confidentiality and information sharing will be part of training for staff and volunteers working with children.¹⁶⁸

In Volume 8, *Recordkeeping and information sharing*, we discuss the need for education, training and guidelines to support appropriate information sharing under our recommended information exchange scheme. As a 2015 review of information sharing under the Chapter 16A information exchange scheme in New South Wales, prepared for the New South Wales Department of Premier and Cabinet, noted:

Many professionals find the process of sharing information challenging and time consuming. Practitioners may be unfamiliar with the legislation and the protocols for exchanging information, and may not have the time to discuss issues with colleagues from other organisations. Resource issues may also affect the capacity of organisations and individuals to exchange information, including access to legal advice ...¹⁶⁹

Speaking about his experience of the operation of Chapter 16A in the Diocese of Maitland – Newcastle and some of the uncertainties around the scope of that scheme, Mr Tynan, Manager of Zimmerman Services, told us:

So whenever you have a system where people feel uncertain that they are able to do something, there is a human tendency to be cautious and not to do it. And we know very clearly that the exchange of information is absolutely vital to protecting children.¹⁷⁰

Mr Tynan's message highlights why appropriate training on what, when, how and with whom information on child welfare and safety should and can be shared with internal and external institutions is important. Religious institutions should provide training on information sharing to personnel, including training specifically on obligations in confidentiality and privacy so they feel confident to share.

23.2.6 Improving information sharing through national registers

Registers provide platforms for collecting information and facilitating the exchange of information in a number of sectors across Australia. Some registers are principally in place to capture information about a person that is relevant to child sexual abuse. Other registers have a different primary focus but may also capture information potentially relevant to child sexual abuse.

In Volume 8, *Recordkeeping and information sharing*, we discuss improving information sharing, within and across jurisdictions, in the education and out-of-home care sectors through the use of teacher and carers registers. In both sectors, registered individuals (teachers or carers) can move between institutions and across jurisdictions. Evidence and information before us illustrates the risks to children that arise when information about child sexual abuse is not shared between employers and registering authorities in those sectors.

A number of the religious institutions we examined coordinate and organise on a national level as part of a religious organisation. People in religious ministry in religious organisations can move between affiliated institutions and services provided under the umbrella of that organisation, including between jurisdictions. For example, a priest might move between dioceses or between states. Some religious organisations have established national registers for their people in religious ministry and lay employees to address this.

Previously in this chapter, we outlined difficulties in sharing information relevant to child safety and welfare in religious organisations and within larger institutions. While it is clear that some religious organisations and institutions have policies and protocols that can facilitate information sharing in relation to people when they move between institutions or jurisdictions, they generally rely on the outgoing institution to share the appropriate information.

During our *Institutional review of Anglican Church institutions* hearing, Ms Hywood, General Secretary of the General Synod of the Anglican Church of Australia, spoke about the establishment of the Anglican Church's national register for people in religious ministry and lay persons. Ms Hywood identified that information about their people in ministry had previously been shared informally, relying 'very much on bishops and other leaders to alert people to concerns'.¹⁷¹ Ms Hywood told us that:

It was identified that that was not sufficient and that we needed to have one place where information about people of concern could be held and accessible to those who needed that information.¹⁷²

In our view, registers for people in religious ministry in religious organisations can help to promote children’s safety by alerting institutions to the risk posed by individuals against whom allegations of or concerns about child sexual abuse have been made. National registers can be key tools in overcoming cultural and structural issues with sharing information relating to people in religious ministry for the purposes of risk management and ensuring children’s safety.

However, we recognise that it may be difficult to develop and maintain well-functioning, accurate and up-to-date registers in the absence of regulatory or registering authorities and underpinning legislative frameworks. Registers of teachers in each state and territory, for example, are underpinned by a legislative framework and a registering authority. The legislative framework can expressly authorise the collection, use and disclosure of information for the purposes of the registers. In unregulated registers, the collation, use and disclosure of information may be more difficult. Unregulated registers may also raise concerns about information security, procedural fairness and unfair reputational damage.

For these reasons, we consider that, for small organisations and/or institutions without an overarching state, territory or national body, registers may not be an appropriate or achievable means of collecting and exchanging information related to child sexual abuse. Nevertheless, we acknowledge that many of the religious organisations we examined are not small and have overarching bodies that are capable of appropriately establishing and operating a national register.

In this section, we examine existing national registers for information sharing in relation to people in religious ministry in both the Catholic Church and the Anglican Church. Drawing on this examination, we consider how national registers could operate in religious organisations.

Existing national registers for information sharing in religious organisations

In 2007, the Anglican Church of Australia General Synod passed the *National Register Canon 2007*. It established a national register for recording information on allegations and incidents of child and adult abuse by Anglican Church personnel, including clergy and lay personnel.¹⁷³ The Anglican national register is a ‘screening tool to assist bishops and other diocesan leaders consider all the information necessary when they are considering appointing people to positions within their diocese’.¹⁷⁴ It has been maintained by the General Secretary of the General Synod of the Anglican Church of Australia.¹⁷⁵ Following the *Institutional review of Anglican institutions* public hearing in March 2017, the Anglican Church made further amendments to the *National Register Canon 2007* at the 17th Session of the General Synod in September 2017 with the adoption of the *National Register Amendment Canon 2017*.¹⁷⁶ We discuss these amendments throughout this section.

As we outline in Chapter 12, ‘Anglican Church’, we have heard about difficulties with the Anglican national register since it commenced in 2009. For example, the Director of Professional Standards in the dioceses of Grafton and Newcastle, Mr Elliott, told us in 2013 that ‘there was a general lack of confidence with the [National Register] among professional standards directors’.¹⁷⁷ He also told us that there were a number of technical difficulties with the system that were being rectified ‘over time’.¹⁷⁸ Former Anglican Archbishop of Adelaide, Bishop Jeffrey Driver, told us that it was not until 2012 that the Anglican national register became ‘genuinely workable’ from the perspective of the Diocese of Adelaide.¹⁷⁹

In 2016, the Catholic Church in Australia announced its own national screening tool for those exercising ministry – the Australian Catholic Ministry Register (ACMR). The ACMR is an ‘online system for a Catholic Church Authority to verify that an individual coming to exercise ministry in a new jurisdiction is currently in good standing’.¹⁸⁰ The ACMR is designed to facilitate the implementation of obligations under Towards Healing regarding the safe transfer and appointment of clergy and religious.¹⁸¹ It is operated by the National Committee for Professional Standards (NCPS); however, we heard that all tasks currently carried out by the NCPS will be assumed by the newly established Catholic Professional Standards Limited in the future.¹⁸² At the time of our *Institutional review of Catholic Church authorities* hearing in early 2017, we heard the ACMR was in its ‘embryonic stage’.¹⁸³ A number of Catholic Church authorities gave evidence in that hearing that they are or will be participating in the ACMR.¹⁸⁴

We also heard that The Salvation Army has adopted a national register for screening people in religious ministry, and others, in their organisation.¹⁸⁵

We will discuss the specific operation of the Catholic and Anglican registers below.

The elements of a national register

In Volume 8, *Recordkeeping and information sharing* we highlight that the efficacy of registers as information sharing mechanisms depends on a number of factors. In the case of religious organisations, these factors include:

- who is registered and who maintains the register
- what information is captured
- who may access the register
- whether information on the register is current and maintained.

The approach to these elements can have an impact on whether a register effectively achieves its purpose. Different approaches to the elements can also give rise to issues with respect to privacy, security and fairness to those affected.

Who is registered

The Anglican and Catholic registers differ as to which individuals are to be included on the register. Neither register contains a record of *all* licensed or registered people in religious ministry.

The Anglican National Register contains information on all clergy and lay persons:¹⁸⁶

- against whom a notifiable complaint or a notifiable charge has been made unless it is exhausted
- who have relinquished or consented to deposition of holy orders arising out of sexual misconduct or child abuse
- who have made an adverse admission or are subject of an adverse finding
- who are the subject of an adverse Working With Children Check, criminal history check or Safe Ministry Check
- who have not been ordained as a priest or bishop or issued with a licence or appointed to an Anglican Church authority because of an adverse risk assessment.

The *National Register Amendment Canon 2017* has extended the types of complaints that can result in a person being listed on the Anglican National Register to include grooming offences, as well as a 'failure without reasonable excuse to report child abuse'.¹⁸⁷ The amending canon also shifts the onus on updating the Anglican National Register from the General Secretary to the professional standards directors in each diocese.¹⁸⁸

In contrast, the ACMR lists only clergy and religious (not lay persons) who are deemed to be of 'good standing'.¹⁸⁹ Clergy or religious who are convicted or the subject of allegations of child sexual abuse, substantiated or otherwise, would not appear on the ACMR.¹⁹⁰

To be registered on the ACMR, clergy or religious and the Catholic Church authority to which they belong must make a declaration as to whether they are a 'fit and proper person' who would not 'pose a risk to the safety, welfare and wellbeing of children or adults'.¹⁹¹ The individual and the Catholic Church authority make a declaration after 'careful consideration of all relevant matters', including whether the individual, among other things:¹⁹²

- has been canonically suspended or disciplined in relation to abuse as defined in *Towards Healing*
- has any criminal convictions (in Australia or overseas)
- has been charged with a criminal offence (in Australia or overseas)
- is the subject of a current allegation or substantiated finding relating to abusive conduct
- is the subject of a current allegation or substantiated finding relating to a workplace investigation concerning sexual misconduct of a person under the age of 18 years.

In this sense, the Anglican National Register identifies people who may pose a risk to children, while the ACMR identifies individuals considered to be eligible and suitable to work with children.

What information is captured

The Anglican National Register and ACMR offer two different models with respect to what information is captured and displayed.

The *National Register Canon 2007* outlines a schedule of information that must be included about each person who appears on the Anglican National Register. In addition to some basic personal and work-related information, the information that can be recorded includes particulars of any investigation or determination in regard to a complaint, disciplinary action, and relinquishment or deposition from holy orders to do with 'sexual misconduct or child abuse'. Particulars of notifiable charges and adverse admissions or adverse findings can also be included.¹⁹³

For registered individuals, the ACMR displays the name of the clergy or religious, along with a photo and their status, as either 'approved' or 'no current information available'. The latter category indicates that the Catholic Church authority believes it must be contacted about the person who is the subject of the search. The NCPS states that this might be for a reason 'as simple as a person being sick and on limited activities; or more serious'.¹⁹⁴

During our *Institutional review of Catholic Church authorities* hearing, the Catholic Archbishop of Brisbane and member of the Supervisory Group of the Truth, Justice and Healing Council, Archbishop Mark Coleridge, explained that a receiving bishop who checks the ACMR for a priest and finds that he is not there would have to contact the current bishop of that priest to ask why. At that point, information on any allegations or convictions is exchanged.¹⁹⁵

Who may access the register

Access to information on the Anglican National Register is granted to limited classes of people, including the bishops or their delegates, directors of professional standards and the General Secretary and their delegates.¹⁹⁶ Of particular significance, the *Anglican Register Canon 2007* provides a clear role for the directors of professional standards in Anglican dioceses for updating the register and notifying the General Secretary of new information and accessing the register. In our *Institutional review of Anglican Church institutions* public hearing, Ms Hywood gave evidence that, as of March 2017, there were 42 authorised users of the Anglican National Register.¹⁹⁷

In the Catholic Church, once a cleric or religious is registered on the ACMR, he or she is issued with an ACMR identification number (ID). Any person who knows a cleric's ACMR ID can check their status on the register. A cleric or religious discloses their ACMR ID to a Catholic Church authority when they wish to establish their 'good standing' to that authority. The NCPS explains on its website, for example, that a priest coming to another diocese to do a baptism, or wishing to 'concelebrate' in another part of the country, would disclose their ACMR ID to that diocese in order to be granted permission to perform the baptism or other sacrament.¹⁹⁸

The ACMR ID is also made known to the individual's Catholic Church authority for verifying the information contained on the register.¹⁹⁹ Information provided to us about the ACMR does not indicate whether the ACMR ID is shared with or known to directors of professional standards within dioceses or religious institutes. It is unclear what role directors of professional standards have in notifying, accessing and sharing information in relation to the ACMR. Overall, it is the responsibility of the individual to keep their ACMR ID secure and to ensure that it is only disclosed to those who the individual wishes to be able to check their status on the ACMR.²⁰⁰

Whether information is current and maintained

Where organisations create registers that will be relied on by users for screening individuals for risk, it is essential that these registers are consistently maintained with accurate and up-to-date information. The Anglican and Catholic Churches create obligations on their Church authorities to notify when they become aware of new information that changes the profile of a registered person.

The General Secretary is responsible for the maintenance of the Anglican National Register.²⁰¹ However, as noted above, the *National Register Amendment Canon 2017* shifts the onus on updating the Anglican National Register from the General Secretary to the professional standards directors in each diocese.²⁰²

The *National Register Canon 2007* also requires the removal of information on the Anglican National Register when a complaint or charge against an individual is exhausted, meaning the complaint or charge has been withdrawn or is unsubstantiated.²⁰³

Ms Hywood told us that the Anglican National Register is audited every year.²⁰⁴ This requirement is set out in the *National Register Canon 2007*.²⁰⁵ The audit involves asking directors of professional standards to self report whether they have met their obligations and loaded all necessary information.²⁰⁶ Ms Hywood gave evidence that directors have, in the past, self-reported noncompliance – for example, in regard to loading information within 30 days or about the backlog of historical information.²⁰⁷ The *National Register Amendment Canon 2017* allows for the audit to be published on the General Synod website.²⁰⁸

The ACMR is maintained by the NCPS.²⁰⁹ The NCPS advises that a Catholic Church authority has an obligation to inform the NCPS immediately of any developments that affect an individual's good standing and that could result in a change to their status. When changes are made, the registered person is notified.²¹⁰ The NCPS provided the following disclaimer to Catholic Church authorities:

entries on the ACMR are subject to change without notice. It is your responsibility to ensure that you have consulted the ACMR at all relevant times to ensure that you have current and up-to-date information.²¹¹

It appears that the onus of checking for any changes to relevant information on the register sits with the receiving Catholic Church authority.²¹²

Considering the elements of a national register

As noted above, the operation of national registers in religious organisations serve to promote children's safety by assisting in the detection of potential perpetrators moving within or between institutions and jurisdictions. However, in the absence of legislative authority for such registers, religious organisations need to carefully consider their design and operation in light of privacy and security considerations, as well as procedural fairness.

The type and scope of information captured, who may access it, how and by whom it is maintained, and its internal safeguards are all important considerations in balancing the efficacy of the register and privacy of individuals. The Anglican National Register and the ACMR approach these elements differently.

The ACMR captures clergy and religious who are of good standing and eligible to work with children. The absence of a cleric or religious, or one with a status of no current information available, acts as a flag to encourage informal information sharing between one Catholic Church authority and another.

The type of information sharing facilitated by the ACMR can have advantages in terms of the operation of the register. For example, where sensitive information is not held by a central authority, there may be fewer concerns about security, access and the privacy of the individual. In the ACMR model, it is more likely that those individuals listed on the register have consented to their inclusion on the register, and this may overcome privacy implications. By disclosing their ACMR ID to a Catholic Church authority, individuals may permit the authority to access their personal information for the purpose of granting permission to minister. Registered clergy and religious are directed to read the privacy policy of the NCPS, which contains material on how the NCPS handles personal information, how to gain access to and correct personal information, and how to make a privacy complaint.²¹³

However, the ACMR model can also present problems. As we outline above in Section 23.2.1, at least historically, leaders in religious institutions have been reluctant to share information on child safety and welfare, particularly when it related to perpetrators of child sexual abuse, with each other and to outside authorities. The ACMR is not a national and centralised register for information about all clergy and religious with complaints of child sexual abuse against them and the outcomes of relevant investigations. With only minimal information about risk, its efficacy as a screening tool still relies on the willingness of Catholic Church authority leaders to share information with one another outside of the register. Added to this, it is unclear what role the professional standards office of a diocese or religious institute plays in notifying, accessing and sharing information relevant to the ACMR.

Informal information sharing of this kind may present its own difficulties with respect to procedural fairness. A cleric or religious who has information exchanged about him or her through informal mechanisms has no ability to hear what is being said or correct the record in the case of inaccuracy.

In contrast to the ACMR, the Anglican National Register comprises one central platform where people in ministry who have complaints, allegations and outcomes made against them with respect to child sexual abuse can be identified. Consequently, the Anglican National Register holds particularly sensitive information on individuals. This includes unsubstantiated or untested allegations that a clergy or lay person may have sexually abused a child or children.

The availability of this information on the register may mean that receiving dioceses are less reliant on the willingness of other dioceses to directly provide them with this information. People with access can refer straight to the register for information on risk. We note that directors of professional standards play a significant role in providing information to the Anglican National Register.

The availability of such sensitive information on the Anglican National Register raises greater privacy concerns and a stronger need for security and tighter controls around the access and sharing of this type of information than the ACMR. We refer to some of the safeguards the Anglican Church has in place below.

Safeguarding national registers

National registers for screening people in ministry can display a range of information about individuals, from relatively nominal to highly sensitive information. In the latter case, increased concerns about privacy and security can arise. We consider briefly here some of the strategies that could be implemented to help to address privacy concerns and promote accountability and information security of national registers.

Managing personal information in accordance with privacy laws

Privacy laws, and the safeguards inherent in them, would generally apply to personal information recorded on registers. The application of privacy laws may be of increased importance in the context of an expanded amount of personal – including sensitive – information on those registers.

The benefits of privacy regulation generally include requirements to:

- ensure that an individual is informed that their personal information is being collected and about the use, disclosure, right of access and correction of that information
- provide an individual with access to their personal information held by the agency at the request of that individual
- take reasonable security safeguards to ensure that personal information they hold is protected against unauthorised access, use, modification and/or disclosure.²¹⁴

The continued application of such privacy law obligations will provide important safeguards for accountability, information security and privacy. In Volume 8, *Recordkeeping and information sharing*, we have stated that institutions should have measures in place to ensure compliance with applicable privacy laws and to guard against unfair damage to reputation.

Such measures may include:

- ensuring that people in religious ministry are aware of the recording and use of their personal information on a register
- allowing persons whose details are recorded to access, and seek correction of, their personal information on the register, provided that will not alert them to information that may compromise an investigation²¹⁵
- requiring a body responsible for recording information on the register to amend the register if they become aware that information on the register about a person is incorrect²¹⁶
- restricting access to the database, including by allowing only nominated personnel (with unique user identification) from each relevant authority to access, record and amend information on the register in a secure environment²¹⁷
- having the capacity to track and audit user access and additions, amendments and deletions to entries on the register where institutions have direct access to information on the register; alternatively, ensuring that the ability to edit the register is provided to relevant personnel only.

The Anglican Church provided us with evidence of safeguards that apply to the Anglican National Register. The *National Register Canon 2007* provides rules for the provision, maintenance, notification, removal, access and disclosure of information on the Anglican National Register directed towards the General Secretary and directors of professional standards.²¹⁸ In addition, the *National Register Canon 2007* gives a registered person certain rights. For example, a cleric or lay person is notified when information is included on them in the Anglican National Register.²¹⁹ Registered individuals can obtain a copy of information about themselves held on the register, apply to ascertain who has accessed their details on the register, and apply to amend information and include a statement on the register.²²⁰

A register that contains inaccurate or incomplete information about an individual has consequences for the efficacy of the register, but it also impacts on the fair treatment of a registered individual. The *National Register Canon 2007* contains timeframes for notifying and uploading information on the register. In addition, the *National Register Canon 2007* provides that, when a complaint or charge against an individual is withdrawn or found to be unsubstantiated, it is removed from the register.²²¹ As stated earlier, the *National Register Canon 2007* places requirements on the General Secretary to conduct an annual audit of the register.²²² In Section 23.2.5, we discussed the *Statement of principles* of the Anglican Church in Australia, which creates further guidelines for sharing information outside the Anglican National Register.²²³

In light of privacy obligations and the complexity of establishing and maintaining national registers, religious organisations with national registers should provide clear guidance on their operation. Where registers contain a higher degree of sensitive information, guidance is essential, not only for the overall usefulness of the register but also for the privacy and fairness of individuals on the register. Guidance should, at the very least, establish clear rules for who is registered, what information is captured, who can securely access the register, and when, and how the information on the register is to be kept accurate and up-to-date.

In addition, policies concerning registers should address obligations of privacy and considerations of fairness. This includes, for example, by creating avenues for individuals to request access to and amend information about themselves that has been collected and stored on registers. Consequently, national registers for screening people in ministry should be based on sound legal advice to ensure that registers are within the grounds of privacy legislation. Adequate training for individuals with access to national registers is essential for minimising the inappropriate use of sensitive information held on registers and for the efficacy of the register in general.

Conclusions about national registers for information sharing in religious organisations

Earlier in this chapter we discussed common issues with information sharing in religious institutions. We highlighted occasions when leaders in religious institutions did not adequately share information on complaints of child sexual abuse about people in ministry with other religious leaders for the purpose of risk management. In some cases, this represented a missed opportunity to prevent further sexual abuse of children.

We heard evidence that some religious organisations have developed national registers to screen people in ministry in their organisation. We were told that the Anglican National Register was a response to the need to have this type of information in one place, to be accessed by those who needed it. In doing so, information sharing on complaints of child sexual abuse becomes less reliant on the willingness of one religious leader to alert others about concerns. Ms Hywood told us in March 2017 that statistical reports on the register had shown that, in the past 12 months, 5,000 searches had been conducted on the register in regard to people seeking to undertake roles in the Anglican Church.²²⁴

The national registers of the Catholic Church and the Anglican Church present two different models for a national register for screening people in ministry. In Volume 8, *Recordkeeping and information sharing*, we highlighted that the efficacy of registers as information sharing mechanisms depends on a number of factors, including who maintains the register, what information is captured, whether information on the register is correct and current, who may access the register, and the level of access that is available. The registers of the Anglican and Catholic churches differ significantly on what information is available on the register. In this way, the two registers may differ in their efficacy as a screening tool and, in particular, their ability to overcome past failures in information sharing on complaints and allegations against people in ministry. As a consequence of the different degrees of sensitivity of information contained on the two registers, they vary in the levels of safeguards and considerations of privacy that should be applied to each register.

We consider that registers for screening people in religious ministry in religious organisations can help to promote children's safety by alerting institutions to the risk posed by individuals against whom allegations of or concerns about child sexual abuse have been made. National registers can be key tools in overcoming cultural and structural issues in sharing information relating to people in religious ministry for the purposes of risk management and ensuring children's safety.

In many of these religious organisations, people in ministry continue to move between institutions and services provided by the organisation, within and across state jurisdictions. For this reason, we recommend that religious organisations consider establishing national registers that record limited but sufficient information to help affiliated institutions to identify and respond to any risks to children that may be posed by people in religious ministry.

We acknowledge that, for small religious organisations and/or institutions without an overarching state, territory or national body, registers may not be an appropriate or achievable means of collecting and exchanging information related to child sexual abuse. However, many of the religious organisations we examined are not small and have existing structures that can appropriately establish and maintain national registers for screening people in ministry.

We also understand that national registers in religious organisations are not supported by regulatory and legislative frameworks in the same way as, for example, registers of teachers. These frameworks can expressly authorise and better guide the collection, use and disclosure of information for the purposes of the registers. The proper development and maintenance of a national register for screening people in ministry is essential not only for the efficacy of the register but also for safeguarding the privacy of individuals on the register and security of information.

For this reason, any register established by a religious organisation should be developed and implemented on the basis of legal advice and in consultation with relevant bodies to ensure that concerns about privacy, reliability, security and use of information on the register, as well as fairness to those affected, are addressed.

Any national register for the screening of people in ministry should be supported by institutional policy and training to minimise the misuse of personal and sensitive information.

We understand that in some religious organisations, lay people are playing an increasing role in religious works and pastoral ministry, including that traditionally undertaken by people in religious ministry. To reflect this reality, the recommendation below will use the term ‘people in religious or pastoral ministry’, rather than just ‘religious ministry’.

Recommendation 16.58

Each religious organisation should consider establishing a national register which records limited but sufficient information to assist affiliated institutions identify and respond to any risks to children that may be posed by people in religious or pastoral ministry.

Endnotes

- 1 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 14: The response of the Catholic Diocese of Wollongong to allegations of child sexual abuse, and related criminal proceedings, against John Gerard Nestor, a priest of the Diocese*, Sydney, 2014, p 12; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 5: Response of The Salvation Army to child sexual abuse at its boys' homes in New South Wales and Queensland*, Sydney, 2015, pp 43, 49, 73; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 18: The response of the Australian Christian Churches and affiliated Pentecostal churches to allegations of child sexual abuse*, Sydney, 2015, pp 6, 8, 28; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions*, Sydney, 2016, pp 41, 43, 55, 66; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 36: The response of the Church of England Boys' Society and the Anglican Dioceses of Tasmania, Adelaide, Brisbane and Sydney to allegations of child sexual abuse*, Sydney, 2017, pp 49, 136; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 42: The responses of the Anglican Diocese of Newcastle to instances and allegations of child sexual abuse*, Sydney, 2017, s 4.4; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 26: The response of the Sisters of Mercy, the Catholic Diocese of Rockhampton and the Queensland Government to allegations of child sexual abuse at St Joseph's Orphanage, Neerkol*, Sydney, 2016, p 41.
- 2 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions*, Sydney, 2016, p 44; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 5: Response of The Salvation Army to child sexual abuse at its boys' homes in New South Wales and Queensland*, Sydney, 2015, pp 64, 69; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 33: The response of The Salvation Army (Southern Territory) to allegations of child sexual abuse at children's homes that it operated*, Sydney, 2016, p 103; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 18: The response of the Australian Christian Churches and affiliated Pentecostal churches to allegations of child sexual abuse*, Sydney, 2015, p 30; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 41; Royal Commission into Institutional Responses to Child Sexual Abuse, *Case Study No 42: The responses of the Anglican Diocese of Newcastle to instances and allegations of child sexual abuse*, Sydney, 2017, s 6.2.
- 3 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 36: The response of the Church of England Boys' Society and the Anglican Dioceses of Tasmania, Adelaide, Brisbane and Sydney to allegations of child sexual abuse*, Sydney, 2017, p 92; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 33: The response of The Salvation Army (Southern Territory) to allegations of child sexual abuse at children's homes that it operated*, Sydney, 2016, p 103; Royal Commission into Institutional Responses to Child Sexual Abuse, *Case Study No 42: The responses of the Anglican Diocese of Newcastle to instances and allegations of child sexual abuse*, Sydney, 2017, s 4.5.
- 4 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 26: The response of the Sisters of Mercy, the Catholic Diocese of Rockhampton and the Queensland Government to allegations of child sexual abuse at St Joseph's Orphanage, Neerkol*, Sydney, 2016, p 39; *Report of Case Study No 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions*, Sydney, 2016, p 44.
- 5 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 28: Catholic Church authorities in Ballarat*, Sydney, 2017, s 3.4; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 26: The response of the Sisters of Mercy, the Catholic Diocese of Rockhampton and the Queensland Government to allegations of child sexual abuse at St Joseph's Orphanage, Neerkol*, Sydney, 2016, p 39.
- 6 See Transcript of J Hennessy, Case Study 11, 28 April 2014 at WA1528:12–21, 1540:1–22; Exhibit 5-0012, 'Victim Impact Statement of HQ', Case Study 5, TSAE.9100.01074.0055_E_R at 0055_E_R; Exhibit 5-0005, 'Statement of EG', Case Study 5, STAT.0102.001.0001_M_R at 0002_M_R; Exhibit 33-0002, 'Statement of Graham Rundle', Case Study 33, STAT.0674.001.0001_R at 0025_R; Exhibit 33-0004, 'Statement of BMB', Case Study 33, STAT.0690.001.0001_R at 0010_R.
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- 9 Department of Health and Human Services (Vic), *An overview of the Victorian child safe standards*, Victorian Government, Melbourne, 2015, p 18.
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- 12 Department for Education and Child Development (SA), *Child Safe Environments: Principles of Good Practice*, Government of South Australia, Adelaide, 2012, p 29.
- 13 For example, Minister for Education (Vic), *Education and Training Reform Act 2006* (Vic) – Child Safe Standards – Managing the risk of child abuse in schools, Ministerial Order No. 870 dated 22 December 2015', *Victoria Government Gazette*, No S 2, 2 January 2016, cl 11(3)(e)(iii); Education and Training Directorate (ACT), *Student accidents/incidents*, Australian Capital Territory Government, 2008, www.det.act.gov.au/__data/assets/pdf_file/0006/35709/Student_Accidents_Incidents_updated.pdf (viewed 25 September 2017); Department of Education (WA), *Recording of child abuse*, Western Australian Government, 2016, www.det.wa.edu.au/childprotection/detcms/navigation/recording-of-child-abuse/ (viewed 25 September 2017).

- 14 However, the records created by some private bodies in certain circumstances may also constitute ‘public records’ and be subject to public records legislation. For example, where a public body outsources certain functions to a private body, or contracts a private body to undertake a particular piece of work on its behalf, the records the private body creates will generally constitute public records and be subject to the relevant jurisdiction’s public records legislation. In other cases, records created by private bodies in a private capacity may become public records where they are acquired by, transferred to or given to a public body or public records offices. For example, many records of private institutions that provided out-of-home care in the mid to late decades of the 20th century were passed to public records offices or child protection departments upon their closure.
- 15 *Australian Charities and Not-for-profits Commission Act 2012* (Cth) Part 3-2, Division 55, 55-5.
- 16 *Privacy Act 1988* (Cth), Schedule 1, APP 12.1.
- 17 *Privacy Act 1988* (Cth), Schedule 1, APP 13.1.
- 18 *Privacy Act 1988* (Cth), Schedule 1, APP 12.8, 13.5.
- 19 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 11: Congregation of Christian Brothers in Western Australia response to child sexual abuse at Castledare Junior Orphanage, St Vincent’s Orphanage Clontarf, St Mary’s Agricultural School Tardun and Bindoon Farm School*, Sydney, 2014, p 36; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 13: The response of the Marist Brothers to allegations of child sexual abuse against Brothers Kostka Chute and Gregory Sutton*, Sydney, 2015, pp 16–17; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions*, Sydney, 2016, p 55.
- 20 Exhibit 50-0004, ‘Integrity in Ministry: A Document of Principles and Standards for Catholic Clergy & Religious in Australia, Australian Catholic Bishops Conference and Catholic Religious Australia, June 2004 (reprinted April 2010)’, Case Study 50, CTJH.057.11004.0037 at 0058–0059, 0062; Exhibit 55-0002, ‘ACC Ministerial Code of Conduct’, Case Study 55, ACC.0014.001.0153 at 0158; Exhibit 52-0003, ‘Faithfulness in Service (Consolidated) 2016’, Case Study 52, ANG.0374.001.0001 at 0020, 0031; Exhibit 53-0001, ‘Code of Conduct Framework’, Case Study 53, YSV.1001.001.0025 at 0029; Exhibit 49-0007, ‘The Salvation Army Policy – Keeping Children Safe Standards’, Case Study 49, TSAS.0014.001.0138 at 0156; Exhibit 56-0001, ‘National Child Safe Policy Framework (Version 2)’, Case Study 56, UCA.2000.004.0528 at 0537; Exhibit 55-0002, ‘ACC Safer Churches Guidelines’, Case Study 55, ACC.0014.001.0015 at 0017.
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- 22 Exhibit 55-0001, ‘Hillsong Church Standard Operating Procedure – Keeping Records’, Case Study 55, HIL.0001.010.0146; Exhibit 49-0007, ‘The Salvation Army Policy – File Management Policy’, Case Study 49, TSAE.0054.001.0097; Exhibit 55-0011, ‘Diocese of Wagga Wagga, Child Protection: Safeguarding Children and Young People: Record Keeping’, Case Study 50, CTJH.294.90001.0029.
- 23 Exhibit 55-0001, ‘Hillsong Church Standard Operating Procedure – Keeping Records’, Case Study 55, HIL.0001.010.0146.
- 24 Exhibit 55-0011, ‘Diocese of Wagga Wagga, Child Protection: Safeguarding Children and Young People: Record Keeping’, Case Study 50, CTJH.294.90001.0029.
- 25 Exhibit 50.0009, ‘Statement of Brother Peter Carroll – General Statement’, Case Study 50, CTJH.500.90001.0160 at 0182.
- 26 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 5: Response of The Salvation Army to child sexual abuse at its boys homes in New South Wales and Queensland*, Sydney, 2015, p 43; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 11: Congregation of Christian Brothers in Western Australia response to child sexual abuse at Castledare Junior Orphanage, St Vincent’s Orphanage Clontarf, St Mary’s Agricultural School Tardun and Bindoon Farm School*, Sydney, 2014, p 36; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 14: The response of the Catholic Diocese of Wollongong to allegations of child sexual abuse, and related criminal proceedings, against John Gerard Nestor, a priest of the Diocese*, Sydney, 2014, p 12; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions*, Sydney, 2016, pp 54–55; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 13: The response of the Marist Brothers to allegations of child sexual abuse against Brothers Kostka Chute and Gregory Sutton*, Sydney, 2015, p 9; Transcript of P Carroll, Case Study 43, 8 September 2016 at 18250:33 – 18251:1; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah’s Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, pp 39, 41; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 18: The response of the Australian Christian Churches and affiliated Pentecostal churches to allegations of child sexual abuse*, Sydney, 2015, pp 28, 49.

- 27 Exhibit 56-0001, 'National Child Safe Policy Framework (Version 2)', Case Study 56, UCA.2000.004.0528 at 0537; Exhibit 56-0001, 'Second joint statement of Stuart McMillan and Colleen Geyer', Case Study 56, UCA.3000.999.0001 at 0018, 0022; Exhibit 50-0011, 'Diocese of Wagga Wagga, Child Protection: Safeguarding Children and Young People: Responding Procedures', Case Study 50, CTJH.294.90001.0032 at 0041; Exhibit 53-0001, 'Child Protection Policy', Case Study 53, YSV.1001.001.0093 at 0097–0098; Exhibit 55-0001, 'Hillsong Church Standard Operating Procedure – Keeping Records', Case Study 55, HIL.0001.010.0146 at 0147; Exhibit 50-0011, 'Archdiocese of Canberra and Goulburn, Investigation Procedure (draft)', Case Study 50, CTJH.231.90001.0006 at 0040; Exhibit 50-0011, 'Diocese of Toowoomba Catholic Education, Student Protection Policy and Procedure', Case Study 50, CTJH.160.90001.0021 at 0063, 0069, 0071.
- 28 Exhibit 56-0001, 'National Child Safe Policy Framework (Version 2)', Case Study 56, UCA.2000.004.0528 at 0537; Exhibit 56-0001, 'Second joint statement of Stuart McMillan and Colleen Geyer', Case Study 56, UCA.3000.999.0001 at 0018, 0022.
- 29 Exhibit 50-0011, 'Diocese of Wagga Wagga, Child Protection: Safeguarding Children and Young People: Responding Procedures', Case Study 50, CTJH.294.90001.0032 at 0041.
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- 31 Exhibit 55-0001, 'Hillsong Church Standard Operating Procedure – Keeping Records', Case Study 55, HIL.0001.010.0146 at 0148.
- 32 Exhibit 50-0011, 'Archdiocese of Canberra and Goulburn, Investigation Procedure (draft)', Case Study 50, CTJH.231.90001.0006 at 0040–0042.
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- 34 Exhibit 50-0011, 'Australian Catholic Bishops Conference, Programme for Priestly Formation Australia – Ratio Nationalis Institutionis Sacerdotalis', Case Study 50, CTJH.301.15001.0007 at 0014–0035.
- 35 Exhibit 49-0005, 'Statement of Lt Colonel Christine Reid', Case Study 49, STAT.1273.001.0001 at 0018.
- 36 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 22: The response of Yeshiva Bondi and Yeshiva Melbourne to allegations of child sexual abuse made against people associated with those institutions*, Sydney, 2015, p 44; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 33: The response of The Salvation Army (Southern Territory) to allegations of child sexual abuse at children's homes that it operated*, Sydney, 2016, p 23; Royal Commission into Institutional Responses to Child Sexual Abuse, *Case Study 42: The responses of the Anglican Diocese of Newcastle to instances and allegations of child sexual abuse*, Sydney, 2017, ss 4.4, 4.5.
- 37 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 36: The response of the Church of England Boys' Society and the Anglican Dioceses of Tasmania, Adelaide, Brisbane and Sydney to allegations of child sexual abuse*, Sydney, 2017, p 92.
- 38 See for example, Exhibit 53-0001, 'Child Protection Action Chart', Case Study 53, YSV.1001.001.0023; Exhibit 49-0007, 'The Salvation Army Policy – File Management Policy', Case Study 49, TSAE.0054.001.0097 at 0098.
- 39 Exhibit 50-0011, 'Archdiocese of Canberra and Goulburn, Investigation Procedure (draft)', Case Study 50, CTJH.231.90001.0006 at 0041.
- 40 Exhibit 55-0001, 'Hillsong Church Standard Operating Procedure – Keeping Records', Case Study 55, HIL.0001.010.0146 at 0147.
- 41 Exhibit 49-0007, 'The Salvation Army Policy – File Management Policy', Case Study 49, TSAE.0054.001.0097 at 0098.
- 42 Exhibit 50-0004, 'Integrity in Ministry: A Document of Principles and Standards for Catholic Clergy & Religious in Australia, Australian Catholic Bishops Conference and Catholic Religious Australia, June 2004 (reprinted April 2010)', Case Study 50, CTJH.057.11004.0037 at 0059; Exhibit 50-0011, 'South Australian Professional Standards Office, Privacy and Confidentiality Policy (draft)', Case Study 50, CTJH.142.90001.0366 at 0467; Exhibit 49-0007, 'The Salvation Army Policy – File Management Policy', Case Study 49, TSAE.0054.001.0097; Exhibit 53-0001, 'Child Protection Action Chart', Case Study 53, YSV.1001.001.0023; Exhibit 49-0007, 'The Salvation Army Procedure – Reporting Child Abuse Procedure', Case Study 49, TSAS.0014.001.0209 at 0217.
- 43 Exhibit 50-0011, 'Archdiocese of Brisbane, Safeguarding Children & Vulnerable Adults: Prevention and Protection Policy: Support Document', Case Study 50, CTJH.100.90001.0133 at 0152; Exhibit 50-0011, 'ISMAPNG, Policy Statement: Child and Vulnerable Person Protection', Case Study 50, CTJH.043.90001.0020 at 0026.
- 44 Exhibit 50-0011.349, 'South Australian Professional Standards Office, Privacy and Confidentiality Policy (draft)', Case Study 50, CTJH.142.90001.0366 at 0368.
- 45 Exhibit 55-0001, 'Hillsong Church Standard Operating Procedure – Keeping Records', Case Study 55, HIL.0001.010.0146 at 0148.
- 46 Exhibit 50-0011.280, 'Archdiocese of Canberra and Goulburn, Investigation Procedure (draft)', Case Study 50, CTJH.231.90001.0006 at 0041.
- 47 See for example, Exhibit 55-0001, 'Hillsong Church Standard Operating Procedure – Keeping Records', Case Study 55, HIL.0001.010.0146 at 0148; Exhibit 50-0011.280, 'Archdiocese of Canberra and Goulburn, Investigation Procedure (draft)', Case Study 50, CTJH.231.90001.0006 at 0013; Exhibit 50-0011, 'De La Salle ANZPPNG Updated – Interim Procedures – Response to Allegations', Case Study 50, CTJH.050.90001.0014 at 0017; Exhibit 50-0011, 'Diocese of Toowoomba Catholic Education, Student Protection Policy and Procedure', Case Study 50, CTJH.160.90001.0021 at 0074.
- 48 Exhibit 52-0003, 'F – Proposed complaint protocol', Case Study 52, STAT.1326.001.0051 at 0075; Exhibit 56-0001, 'Second joint statement of Stuart McMillan and Colleen Geyer', Case Study 56, UCA.3000.999.0001 at 0021; Exhibit 50-0011, 'ISMAPNG, Process for Responding to a Professional Standards Complaint', Case Study 50, CTJH.043.90001.0010 at 0011.
- 49 Exhibit 52-0001, 'F – Proposed complaint protocol', Case Study 51, STAT.1326.001.0051 at 0075.
- 50 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 13: The response of the Marist Brothers to allegations of child sexual abuse against Brothers Kostka Chute and Gregory Sutton*, Sydney, 2015, p 17.
- 51 Transcript of P Carroll, Case Study 50, 22 February 2017 at 25877:41–25878:4.

52 Exhibit 56-0001, 'Second joint statement of Stuart McMillan and Colleen Geyer', Case Study 56, UCA.3000.999.0001 at 0021–0022.

53 Exhibit 49-0007, 'The Salvation Army Policy – Keeping Children Safe Standards', Case Study 49, TSAS.0014.001.0138 at 0148; Exhibit 49-0005, 'Statement of Lt Colonel Christine Reid', Case Study 49, STAT.1273.001.0001 at 0018.

54 Exhibit 53-0001, 'Induction Policy', Case Study 53, YSV.1001.001.0053.

55 Exhibit 50-0011, 'Catholic Diocese of Darwin, Safeguarding Children and Vulnerable Adults Policy and Procedure', Case Study 50, CTJH.291.90001.0050 at 0054; Exhibit 50-0011, 'Archdiocese of Brisbane, Safeguarding Children & Vulnerable Adults: Prevention and Protection Policy', Case Study 50, CTJH.100.90001.0253 at 0266, 0268.

56 The phrase 'records relating to child sexual abuse which has occurred or is alleged to have occurred' adopts wording used by the National Archives of Australia in a disposal freeze on Commonwealth records that relate to child sexual abuse for the purposes of the Royal Commission: National Archives of Australia, *Notice of disposal freeze: Records related to institutional responses to child sexual abuse*, NAA 2012/4206, 31 January 2013, p 2.

57 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 28: Catholic Church authorities in Ballarat*, Sydney, 2017, s 3.4.

58 Exhibit 50-0009, 'Statement of Archbishop Philip Wilson: General Statement', Case Study 50, CTJH.500.90001.0349 at 0354.

59 Exhibit 50-0011, 'Marist Brothers Province of Australia, Child Protection Policy: Keeping Children Safe', Case Study 50, CTJH.053.90001.0063 at 0072.

60 Exhibit 49-0007, 'The Salvation Army Policy – File Management Policy', Case Study 49, TSAE.0054.001.0097 at 0098.

61 Exhibit 52-0003, 'Model System for Selection and Accreditation of Lay Parish Workers – Overview Document', Case Study 52, ANG.0050.003.0749 at 0753.

62 Exhibit 55-0001, 'Hillsong Church Standard Operating Procedure – Keeping Records', Case Study 55, HIL.0001.010.0146 at 0149.

63 Truth, Justice and Healing Council, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Consultation paper: Records and recordkeeping*, 2016, p 31.

64 Truth, Justice and Healing Council, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Consultation paper: Records and recordkeeping*, 2016, p 34.

65 Exhibit 50-0009, 'Statement of Archbishop Philip Wilson – General Statement', Case Study 50, CTJH.500.90001.0349 at 0354; Exhibit 50-0011, 'Marist Brothers Province of Australia, Child Protection Policy: Keeping Children Safe', Case Study 50, CTJH.053.90001.0063 at 0072; Exhibit 50-0011, 'Archdiocese of Canberra and Goulburn, Investigation Procedure (draft)', Case Study 50, CTJH.231.90001.0006 at 0041.

66 Transcript of P Carroll, Case Study 50, 22 February 2017 at 25877:41–25878:12; Exhibit 50-0009, 'Statement of Brother Ambrose Payne (Kenneth William Payne) (on behalf of Brother Hawke) – General Statement', Case Study 50, CTJH.500.90001.0104 at 0104_0001.

67 Exhibit 56-0001, 'Second joint statement of Stuart McMillan and Colleen Geyer', Case Study 56, UCA.3000.999.0001 at 0023.

68 Transcript of B Loch, Case Study 50, 22 February 2017 at 25829:38–25833:2.

69 Exhibit 50-0009, 'Statement of Brother Peter Carroll – General Statement', Case Study 50, CTJH.500.90001.0160 at 0164.

70 Truth, Justice and Healing Council, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Consultation paper: Records and recordkeeping*, 2016, pp 12–13.

71 Exhibit 49-0007, 'The Salvation Army Policy – File Management Policy', Case Study 49, TSAE.0054.001.0097 at 0098–0099.

72 Exhibit 50-0004, 'Truth Justice and Healing Council, Submission in connection with Case Study 50: Final hearing into Catholic Church authorities in Australia – The Catholic Church: Then and Now, 2016', Case Study 50, SUBM.2463.001.0001_R at 0097_R.

73 Exhibit 50-0011, 'ISMAPNG, Process for Responding to a Professional Standards Complaint', Case Study 50, CTJH.043.90001.0010 at 0010.

74 C Adams & K Lee-Jones, *A study into the legislative – and related key policy and operational – frameworks for sharing information relating to child sexual abuse in institutional contexts*, report prepared for the Royal Commission into Institutional Responses to Child Sexual Abuse, Sydney, 2016, p 1; Victorian Aboriginal Legal Service, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Consultation Paper: Institutional Responses to Child Sexual Abuse in Out-of-Home care*, 7 April 2017, p 12; State Government of Victoria, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Consultation Paper: Institutional Responses to Child Sexual Abuse in Out-of-Home Care*, 6 May 2016, p 10; The Law Society of NSW, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Consultation Paper: Institutional Responses to Child Sexual Abuse in Out-of-Home Care*, 4 May 2016, p 2.

75 The *Privacy Act 1988* (Cth) imposes obligations and restrictions (with respect to collection, use and disclosure of personal information) on Commonwealth public sector agencies and private sector organisations (those with an annual turnover of \$3,000,000 or more and health service providers). State/territory privacy legislation imposes obligations and restrictions on state/territory public sector agencies (*Information Privacy Act 2014* (ACT); *Health Records and Information Privacy Act 2002* (NSW); *Information Act 2002* (NT); *Information Privacy Act 2009* (Qld); *Personal Information Protection Act 2004* (Tas); *Privacy and Data Protection Act 2014* (Vic)).

76 See, for example, confidentiality obligations in child protection legislation: *Children and Young Persons (Care and Protection) Act 1998* (NSW) ss 29, 254; *Care and Protection of Children Act 2007* (NT) ss 150, 195, 221; *Child Protection Act 1999* (Qld) ss 186–188; *Children's Protection Act 1993* (SA) ss 13, 52E, 52L, 58; *Children, Young Persons and Their Families Act 1997* (Tas) ss 16, 103; *Children, Youth and Families Act 2005* (Vic) ss 127(5), 180; *Children and Community Services Act 2004* (WA) s 241.

- 77 Including service agreements for government-funded services for children, common law and equitable obligations of confidence, and professional and ethical codes. See, for example, The Royal Australian & New Zealand College of Psychiatrists, *Code of Ethics*, 2010, www.ranzcp.org/Files/Resources/College_Statements/Practice_Guidelines/code_ethics_2010-pdf.aspx (viewed 15 December 2016); Australian Association of Social Workers, *Code of Ethics*, 2010, www.aasw.asn.au/practitioner-resources/code-of-ethics (viewed 15 December 2016).
- 78 Uniting Church in Australia, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Consultation Paper: Institutional Responses to Child Sexual Abuse in Out-of-Home Care*, 11 April 2016, p 19; Relationships Australia, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Consultation Paper: Institutional Responses to Child Sexual Abuse in Out-of-Home Care*, 11 April 2016, p 5; Wesley Mission VIC, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Consultation Paper: Institutional Responses to Child Sexual Abuse in Out-of-Home Care*, 29 April 2016, p 13; The Allen Consulting Group, *Operational review of the information sharing protocol between the Commonwealth and child protection agencies: Final report*, Allen Consulting Group, Sydney, 2011, p 40.
- 79 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 35: Catholic Archdiocese of Melbourne*, Sydney, 2017, s 9.2.
- 80 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 35: Catholic Archdiocese of Melbourne*, Sydney, 2017, s 1.8.
- 81 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 6: The response of a primary school and the Toowoomba Catholic Education Office to the conduct of Gerard Byrnes*, Sydney, 2015, p 7.
- 82 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 36: The response of the Church of England Boys' Society and the Anglican Dioceses of Tasmania, Adelaide, Brisbane and Sydney to allegations of child sexual abuse*, Sydney, 2017, pp 66–67.
- 83 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 28: Catholic Church authorities in Ballarat*, Sydney, 2017, s 4.6.
- 84 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 5: Response of The Salvation Army to child sexual abuse at its boys homes in New South Wales and Queensland*, Sydney, 2015, p 73.
- 85 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 13: The response of the Marist Brothers to allegations of child sexual abuse against Brothers Kostka Chute and Gregory Sutton*, Sydney, 2015, p 58.
- 86 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 13: The response of the Marist Brothers to allegations of child sexual abuse against Brothers Kostka Chute and Gregory Sutton*, Sydney, 2015, p 5.
- 87 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 22: The response of Yeshiva Bondi and Yeshivah Melbourne to allegations of child sexual abuse made against people associated with those institutions*, Sydney, 2016, p 54.
- 88 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 28: Catholic Church authorities in Ballarat*, Sydney, 2017, ss 4.1, 4.6.
- 89 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 60.
- 90 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, Sydney, 2016, p 77.
- 91 Transcript of T Costelloe, Case Study 50, 24 February 2017 at 26146:24–26147:3.
- 92 Exhibit 50-0009, 'Statement of Archbishop Timothy Costelloe – General Statement', Case Study 50, CTJH.500.90001.0034 at 0055.
- 93 Transcript of T Costelloe, Case Study 50, 24 February 2017 at 26147:21–28.
- 94 Transcript of K Larkman, Case Study 50, 16 February 2017 at 25627:14–35.
- 95 Transcript of P Sandeman, Case Study 52, 20 March 2017 at 26959:12–18.
- 96 Transcript of G Milles, Case Study 52, 21 March 2017 at 27078:30–41.
- 97 Transcript of M Elliott, Case Study 52, 21 March 2017 at 27078:46–27079:8.
- 98 Transcript of M Elliott, Case Study 52, 21 March 2017 at 27079:4–8.
- 99 Transcript of L Bryant, Case Study 52, 21 March 2017 at 27079:23–39.
- 100 Transcript of E Cohen, Case Study 53, 23 March 2017 at 27242:13–36.
- 101 Transcript of M Kastel, Case Study 53, 23 March 2017 at 27242:10–19.
- 102 Transcript of M Kastel, Case Study 53, 23 March 2017 at 27243:2–11.
- 103 Transcript of E Cohen, Case Study 53, 23 March 2017 at 27243:18–20.
- 104 Transcript of K Larkman, Case Study 50, 16 February 2017 at 25627:14–23.
- 105 Transcript of L Bryant, Case Study 52, 21 March 2017 at 27077:4–13; Transcript of T Chambers-Clarke, Case Study 52, 21 March 2017 at 27077:27–34; Transcript of C Sargent, Case Study 52, 21 March 2017 at 27077:30–42; Transcript of M Elliot, Case Study 52, 21 March 2017 at 27077:30–27078:2.
- 106 Royal Commission into Institutional Responses to Child Sexual Abuse, *Criminal Justice: Executive Summary and Parts I-II*, Sydney, 2017, p 543.
- 107 See, for example, *Privacy Act 1988* (Cth) Schedule 1 APP 6.1; *Privacy and Personal Information Protection Act 1998* (NSW) s 18; *Information Privacy Principles Instruction 2016* (SA) cl 4(10).

- 108 The *Privacy Act 1988* (Cth) imposes obligations and restrictions (with respect to collection, use and disclosure of personal information) on Commonwealth public sector agencies and on private sector organisations (those with an annual turnover of \$3,000,000 or more and health service providers) in all states and territories. State/territory privacy legislation imposes obligations and restrictions on state/territory public sector agencies in most jurisdictions: *Information Privacy Act 2014* (ACT); *Health Records and Information Privacy Act 2002* (NSW); *Information Act 2002* (NT); *Information Privacy Act 2009* (Qld); *Personal Information Protection Act 2004* (Tas); *Privacy and Data Protection Act 2014* (Vic). In South Australia, the handling of personal information by state/territory public sector agencies is regulated by a Cabinet Administrative Instruction (*Information Privacy Principles Instruction 2016* (SA)). Western Australia has no dedicated privacy legislation – government agencies are directed to observe standards in the state’s *Policy framework and standards for Information-sharing between Government agencies*, as well as any applicable statutory provisions and common law, and to share information consistently with appropriate minimum privacy standards, such as those under Commonwealth privacy legislation (see Department of the Attorney-General, *Policy framework and standards for information-sharing between Government agencies*, January 2003; and Public Sector Commissioner’s Circular 2014-02, *Policy framework and standards for information-sharing between Government agencies*). In some jurisdictions, obligations and restrictions (with respect to personal information related to health) are also imposed under specific health privacy legislation, which applies to both public sector agencies and private sector organisations (*Health Records (Privacy and Access) Act 1997* (ACT); *Health Records and Information Privacy Act 2002* (NSW); *Health Records Act 2001* (Vic)). Information related to child sexual abuse may also be classified as sensitive information under privacy laws and may be subject to higher privacy standards than other types of personal information – see, for example, *Privacy Act 1988* (Cth) s 6, Schedule 1 APP 6.2(a); *Information Act 2002* (NT) s 4, Schedule 2 IPP 2.1(a); *Personal Information Protection Act 2004* (Tas) s 3, Schedule 1 PIPP 2 (1)(a); *Privacy and Data Protection Act 2014* (Vic) Schedule 1 IPP 10. See also *Privacy and Personal Information Protection Act 1998* (NSW) s 19(1). The handling of criminal records is also subject to particular obligations and restrictions under the *Crimes Act 1914* (Cth) and state/territory criminal records legislation, as well as under privacy legislation.
- 109 For examples of confidentiality obligations in child protection legislation, see *Children and Young Persons (Care and Protection) Act 1998* (NSW) ss 29, 254; *Care and Protection of Children Act 2007* (NT) ss 150, 195, 221; *Child Protection Act 1999* (Qld) ss 186–188; *Children’s Protection Act 1993* (SA) ss 13, 52E, 52L, 58; *Children, Young Persons and Their Families Act 1997* (Tas) ss 16, 103; *Children, Youth and Families Act 2005* (Vic) ss 127(5), 180; *Children and Community Services Act 2004* (WA) s 241.
- 110 This includes equitable and common law obligations of confidence. For examples of confidentiality obligations in child protection legislation, see *Children and Young Persons (Care and Protection) Act 1998* (NSW) ss 29, 254; *Care and Protection of Children Act 2007* (NT) ss 150, 195, 221; *Child Protection Act 1999* (Qld) ss 186–188; *Children’s Protection Act 1993* (SA) ss 13, 52E, 52L, 58; *Children, Young Persons and Their Families Act 1997* (Tas) ss 16, 103; *Children, Youth and Families Act 2005* (Vic) ss 127(5), 180; *Children and Community Services Act 2004* (WA) s 241. See also Office of the Australian Information Commissioner, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Consultation Paper: Criminal Justice*, October 2016, p 3.
- 111 For example, service agreements for government-funded out-of-home care services; and professional and ethical codes. See The Royal Australian & New Zealand College of Psychiatrists, Code of Ethics, 2010, www.ranzcp.org/Files/Resources/College_Statements/Practice_Guidelines/code_ethics_2010-pdf.aspx (viewed 15 December 2016); Australian Association of Social Workers, Code of Ethics, 2010, www.aasw.asn.au/practitioner-resources/code-of-ethics (viewed 15 December 2016).
- 112 See, for example, *Privacy Act 1988* (Cth) Schedule 1 APP 6.1(a); *Information Privacy Act 2014* (ACT) Schedule 1 TTP 6.1(a); *Privacy and Personal Information Protection Act 1998* (NSW) s 26(2); *Information Act 2002* (NT) Schedule 2 IPP 2.1(c); *Information Privacy Act 2009* (Qld) Schedule 3 IPP 11(1)(b), Schedule 4 NPP 2(1)(b); *Personal Information Protection Act 2004* (Tas) Schedule 1 PIPP 2 2(1)(b); *Privacy and Data Protection Act 2014* (Vic) Schedule 1 IPP 2.1(b).
- 113 See, for example, *Privacy Act 1988* (Cth) ss 16A, 16B(3), APP 6.2; *Privacy and Personal Information Protection Act 1998* (NSW) ss 23, 24 and 25. Privacy laws may also support information-sharing where privacy commissioners authorise special arrangements, including public interest directions and codes of practice, to modify privacy restrictions in particular circumstances. See, for example, *Privacy Act 1988* (Cth) ss 72, 73; *Privacy and Personal Information Protection Act 1998* (NSW) s 41.
- 114 The *Privacy Act 1988* (Cth) imposes obligations and restrictions (with respect to collection, use and disclosure of personal information) on Commonwealth public sector agencies and on private sector organisations (those with an annual turnover of \$3,000,000 or more and health service providers) in all states and territories. State/territory privacy legislation imposes obligations and restrictions on state/territory public sector agencies in most jurisdictions (*Information Privacy Act 2014* (ACT); *Health Records and Information Privacy Act 2002* (NSW); *Information Act 2002* (NT); *Information Privacy Act 2009* (Qld); *Personal Information Protection Act 2004* (Tas); *Privacy and Data Protection Act 2014* (Vic).
- 115 The *Privacy Act 1988* (Cth) imposes obligations and restrictions (with respect to collection, use and disclosure of personal information) on Commonwealth public sector agencies and on private sector organisations (those with an annual turnover of \$3,000,000 or more and health service providers) in all states and territories.
- 116 Office of the Australian Information Commissioner, *Chapter 6: APP 6 Use or disclosure of personal information*, 2014, [6.17], www.oaic.gov.au/agencies-and-organisations/app-guidelines/chapter-6-app-6-use-or-disclosure-of-personal-information (viewed 19 April 2017).
- 117 See, for example, *Privacy Act 1988* (Cth) Schedule 1 APP 6.1; *Privacy and Personal Information Protection Act 1998* (NSW) s 18; *Information Privacy Principles Instruction 2016* (SA) cl 4(10).

- 118 *Privacy Act 1988* (Cth) ss 6, 7(1)(ee), 7B(3), 16A, Schedule 1 APP 6.2.
- 119 *Privacy Act 1988* (Cth) ss 6 ‘employee record’, 7(1)(ee), 7B(3).
- 120 See *Privacy Act 1988* (Cth) s 16A(1), Schedule 1 APP 6.2. The Privacy Act allows disclosure for this purpose where ‘it is unreasonable or impracticable’ to obtain consent to disclose. See also *Information Privacy Principles Instruction 2016* (SA) cl 4(10)(c); *Information Privacy Act 2009* (Qld) Schedule 3 IPP 11(1)(c); *Personal Information Protection Act 2004* (Tas) Schedule 1 PIPP 2(1) (d); *Information Act* (NT) Sch 2 IPP 2.1(d)(iii).
- 121 See, for example, *Privacy and Personal Information Protection Act 1998* (NSW) ss 18(1)(c), 19(1); *Privacy and Data Protection Act 2014* (Vic) Schedule 1 IPP 2.1(d). The *Information Act 2002* (NT) also refers to ‘serious and imminent threat’ to life, health or safety of individuals (see Schedule 2 IPP 2.1(d)(i)), but it deals with threats of harm to or exploitation of a child differently.
- 122 Risks or incidents of abuse may become much clearer when information is considered in combination with other information from a range of sources over time.
- 123 These include arrangements provided for in the *Children and Young People Act 2008* (ACT) Division 25.3.2; *Children and Young Persons (Care and Protection) Act 1998* (NSW) Chapter 16A; *Care and Protection of Children Act 2007* (NT) Part 5.1A; *Child Protection Act 1999* (Qld) Chapter 5A (in particular, Part 4); *Children, Young Persons and Their Families Act 1997* (Tas) Part 5A; *Children, Youth and Families Act 2005* (Vic) Part 4.5, and ss 35 and 36; *Children and Community Services Act 2004* (WA) s 23, Part 3 Division 6. South Australia’s main arrangements for sharing safety and wellbeing information are provided for administratively, rather than legislatively, in the *Information-sharing guidelines for promoting safety and wellbeing* (2013). The *Children and Young People (Safety) Act 2017* (SA) Ch 11, Pt 3, which received assent on 2 August 2017, provides an information gathering and sharing scheme. Arrangements may identify jurisdictional child protection agency heads, employees and authorised officers for the purposes of information-sharing with prescribed bodies (see, for example, *Child Protection Act 1999* (Qld) ss 159M, 159N; *Care and Protection of Children Act 2007* (NT) s 293C(1)(a)). Here we use the term ‘child protection agency’ to include such references.
- 124 See, for example, Truth, Justice and Healing Council, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Discussion paper: Strengthening information sharing arrangements*, 2017, p 11; Transcript of M Walk, Case Study 24, 12 March 2015 at 13146:5–17; Transcript of S Kinmond, Roundtable discussion into preventing sexual abuse in out-of-home care, 16 April 2015 T21:1–15; NSW Ombudsman, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 1: Working with Children Check*, 17 June 2013, pp 9–10; Transcript of K Boland, Case Study 24, 2 July 2015 at 14941:1–47; Exhibit 23-0056, Case Study 23, OMB.0010.001.0001_R at 0007_R.
- 125 *Children and Young Persons (Care and Protection) Act 1998* (NSW) ss 245B, 248(6); *Children and Young Persons (Care and Protection) Regulation 2012* (NSW) r 8(j).
- 126 It is unclear how widely the terms ‘welfare’, ‘education’ and ‘children’s services’ have been interpreted in practice. For example, in the absence of a definition, terms such as ‘children’s services’ might be interpreted widely. However, the legislative history of the term ‘children’s services’ in the *Children and Young Persons (Care and Protection) Act 1998* (NSW) indicates that, at the time that Chapter 16A was introduced, that term specifically excluded services primarily concerned with providing for children’s lessons or their participation in a religious activity. See our discussion in Volume 8, Chapter 3, ‘Improving information sharing across sectors’.
- 127 See *Care and Protection of Children Act 2007* (NT) s 293C.
- 128 Truth, Justice and Healing Council, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Discussion paper: Strengthening information sharing arrangements*, 2017, p 12.
- 129 Royal Commission consultation with religious institutions on information sharing, 2017.
- 130 NSW Ombudsman, *Strengthening the oversight of workplace child abuse allegations: A special report to Parliament under s.31 of the Ombudsman Act 1974*, 2016, p 17.
- 131 Transcript of L Bryant, Case Study 52, 21 March 2017 at 27105:14–15.
- 132 Transcript of S Tynan, Case Study 50, 16 February 2017 at 25637:29–47.
- 133 Exhibit 50-0011, ‘Archdiocese of Canberra and Goulburn, Investigation Procedure (draft)’, Case Study 50, CTJH.231.90001.0006 at 0026.
- 134 Transcript of M Elliott, Case Study 52, 21 March 2017 at 27075:42–27076:6.
- 135 Truth, Justice and Healing Council, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Discussion Paper: Strengthening information-sharing arrangements*, 2017, p 11.
- 136 Transcript of A Fisher, Case Study 50, 24 February 2017 at 26145:7–12.
- 137 Transcript of M Coleridge, Case Study 50, 24 February 2017 at 26145:19; Transcript of D Hart, Case Study 50, 24 February 2017 at 26145:21; Transcript of T Costelloe, Case Study 50, 24 February 2017 at 26145:23; Transcript of P Wilson, Case Study 50, 24 February 2017 at 26145:25.
- 138 Transcript of C Prowse, Case Study 50, 21 February 2017 at 25739:3–12.
- 139 Transcript of S Tynan, Case Study 50, 16 February 2017 at 25638:38–25639:13.
- 140 Transcript of A Hywood, Case Study 52, 22 March 2017 at 27145:24–32.
- 141 Consultation with Anglican Church representatives, 15 February 2017; See also, Transcript of G Blake, Case Study 46, 1 December 2016 at 24221:6–29.
- 142 Transcript of G Milles, Case Study 52, 21 March 2017 at 27076:28–40.
- 143 Truth, Justice and Healing Council, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Discussion Paper: Strengthening information-sharing arrangements*, 2017, p 16.
- 144 Exhibit 50-0011, ‘Catholic Archdiocese of Perth, The Safeguarding Project: Safeguarding Handbook’, Case Study 50, CTJH.293.90001.0077 at 0094.

145 Exhibit 49-0007, 'The Salvation Army SafeSalvos Manual – Caring for Kids Youth and Other Vulnerable People',
Case Study 49, TSAE.0054.001.0102 at 0150.

146 Exhibit 49-0007, 'The Salvation Army Policy – Management of Persons Convicted/Proven and/or Persons Alleged
to Have Committed a Sex Offence', Case Study 49, TSAS.0014.001.0053 at 0061.

147 Exhibit 52-0003, 'F – Proposed complaint protocol', Case Study 52, 8 February 2017, STAT.1326.001.0051 at 0055.

148 Exhibit 53-0001, 'Code of Conduct Framework', Case Study 53, YSV.1001.001.0025 at 0027, 0030.

149 NSW Government, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Discussion
Paper: Strengthening information sharing arrangements*, 2017, p 6.

150 Exhibit 53-0001, 'Commitment Statement – Yeshivah–Beth Rivkah College and Pre-Schools (Attachment 3)', Case Study 53,
YSV.3001.001.0157 at 0167; Exhibit 55-0002, 'ACC Ministerial Code of Conduct', Case Study 55, ACC.0014.001.0153 at 0159.

151 Exhibit 50-0011, 'Archdiocese of Canberra and Goulburn, Investigation Procedure (draft)', Case Study 50,
CTJH.231.90001.0006 at 0023–0026.

152 Exhibit 55-0002, 'ACC Ministerial Code of Conduct', Case Study 55, ACC.0014.001.0153 at 0159.

153 Exhibit 56-0001, 'Code of Ethics and Ministry Practice for Ministers of the Church in Australia', Case Study 56,
UCA.2000.005.0003 at 0011.

154 For example, the allegation may be inaccurate, may be shared for an improper purpose, procedural fairness may
be compromised, undue weight may be given to such information by those who receive it, the potential adverse
consequences for those the subject of unreliable and inaccurate information may be significant, and the sharing
of this information may adversely affect other parties.

155 Exhibit 4-0001, 'Towards Healing: Principles and Procedures in Responding to Complaints of Abuse Against Personnel
of the Catholic Church in Australia. Fourth publication, third revision', Case Study 4, CTJH.0001.001.0005 at 0038–0039;
Exhibit 49-0007, 'The Salvation Army – Safeguarding Children/Vulnerable Persons Policy (Second Draft)', Case Study 49,
TSAE.0057.001.0351 at 0355; Exhibit 49-0007, 'The Salvation Army Policy – Management of Persons Convicted/Proven
and/or Persons Alleged to Have Committed a Sex Offence', Case Study 49, TSAS.0014.001.0053 at 0061; Exhibit 56-
0001, 'Statement of Reverend Heather den Houting', Case Study 56, UCA.2000.999.0017 at 0052–53; Exhibit 52-0003,
'Statement of Principles for the Sharing of Information between the Directors of Professional Standards', Case Study
52, STAT.1286.001.0076; Exhibit 54-0001, 'Child Protection Guidelines for Branch Office Service Desks', Case Study 54,
WAT.0024.001.0006 at 0011.

156 Exhibit 54-0001, 'Child Protection Guidelines for Branch Office Service Desks', Case Study 54, WAT.0024.001.0006 at
0011–0012; Exhibit 52-0003, 'Guidelines for parish safety where there is a risk of sexual abuse by a person of concern',
Case Study 52, ANG.0050.001.0003 at 0004–0005.

157 Exhibit 4-0001, 'Towards Healing: Principles and Procedures in Responding to Complaints of Abuse Against Personnel
of the Catholic Church in Australia. Fourth publication, third revision', Case Study 4, CTJH.0001.001.0005 at 0038–0039;
Transcript of M Coleridge, Case Study 50, 20 February 2017, 25700:8–23; Exhibit 54-0001, 'Child Protection Guidelines
for Branch Office Service Desks', Case Study 54, WAT.0024.001.0006 at 0011; Exhibit 52-0003, 'Statement of Principles
for the Sharing of Information between the Directors of Professional Standards', 1 May 2016, STAT.1286.001.0076;
Exhibit 49-0007, 'The Salvation Army Policy - Management of Persons Convicted/Proven and/or Persons Alleged
to Have Committed a Sex Offence', Case Study 40, TSAS.0014.001.0053 at 0061.

158 Exhibit 52-0003, 'Statement of Principles for the Sharing of Information between the Directors of Professional
Standards', Case Study 52, STAT.1286.001.0076.

159 Exhibit 52-0003, 'Statement of Principles for the Sharing of Information between the Directors of Professional
Standards', Case Study 52, STAT.1286.001.0076 at 0076.

160 Transcript of M Elliott, Case Study 52, 21 March 2017 at 27075:45–47; Transcript of C Sargent, Case Study 52, 21 March
2017 at 27077:17–19.

161 Exhibit 52-0003, 'Statement of Principles for the Sharing of Information between the Directors of Professional
Standards', Case Study 52, STAT.1286.001.0076.

162 Transcript of P Sandeman, Case Study 52, 20 March 2017 at 26959:10–25, 26960:15–23.

163 Exhibit 4-0001, 'Towards Healing: Principles and Procedures in Responding to Complaints of Abuse Against Personnel
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164 Exhibit 52-0003, 'Statement of Principles for the Sharing of Information between the Directors of Professional
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165 Exhibit 52-0003, 'Statement of Principles for the Sharing of Information between the Directors of Professional
Standards', Case Study 52, STAT.1286.001.0076 at 0077.

166 Exhibit 53-0001, 'Child Protection Policy', Case Study 53, YSV.1001.001.0093 at 0105.

167 See *Ombudsman Act 1974* (NSW) Part 3A; Victoria and the Australian Capital Territory are implementing reportable
conduct schemes that are based on the New South Wales model, see *Child Wellbeing and Safety Act 2005* (Vic) Part
5A; *Ombudsman Act 1989* (ACT) div 2.2A; *Child Wellbeing and Safety Act 2005* (Vic), sch 4, cl 2; Under the New South
Wales and Australian Capital Territory schemes, religious institutions are not covered, except to the extent that they fall
into other categories of institutions – for example, because they provide educational or accommodation and residential
services. In Victoria, the reportable conduct scheme covers entities that are a 'religious body' within the meaning of
section 81 of the *Equal Opportunity Act 2010* (Vic), defined to mean a 'body established for a religious purpose', see also
Child Wellbeing and Safety Act 2005 (Vic), sch 4, cl 2.

168 Exhibit 50-0011, 'Catholic Archdiocese of Perth, The Safeguarding Project: Safeguarding Handbook', Case Study 50,
CTJH.293.90001.0077 at 0094.

169 M Keeley, J Bullen, S Bates, I Katz & A Choi, *Opportunities for information sharing: Case studies – Report prepared for: NSW Department of Premier and Cabinet*, Social Policy Research Centre, UNSW, Sydney, 2015, p 19.

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172 Transcript of A Hywood, Case Study 52, 22 March 2017 at 27141:47–27142:3.

173 Exhibit 42-0001, 'Outline of the Structure of the Anglican Church of Australia', Case Study 42, ANG.9310.01002.0003 at 0041; Exhibit 52-0003, 'National Register Canon 2007 – Canon 15, 2007 (as amended 2010 and 2014)', Case Study 52, ASQ.261.005.0182 at 0183.

174 Transcript of A Hywood, Case Study 52, 22 March 2017 at 27141:34–37.

175 Exhibit 52-0003, 'National Register Canon 2007 – Canon 15, 2007 (as amended 2010 and 2014)', Case Study 52, ASQ.261.005.0182 at 0183, 0197.

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181 Exhibit 50-0004, 'National Committee for Professional Standards', Case Study 50, IND.0596.001.0001 at 0005; Truth, Justice and Healing Council, *Priest and male religious register now up and running*, media release, Canberra, 27 October 2016.

182 Exhibit 50-0004, 'National Committee for Professional Standards', Case Study 50, IND.0596.001.0001 at 0011; Exhibit 50-0004, 'Truth Justice and Healing Council, Submission in connection with Case Study 50: Final hearing into Catholic Church authorities in Australia – The Catholic Church: Then and Now, 2016', Case Study 50, SUBM.2463.001.0001_R at 0092_R.

183 Transcript of M Coleridge, Case Study 50, 20 February 2017 at 25700:34–38.

184 Exhibit 50-0009, 'Statement of Provincial Gregory Brett – General Statement', Case Study 50, CTJH.500.90001.0198_R at 0199_R; Exhibit 50-0009, 'Statement of Brother Peter Carroll – General Statement', Case Study 50, CTJH.500.90001.0160 at 0188; Exhibit 50-0009, 'Statement of Bishop Antoine-Charbel Tarabay – General Statement', Case Study 50, CTJH.500.90001.0284 at 0289; Exhibit 50-0009, 'Statement of Bishop Gerard Hanna – General Statement', Case Study 50, CTJH.500.90001.0088 at 0095.

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186 Exhibit 52-0003, 'National Register Canon 2007 – Canon No 15 2007 as Amended by Canon No 13 2010 Canon 09 2014', Case Study 52, ASQ.261.005.0182 at 0182, 0190.

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193 Exhibit 52-0003, 'National Register Canon 2007 – Canon No 15 2007 as amended by Canon No 13, 2010, Canon 09, 2014', Case Study 52, ASQ.261.005.0182 at 0190–0191.

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203 Exhibit 52-0003, 'National Register Canon 2007 – Canon No 15 2007 as amended by Canon No 13 2010 Canon 09 2014', Case Study 52, ASQ.261.005.0182 at 0186–0187.

204 Transcript of A Hywood, Case Study 52, 22 March 2017 at 27143:13–14.

205 Exhibit 52-0003, 'National Register Canon 2007 – Canon No 15 2007 as amended by Canon No 13 2010 Canon 09 2014', Case Study 52, ASQ.261.005.0182 at 0189.

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207 Transcript of A Hywood, Case Study 52, 22 March 2017 at 27143:38–46.

208 Exhibit 52-0014, 'National Register Amendment Canon 2017 – Canon 10 2017', Case Study 52, SUBM.052.006.0078 at 0079.
 209 Exhibit 50-0004, 'National Committee for Professional Standards', Case Study 50, IND.0596.001.0001 at 0006.
 210 Exhibit 50-0004, 'National Committee for Professional Standards', Case Study 50, IND.0596.001.0001 at 0009–0010.
 211 Exhibit 50-0004, 'National Committee for Professional Standards', Case Study 50, IND.0596.001.0001 at 0011.
 212 Exhibit 50-0004, 'National Committee for Professional Standards', Case Study 50, IND.0596.001.0001 at 0011.
 213 Exhibit 50-0004, 'National Committee for Professional Standards', Case Study 50, IND.0596.001.0001 at 0011.
 214 See, for example, *Privacy and Personal Information Protection Act 1998* (NSW) Part 2, Division 1.
 215 In New South Wales, the *Children and Young Persons (Care and Protection) Regulation 2012* (NSW) r 86N provides that the Children's Guardian must comply with such a request unless a flag in relation to that person is on the register. Where the Children's Guardian has determined not to comply with the request, it must provide reasons unless it believes that this may alert the person about a reportable allegation.
 216 See *Children and Young Persons (Care and Protection) Regulation 2012* (NSW) r 86J. The New South Wales regulations also require the Children's Guardian to notify the relevant authorising and supervising out-of-home care agency of such a change as soon as practicable after amending the register.
 217 For example, the New South Wales Government told us that there are limits to the information that the NSW child protection department (FACS) can access on the Carers Register. Only a small number of FACS staff are authorised to access the Carers Register, and they can only do so for specified purposes. It also informed us that 'work is underway to introduce privacy and ethical safeguards to the Carers Register': NSW Government, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Discussion Paper: Strengthening information sharing arrangements*, 2017, p 11.
 218 Exhibit 52-0003, 'National Register Canon 2007 – Canon No 15 2007 as amended by Canon No 13 2010 Canon 09 2014', Case Study 52, ASQ.261.005.0182.
 219 Exhibit 52-0003, 'National Register Canon 2007 – Canon No 15 2007 as amended by Canon No 13 2010 Canon 09 2014', Case Study 52, ASQ.261.005.0182 at 0184.
 220 Exhibit 52-0003, 'National Register Canon 2007 – Canon No 15 2007 as amended by Canon No 13 2010 Canon 09 2014', Case Study 52, ASQ.261.005.0182 at 0188.
 221 Exhibit 52-0003, 'National Register Canon 2007 – Canon No 15 2007 as amended by Canon No 13 2010 Canon 09 2014', Case Study 52, ASQ.261.005.0182 at 0186–0187.
 222 Transcript of A Hywood, Case Study 52, 22 March 2017 at 27143:13–32; Exhibit 52-0003, 'National Register Canon 2007 – Canon No 15 2007 as amended by Canon No 13 2010 Canon 09 2014', Case Study 52, ASQ.261.005.0182 at 0189.
 223 Exhibit 52-0003, 'Statement of Principles for the Sharing of Information between the Directors of Professional Standards', Case Study 52, STAT.1286.001.0076.
 224 Transcript of A Hywood, Case Study 52, 22 March 2017 at 27142:20–26.

APPENDICES

Appendix A Relevant recommendations from other volumes and reports

Volume 6, Making institutions child safe

What makes institutions safer for children (Chapter 3)

Recommendation 6.4

All institutions should uphold the rights of the child. Consistent with Article 3 of the United Nations Convention on the Rights of the Child, all institutions should act with the best interests of the child as a primary consideration. In order to achieve this, institutions should implement the Child Safe Standards identified by the Royal Commission.

Recommendation 6.5

The Child Safe Standards are:

1. Child safety is embedded in institutional leadership, governance and culture
2. Children participate in decisions affecting them and are taken seriously
3. Families and communities are informed and involved
4. Equity is upheld and diverse needs are taken into account
5. People working with children are suitable and supported
6. Processes to respond to complaints of child sexual abuse are child focused
7. Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training
8. Physical and online environments minimise the opportunity for abuse to occur
9. Implementation of the Child Safe Standards is continuously reviewed and improved
10. Policies and procedures document how the institution is child safe.

Recommendation 6.6

Institutions should be guided by the following core components when implementing the Child Safe Standards:

Standard 1: Child safety is embedded in institutional leadership, governance and culture

- a. The institution publicly commits to child safety and leaders champion a child safe culture.
- b. Child safety is a shared responsibility at all levels of the institution.
- c. Risk management strategies focus on preventing, identifying and mitigating risks to children.
- d. Staff and volunteers comply with a code of conduct that sets clear behavioural standards towards children.
- e. Staff and volunteers understand their obligations on information sharing and recordkeeping.

Standard 2: Children participate in decisions affecting them and are taken seriously

- a. Children are able to express their views and are provided opportunities to participate in decisions that affect their lives.
- b. The importance of friendships is recognised and support from peers is encouraged, helping children feel safe and be less isolated.
- c. Children can access sexual abuse prevention programs and information.
- d. Staff and volunteers are attuned to signs of harm and facilitate child-friendly ways for children to communicate and raise their concerns.

Standard 3: Families and communities are informed and involved

- a. Families have the primary responsibility for the upbringing and development of their child and participate in decisions affecting their child.
- b. The institution engages in open, two-way communication with families and communities about its child safety approach and relevant information is accessible.
- c. Families and communities have a say in the institution's policies and practices.
- d. Families and communities are informed about the institution's operations and governance.

Standard 4: Equity is upheld and diverse needs are taken into account

- a. The institution actively anticipates children's diverse circumstances and responds effectively to those with additional vulnerabilities.
- b. All children have access to information, support and complaints processes.
- c. The institution pays particular attention to the needs of Aboriginal and Torres Strait Islander children, children with disability, and children from culturally and linguistically diverse backgrounds.

Standard 5: People working with children are suitable and supported

- a. Recruitment, including advertising and screening, emphasises child safety.
- b. Relevant staff and volunteers have Working With Children Checks.
- c. All staff and volunteers receive an appropriate induction and are aware of their child safety responsibilities, including reporting obligations.
- d. Supervision and people management have a child safety focus.

Standard 6: Processes to respond to complaints of child sexual abuse are child focused

- a. The institution has a child-focused complaint handling system that is understood by children, staff, volunteers and families.
- b. The institution has an effective complaint handling policy and procedure which clearly outline roles and responsibilities, approaches to dealing with different types of complaints and obligations to act and report.
- c. Complaints are taken seriously, responded to promptly and thoroughly, and reporting, privacy and employment law obligations are met.

Standard 7: Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training

- a. Relevant staff and volunteers receive training on the nature and indicators of child maltreatment, particularly institutional child sexual abuse.
- b. Staff and volunteers receive training on the institution's child safe practices and child protection.
- c. Relevant staff and volunteers are supported to develop practical skills in protecting children and responding to disclosures.

Standard 8: Physical and online environments minimise the opportunity for abuse to occur

- a. Risks in the online and physical environments are identified and mitigated without compromising a child's right to privacy and healthy development.
- b. The online environment is used in accordance with the institution's code of conduct and relevant policies.

Standard 9: Implementation of the Child Safe Standards is continuously reviewed and improved

- a. The institution regularly reviews and improves child safe practices.
- b. The institution analyses complaints to identify causes and systemic failures to inform continuous improvement.

Standard 10: Policies and procedures document how the institution is child safe

- a. Policies and procedures address all Child Safe Standards.
- b. Policies and procedures are accessible and easy to understand.
- c. Best practice models and stakeholder consultation inform the development of policies and procedures.
- d. Leaders champion and model compliance with policies and procedures.
- e. Staff understand and implement the policies and procedures.

Improving child safe approaches (Chapter 4)

State and territory governments

Recommendation 6.8

State and territory governments should require all institutions in their jurisdictions that engage in child-related work to meet the Child Safe Standards identified by the Royal Commission at Recommendation 6.5.

Recommendation 6.9

Legislative requirements to comply with the Child Safe Standards should cover institutions that provide:

- a. accommodation and residential services for children, including overnight excursions or stays
- b. activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children
- c. childcare or childminding services
- d. child protection services, including out-of-home care
- e. activities or services where clubs and associations have a significant membership of, or involvement by, children
- f. coaching or tuition services for children
- g. commercial services for children, including entertainment or party services, gym or play facilities, photography services, and talent or beauty competitions
- h. services for children with disability
- i. education services for children
- j. health services for children
- k. justice and detention services for children, including immigration detention facilities
- l. transport services for children, including school crossing services.

Recommendation 6.10

State and territory governments should ensure that

- a. an independent oversight body in each state and territory is responsible for monitoring and enforcing the Child Safe Standards. Where appropriate, this should be an existing body.
- b. the independent oversight body is able to delegate responsibility for monitoring and enforcing the Child Safe Standards to another state or territory government body, such as a sector regulator.
- c. regulators take a responsive and risk-based approach when monitoring compliance with the Child Safe Standards and, where possible, utilise existing regulatory frameworks to monitor and enforce the Child Safe Standards.

Recommendation 6.11

Each independent state and territory oversight body should have the following additional functions:

- a. provide advice and information on the Child Safe Standards to institutions and the community
- b. collect, analyse and publish data on the child safe approach in that jurisdiction and provide that data to the proposed National Office for Child Safety
- c. partner with peak bodies, professional standards bodies and/or sector leaders to work with institutions to enhance the safety of children
- d. provide, promote or support education and training on the Child Safe Standards to build the capacity of institutions to be child safe
- e. coordinate ongoing information exchange between oversight bodies relating to institutions' compliance with the Child Safe Standards.

Australian Government

Recommendation 6.13

The Australian Government should require all institutions that engage in child-related work for the Australian Government, including Commonwealth agencies, to meet the Child Safe Standards identified by the Royal Commission at Recommendation 6.5.

Recommendation 6.14

The Australian Government should be responsible for the following functions:

- a. evaluate, publicly report on, and drive the continuous improvement of the implementation of the Child Safe Standards and their outcomes
- b. coordinate the direct input of children and young people into the evaluation and continuous improvement of the Child Safe Standards
- c. coordinate national capacity building and support initiatives and opportunities for collaboration between jurisdictions and institutions
- d. develop and promote national strategies to raise awareness and drive cultural change in institutions and the community to support child safety.

National Office for Child Safety

Recommendation 6.16

The Australian Government should establish a National Office for Child Safety in the Department of the Prime Minister and Cabinet, to provide a response to the implementation of the Child Safe Standards nationally, and to develop and lead the proposed National Framework for Child Safety. The Australian Government should transition the National Office for Child Safety into an Australian Government statutory body within 18 months of this Royal Commission's Final Report being tabled in the Australian Parliament.

Recommendation 6.17

The National Office for Child Safety should report to Parliament and have the following functions:

- a. develop and lead the coordination of the proposed National Framework for Child Safety, including national coordination of the Child Safe Standards
- b. collaborate with state and territory governments to lead capacity building and continuous improvement of child safe initiatives through resource development, best practice material and evaluation
- c. promote the participation and empowerment of children and young people in the National Framework and child safe initiatives
- d. perform the Australian Government's Child Safe Standards functions as set out at Recommendation 6.15
- e. lead the community prevention initiatives as set out in Recommendation 6.2.

Volume 7, Improving institutional responding and reporting

Reporting institutional child sexual abuse (Chapter 2)

Recommendation 7.1

State and territory governments that do not have a mandatory reporter guide should introduce one and require its use by mandatory reporters.

Recommendation 7.2

Institutions and state and territory governments should provide mandatory reporters with access to experts who can provide timely advice on child sexual abuse reporting obligations.

Recommendation 7.3

State and territory governments should amend laws concerning mandatory reporting to child protection authorities to achieve national consistency in reporter groups. At a minimum, state and territory governments should also include the following groups of individuals as mandatory reporters in every jurisdiction:

- a. out-of-home care workers (excluding foster and kinship/relative carers)
- b. youth justice workers
- c. early childhood workers
- d. registered psychologists and school counsellors
- e. people in religious ministry.

Recommendation 7.4

Laws concerning mandatory reporting to child protection authorities should not exempt persons in religious ministry from being required to report knowledge or suspicions formed, in whole or in part, on the basis of information disclosed in or in connection with a religious confession.

Improving institutional responses to complaints (Chapter 3)

Recommendation 7.7

Consistent with Child Safe Standard 6: Processes to respond to complaints of child sexual abuse are child focused, institutions should have a clear, accessible and child-focused complaint handling policy and procedure that sets out how the institution should respond to complaints of child sexual abuse. The complaint handling policy and procedure should cover:

- a. making a complaint
- b. responding to a complaint

- c. investigating a complaint
- d. providing support and assistance
- e. achieving systemic improvements following a complaint.

Recommendation 7.8

Consistent with Child Safe Standard 1: Child safety is embedded in institutional leadership, governance and culture, institutions should have a clear code of conduct that:

- a. outlines behaviours towards children that the institution considers unacceptable, including concerning conduct, misconduct or criminal conduct
- b. includes a specific requirement to report any concerns, breaches or suspected breaches of the code to a person responsible for handling complaints in the institution or to an external authority when required by law and/or the institution's complaint handling policy
- c. outlines the protections available to individuals who make complaints or reports in good faith to any institution engaging in child-related work (see Recommendation 7.6 on reporter protections).

Oversight of institutional complaint handling (Chapter 4)

Recommendation 7.9

State and territory governments should establish nationally consistent legislative schemes (reportable conduct schemes), based on the approach adopted in New South Wales, which oblige heads of institutions to notify an oversight body of any reportable allegation, conduct or conviction involving any of the institution's employees.

Recommendation 7.10

Reportable conduct schemes should provide for:

- a. an independent oversight body
- b. obligatory reporting by heads of institutions
- c. a definition of reportable conduct that covers any sexual offence, or sexual misconduct, committed against, with, or in the presence of, a child
- d. a definition of reportable conduct that includes the historical conduct of a current employee
- e. a definition of employee that covers paid employees, volunteers and contractors
- f. protection for persons who make reports in good faith

- g. oversight body powers and functions that include
 - i. scrutinising institutional systems for preventing reportable conduct and for handling and responding to reportable allegations, or reportable convictions
 - ii. monitoring the progress of investigations and the handling of complaints by institutions
 - iii. conducting, on its own motion, investigations concerning any reportable conduct of which it has been notified or otherwise becomes aware
 - iv. power to exempt any class or kind of conduct from being reportable conduct
 - v. capacity building and practice development, through the provision of training, education and guidance to institutions
 - vi. public reporting, including annual reporting on the operation of the scheme and trends in reports and investigations, and the power to make special reports to parliaments.

Recommendation 7.11

State and territory governments should periodically review the operation of reportable conduct schemes, and in that review determine whether the schemes should cover additional institutions that exercise a high degree of responsibility for children and involve a heightened risk of child sexual abuse.

Recommendation 7.12

Reportable conduct schemes should cover institutions that:

- exercise a high degree of responsibility for children
- engage in activities that involve a heightened risk of child sexual abuse, due to institutional characteristics, the nature of the activities involving children, or the additional vulnerability of the children the institution engages with.

At a minimum, these should include institutions that provide:

- a. accommodation and residential services for children, including:
 - i. housing or homelessness services that provide overnight beds for children and young people
 - ii. providers of overnight camps
- b. activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children

- c. childcare services, including:
 - i. approved education and care services under the Education and Care Services National Law
 - ii. approved occasional care services
- d. child protection services and out-of-home care, including:
 - i. child protection authorities and agencies
 - ii. providers of foster care, kinship care or relative care
 - iii. providers of family group homes
 - iv. providers of residential care
- e. disability services and supports for children with disability, including:
 - i. disability service providers under state and territory legislation
 - ii. registered providers of supports under the National Disability Insurance Scheme
- f. education services for children, including:
 - i. government and non-government schools
 - ii. TAFEs and other institutions registered to provide senior secondary education or training, courses for overseas students or student exchange programs
- g. health services for children, including:
 - i. government health departments and agencies, and statutory corporations
 - ii. public and private hospitals
 - iii. providers of mental health and drug or alcohol treatment services that have inpatient beds for children and young people
- h. justice and detention services for children, including:
 - i. youth detention centres
 - ii. immigration detention facilities.

Volume 8, Recordkeeping and information sharing

Records and recordkeeping (Chapter 2)

Minimum retention periods

Recommendation 8.1

To allow for delayed disclosure of abuse by victims and take account of limitation periods for civil actions for child sexual abuse, institutions that engage in child-related work should retain, for at least 45 years, records relating to child sexual abuse that has occurred or is alleged to have occurred.

Records and recordkeeping principles

Recommendation 8.4

All institutions that engage in child-related work should implement the following principles for records and recordkeeping, to a level that responds to the risk of child sexual abuse occurring within the institution.

Principle 1: Creating and keeping full and accurate records relevant to child safety and wellbeing, including child sexual abuse, is in the best interests of children and should be an integral part of institutional leadership, governance and culture.

Institutions that care for or provide services to children must keep the best interests of the child uppermost in all aspects of their conduct, including recordkeeping. It is in the best interest of children that institutions foster a culture in which the creation and management of accurate records are integral parts of the institution's operations and governance.

Principle 2: Full and accurate records should be created about all incidents, responses and decisions affecting child safety and wellbeing, including child sexual abuse.

Institutions should ensure that records are created to document any identified incidents of grooming, inappropriate behaviour (including breaches of institutional codes of conduct) or child sexual abuse and all responses to such incidents.

Records created by institutions should be clear, objective and thorough. They should be created at, or as close as possible to, the time the incidents occurred, and clearly show the author (whether individual or institutional) and the date created.

Principle 3: Records relevant to child safety and wellbeing, including child sexual abuse, should be maintained appropriately.

Records relevant to child safety and wellbeing, including child sexual abuse should be maintained in an indexed, logical and secure manner. Associated records should be collocated or cross-referenced to ensure that people using those records are aware of all relevant information.

Principle 4: Records relevant to child safety and wellbeing, including child sexual abuse, should only be disposed of in accordance with law or policy.

Records relevant to child safety and wellbeing, including child sexual abuse, must only be destroyed in accordance with records disposal schedules or published institutional policies.

Records relevant to child sexual abuse should be subject to minimum retention periods that allow for delayed disclosure of abuse by victims, and take account of limitation periods for civil actions for child sexual abuse.

Principle 5: Individuals' existing rights to access, amend or annotate records about themselves should be recognised to the fullest extent.

Individuals whose childhoods are documented in institutional records should have a right to access records made about them. Full access should be given unless contrary to law. Specific, not generic, explanations should be provided in any case where a record, or part of a record, is withheld or redacted.

Individuals should be made aware of, and assisted to assert, their existing rights to request that records containing their personal information be amended or annotated, and to seek review or appeal of decisions refusing access, amendment or annotation.

Strengthening information-sharing arrangements (Chapter 3)

Elements of a national information exchange scheme

Recommendation 8.6

The Australian Government and state and territory governments should make nationally consistent legislative and administrative arrangements, in each jurisdiction, for a specified range of bodies (prescribed bodies) to share information related to the safety and wellbeing of children, including information relevant to child sexual abuse in institutional contexts (relevant information). These arrangements should be made to establish an information exchange scheme to operate in and across Australian jurisdictions.

Recommendation 8.7

In establishing the information exchange scheme, the Australian Government and state and territory governments should develop a minimum of nationally consistent provisions to:

- a. enable direct exchange of relevant information between a range of prescribed bodies, including service providers, government and non-government agencies, law enforcement agencies, and regulatory and oversight bodies, which have responsibilities related to children's safety and wellbeing
- b. permit prescribed bodies to provide relevant information to other prescribed bodies without a request, for purposes related to preventing, identifying and responding to child sexual abuse in institutional contexts
- c. require prescribed bodies to share relevant information on request from other prescribed bodies, for purposes related to preventing, identifying and responding to child sexual abuse in institutional contexts, subject to limited exceptions
- d. explicitly prioritise children's safety and wellbeing and override laws that might otherwise prohibit or restrict disclosure of information to prevent, identify and respond to child sexual abuse in institutional contexts
- e. provide safeguards and other measures for oversight and accountability to prevent unauthorised sharing and improper use of information obtained under the information exchange scheme
- f. require prescribed bodies to provide adversely affected persons with an opportunity to respond to untested or unsubstantiated allegations, where such information is received under the information exchange scheme, prior to taking adverse action against such persons, except where to do so could place another person at risk of harm.

Supporting implementation and operation

Recommendation 8.8

The Australian Government, state and territory governments and prescribed bodies should work together to ensure that the implementation of our recommended information exchange scheme is supported with education, training and guidelines. Education, training and guidelines should promote understanding of, and confidence in, appropriate information sharing to better prevent, identify and respond to child sexual abuse in institutional contexts, including by addressing:

- a. impediments to information sharing due to limited understanding of applicable laws
- b. unauthorised sharing and improper use of information.

Volume 13, Schools

Child Safe Standards (Chapter 5)

Recommendation 13.1

All schools should implement the Child Safe Standards identified by the Royal Commission.

Recommendation 13.2

State and territory independent oversight authorities responsible for implementing the Child Safe Standards (see Recommendation 6.10) should delegate to school registration authorities the responsibility for monitoring and enforcing the Child Safe Standards in government and non-government schools.

Volume 17, Beyond the Royal Commission

Monitoring and reporting on implementation (Chapter 2)

Ongoing periodic reporting

Recommendation 17.3

Major institutions and peak bodies of institutions that engage in child-related work should, beginning 12 months after this Final Report is tabled, report on their implementation of the Royal Commission's recommendations to the National Office for Child Safety through five consecutive annual reports. The National Office for Child Safety should make these reports publicly available. At a minimum, the institutions reporting should include those that were the subject of the Royal Commission's institutional review hearings held from 5 December 2016 to 10 March 2017.

Redress and civil litigation report

Duty of institutions

Recommendation 89

State and territory governments should introduce legislation to impose a non-delegable duty on certain institutions for institutional child sexual abuse despite it being the deliberate criminal act of a person associated with the institution.

Recommendation 90

The non-delegable duty should apply to institutions that operate the following facilities or provide the following services and be owed to children who are in the care, supervision or control of the institution in relation to the relevant facility or service:

- a. residential facilities for children, including residential out-of-home care facilities and juvenile detention centres but not including foster care or kinship care
- b. day and boarding schools and early childhood education and care services, including long day care, family day care, outside school hours services and preschool programs
- c. disability services for children
- d. health services for children
- e. any other facility operated for profit which provides services for children that involve the facility having the care, supervision or control of children for a period of time but not including foster care or kinship care
- f. any facilities or services operated or provided by religious organisations, including activities or services provided by religious leaders, officers or personnel of religious organisations but not including foster care or kinship care.

Recommendation 91

Irrespective of whether state and territory parliaments legislate to impose a non-delegable duty upon institutions, state and territory governments should introduce legislation to make institutions liable for institutional child sexual abuse by persons associated with the institution unless the institution proves it took reasonable steps to prevent the abuse. The 'reverse onus' should be imposed on all institutions, including those institutions in respect of which we do not recommend a non-delegable duty be imposed.

Recommendation 92

For the purposes of both the non-delegable duty and the imposition of liability with a reverse onus of proof, the persons associated with the institution should include the institution's officers, office holders, employees, agents, volunteers and contractors. For religious organisations, persons associated with the institution also include religious leaders, officers and personnel of the religious organisation.

Recommendation 93

State and territory governments should ensure that the non-delegable duty and the imposition of liability with a reverse onus of proof apply prospectively and not retrospectively.

Criminal justice report

Blind reporting

Recommendation 16

In relation to blind reporting, institutions and survivor advocacy and support groups should:

- a. be clear that, where the law requires reporting to police, child protection or another agency, the institution or group or its relevant staff member or official will report as required
- b. develop and adopt clear guidelines to inform staff and volunteers, victims and their families and survivors, and police, child protection and other agencies as to the approach the institution or group will take in relation to allegations, reports or disclosures it receives that it is not required by law to report to police, child protection or another agency.

Moral or ethical duty to report to police

Recommendation 32

Any person associated with an institution who knows or suspects that a child is being or has been sexually abused in an institutional context should report the abuse to police (and, if relevant, in accordance with any guidelines the institution adopts in relation to blind reporting under Recommendation 16).

Failure to report offence

Recommendation 33

Each state and territory government should introduce legislation to create a criminal offence of failure to report targeted at child sexual abuse in an institutional context as follows:

- a. The failure to report offence should apply to any adult person who:
 - i. is an owner, manager, staff member or volunteer of a relevant institution – this includes persons in religious ministry and other officers or personnel of religious institutions
 - ii. otherwise requires a Working With Children Check clearance for the purposes of their role in the institution

but it should not apply to individual foster carers or kinship carers.

- b. The failure to report offence should apply if the person fails to report to police in circumstances where they know, suspect, or should have suspected (on the basis that a reasonable person in their circumstances would have suspected and it was criminally negligent for the person not to suspect), that an adult associated with the institution was sexually abusing or had sexually abused a child.
- c. Relevant institutions should be defined to include institutions that operate facilities or provide services to children in circumstances where the children are in the care, supervision or control of the institution. Foster and kinship care services should be included (but not individual foster carers or kinship carers). Facilities and services provided by religious institutions, and any services or functions performed by persons in religious ministry, should be included.
- d. If the knowledge is gained or the suspicion is or should have been formed after the failure to report offence commences, the failure to report offence should apply if any of the following circumstances apply:
 - i. A child to whom the knowledge relates or in relation to whom the suspicion is or should have been formed is still a child (that is, under the age of 18 years).
 - ii. The person who is known to have abused a child or is or should have been suspected of abusing a child is either:
 - still associated with the institution
 - known or believed to be associated with another relevant institution.
 - iii. The knowledge gained or the suspicion that is or should have been formed relates to abuse that may have occurred within the previous 10 years.
- e. If the knowledge is gained or the suspicion is or should have been formed before the failure to report offence commences, the failure to report offence should apply if any of the following circumstances apply:
 - i. A child to whom the knowledge relates or in relation to whom the suspicion is or should have been formed is still a child (that is, under the age of 18 years) and is still associated with the institution (that is, they are still in the care, supervision or control of the institution).
 - ii. The person who is known to have abused a child or is or should have been suspected of abusing a child is either:
 - still associated with the institution
 - known or believed to be associated with another relevant institution.

Recommendation 35

Each state and territory government should ensure that the legislation it introduces to create the criminal offence of failure to report recommended in recommendation 33 addresses religious confessions as follows:

- a. The criminal offence of failure to report should apply in relation to knowledge gained or suspicions that are or should have been formed, in whole or in part, on the basis of information disclosed in or in connection with a religious confession.
- b. The legislation should exclude any existing excuse, protection or privilege in relation to religious confessions to the extent necessary to achieve this objective.
- c. Religious confession should be defined to include a confession about the conduct of a person associated with the institution made by a person to a second person who is in religious ministry in that second person's professional capacity according to the ritual of the church or religious denomination concerned.

Failure to protect offence

Recommendation 36

State and territory governments should introduce legislation to create a criminal offence of failure to protect a child within a relevant institution from a substantial risk of sexual abuse by an adult associated with the institution as follows:

- a. The offence should apply where:
 - i. an adult person knows that there is a substantial risk that another adult person associated with the institution will commit a sexual offence against:
 - a child under 16
 - a child of 16 or 17 years of age if the person associated with the institution is in a position of authority in relation to the child
 - ii. the person has the power or responsibility to reduce or remove the risk
 - iii. the person negligently fails to reduce or remove the risk.
- b. The offence should not be able to be committed by individual foster carers or kinship carers.
- c. Relevant institutions should be defined to include institutions that operate facilities or provide services to children in circumstances where the children are in the care, supervision or control of the institution. Foster care and kinship care services should be included, but individual foster carers and kinship carers should not be included. Facilities and services provided by religious institutions, and any service or functions performed by persons in religious ministry, should be included.
- d. State and territory governments should consider the Victorian offence in section 49C of the *Crimes Act 1958* (Vic) as a useful precedent, with an extension to include children of 16 or 17 years of age if the person associated with the institution is in a position of authority in relation to the child.

Appendix B Practical guidance for implementing the Child Safe Standards

This appendix describes initiatives, actions and practices to implement the Child Safe Standards. While it is a general guide for institutions, the information is not exhaustive and institutions should make their own decisions about implementing the standards. We acknowledge some actions listed below may not be practicable or necessary for some institutions.

Standard 1: Child safety is embedded in institutional leadership, governance and culture

A child safe institution is committed to child safety. This commitment should be supported at all levels of the institution and be embedded in an institution's leadership, governance and culture, and all aspects of the institution's business and practice.

Institutional culture consists of the collective values and practices that guide the attitudes and behaviour of staff and volunteers. It guides the way things are done and the way issues are managed, dealt with and responded to. A positive, child-focused culture could help to protect children from sexual abuse and facilitate the identification of and proper response to child sexual abuse.

The standard's core components

We consider the core components of leadership, governance and culture in a child safe institution to be the following:

- a. The institution publicly commits to child safety and leaders champion a child safe culture.
- b. Child safety is a shared responsibility at all levels of the institution.
- c. Risk management strategies focus on preventing, identifying and mitigating risks to children.
- d. Staff and volunteers comply with a code of conduct that sets clear behavioural standards towards children.
- e. Staff and volunteers understand their obligations on information sharing and recordkeeping.

Implementing the core components

The institution publicly commits to child safety and leaders champion a child safe culture

The institution:

- explains in publicly available information how the institution is meeting its commitment to child safety and welcomes feedback
- addresses child safety in duty statements and performance agreements for all staff, including senior leaders and board members
- raises staff awareness about obligations to protect the safety and wellbeing of children within a broader context of supporting children's rights
- establishes and maintains a workplace culture of respect for children, regardless of their individual characteristics, cultural backgrounds and abilities
- lists child safety as a standing meeting agenda item.

Child safety is a shared responsibility at all levels of the institution

To embed this responsibility in the institution's culture:

- children's cultural safety is addressed in the institution's policies and procedures
- information about child safety is accessible, regularly promoted, and staff, volunteers, children and families are encouraged to raise safety issues without fear of retribution
- staff, volunteers, children and families report that they know that child safety is everyone's responsibility and they feel empowered to have a say in and influence decisions about child safety.

Leaders of the institution:

- inform themselves about all aspects of child safety
- model and foster a commitment to child safe practices
- set accountabilities for child safe principles at all levels of the institution's governance structure
- understand the problem of child sexual abuse
- foster a culture that supports anyone to disclose safely their concerns about harm to children
- appoint to the institution's board a Child Safe Trustee or Children's Champion who is willing and able to advocate on behalf of children, and a Child Protection Coordinator who reports to the executive about the institution's child safe performance.

Staff are made aware of their responsibilities through:

- duty statements that identify roles and responsibilities (including child safety) for all positions
- an organisational chart that shows lines of authority, reporting and accountability for each position.

Risk management strategies focus on preventing, identifying and mitigating risks to children

Risk management strategies support a structured approach to identifying and assessing the characteristics of an institution that may heighten the risk of child sexual abuse. They are an important tool to help keep children safe.

The institution's risk management strategy:

- is developed from a clear, evidence-informed concept of potential intentional and unintentional risks to children in an institution's specific setting. For sexual abuse, it requires knowing the characteristics of abusers and victims, and how, when and where abuse tends to occur
- has a prevention focus that addresses child safety
- has appropriate controls to identify, assess and address risks
- considers increased risk with specific roles and activities, and children with heightened vulnerability, but does not discourage positive relationships between adults and children, and healthy child development
- attends more closely to risk in situations where staff have roles that involve working alone with children or without supervision; in private settings; in intimate care routines or situations with children (for example, bathing, dressing, or counselling and guidance); and in leading or supervising others in child safety roles.

For more information, see Standard 6 below, and Volume 7, *Improving institutional responding and reporting*.

Staff and volunteers comply with a code of conduct that sets clear behavioural standards towards children

A code of conduct sets out clear behavioural standards, practices or rules that are expected of individuals in an institution. This includes standards of behaviour that are expected between adults and children.

The institution's code of conduct:

- applies to all staff and volunteers, including senior leaders and board members
- clearly describes acceptable and unacceptable behaviour of employees and volunteers towards children (for example, by illustrating behaviours with relevant examples)
- is communicated effectively to all staff
- requires signed acknowledgement by all staff and volunteers
- is published, accessible to everyone within the institution (including children and families) and communicated throughout the institution using a range of modes and mechanisms
- if breached, requires a prompt response and includes clearly documented response mechanisms, on a continuum from remedial education and counselling through to suspension, termination and official reports.

For more information, see Standard 6 below, and Volume 7, *Improving institutional responding and reporting*.

Staff and volunteers understand their obligations on information sharing and recordkeeping

Within the institution:

- staff and volunteers are aware of and understand their obligations in relation to data collection, information sharing and recordkeeping
- records are stored in accordance with best practice principles for access and use.

Standard 2: Children participate in decisions affecting them and are taken seriously

Children are safer when institutions acknowledge and teach them about their rights to be heard, listened to and taken seriously. Article 12 of the United Nations Convention on the Rights of the Child (UNCRC) details the rights of a child to express their views and participate in decisions that affect their lives. Enabling children and young people to understand, identify and raise their safety concerns with a trusted adult and to feel safe within the institution is important.

A child safe institution is one that seeks the views of children and considers their age, development, maturity, understanding, abilities and the different formats and means of communication they may use. It provides children with formal and informal opportunities to share their views on institutional issues. Children can access sexual abuse prevention programs and information, and feel confident to complain, for example, by using helplines. Staff are aware of signs of harm, including unexplained changes in behaviour, and routinely check children's wellbeing.

The standard's core components

We consider the core components of children's participation and empowerment within an institution to be the following:

- a. Children are able to express their views and are provided opportunities to participate in decisions that affect their lives.
- b. The importance of friendships is recognised and support from peers is encouraged, helping children feel safe and be less isolated.
- c. Children can access sexual abuse prevention programs and information.
- d. Staff and volunteers are attuned to signs of harm and facilitate child-friendly ways for children to communicate and raise their concerns.

Implementing the core components

Children are able to express their views and are provided opportunities to participate in decisions that affect their lives

The institution:

- asks children to participate and talk about the things that affect their lives, including their safety
- embeds children's participation into institutional practices, for example, by providing opportunities for children to participate in decisions that affect their lives
- matches participation methods to the age, capabilities and cultural background of the children, and the type of institution
- creates opportunities for children to be involved in institutional governance, while also being honest with children about the extent of their involvement and giving children feedback on how their views have been actioned by the institution
- plans formal and informal times and activities for information sharing and discussion with children about broad institutional issues and/or decisions
- provides opportunities for children to give feedback to the institution, including anonymous surveys and/or suggestion boxes.

The importance of friendships is recognised and support from peers is encouraged, helping children feel safe and be less isolated

The institution:

- recognises the importance of children's friendships and peer support in helping children feel safe and be less isolated
- actively supports children to develop and sustain friendships (for example, a 'buddy system')
- provides children with education about safe and respectful peer relationships, including through social media.

Children can access sexual abuse prevention programs and information

The institution:

- provides children with access and referral to educational programs on child protection appropriate to their age, ability and level of understanding
- openly displays contact details for independent child advocacy services and child helpline telephone numbers, and explains their use to children
- arranges appropriate referrals or support for children.

Staff and volunteers are attuned to signs of harm and facilitate child-friendly ways for children to communicate and raise their concerns

The institution:

- establishes mechanisms that enable children to raise any complaints safely
- provides staff with resources and/or training opportunities to support children's participation
- requires staff to be vigilant to signs of harm and routinely check to see if children are okay
- provides child-focused and inclusive complaint handling processes
- allows sufficient time, opportunity and appropriate support for children with disability to raise concerns
- draws on a culturally diverse workforce to nurture and support children's diverse needs and cultural safety
- ensures sufficient time to build healthy relationships between staff, volunteers and children.

Standard 3: Families and communities are informed and involved

A child safe institution observes Article 18 of the UNCRC, which states that parents, carers or significant others with caring responsibilities have the primary responsibility for the upbringing and development of their child. Families and caregivers are engaged with the child safe institution's practices and are involved in decisions affecting their children. Families and caregivers are recognised as playing an important role in monitoring children's wellbeing and helping children to disclose any complaints.

A child safe institution engages with the broader community to better protect the children in its care. Institutions are more likely to foster a child safe culture if the surrounding community values children, respects their rights, and ensures that their rights are fulfilled.

The standard's core components

We consider the core components of family and community involvement in a child safe institution to be the following:

- a. Families have the primary responsibility for the upbringing and development of their child and participate in decisions affecting their child.
- b. The institution engages in open, two-way communication with families and communities about its child safety approach and relevant information is accessible.
- c. Families and communities have a say in the institution's policies and practices.
- d. Families and communities are informed about the institution's operations and governance.

Implementing the core components

Families have the primary responsibility for the upbringing and development of their child and participate in decisions affecting their child

The institution:

- supports families to take an active role in monitoring children's safety across institutions
- clearly describes the roles and responsibilities of parents and carers to ensure the safe participation of children
- keeps families informed of progress and actions relating to any complaint, and discusses matters with families and carers in accordance with the law
- if it has specific expertise, may take a leadership role in raising community awareness of child sexual abuse in institutional contexts.

The institution engages in open, two-way communication with families and communities about its child safety approach and relevant information is accessible

The institution:

- ensures families have seen/read information stating the institution's commitment to child safety and detailing actions it will take to meet this commitment
- ensures families know where to find the institution's code of conduct and child safe policies and procedures (these may be transmitted in fact sheets, information sessions or apps)
- ensures families know how, when and to whom complaints should be made
- uses multiple strategies and modes for communicating institutional policies and activities with families
- ensures institutional communications are publicly available, current, clear, timely, and delivered in multiple modes and formats as appropriate to a diverse stakeholder audience, taking into account cultural relevance and different levels of English language skills
- allows sufficient time to establish a rapport with families and communities, particularly for children with heightened vulnerability
- identifies barriers to communication and enacts specific strategies to overcome them.

Families and communities have a say in the institution's policies and practices

The institution:

- consults families and communities on the development of institutional policies and practices
- consults families and communities on institutional decisions, where feasible and appropriate.

Families and communities are informed about the institution's operations and governance

The institution:

- ensures families are aware of the institution's leadership team and their roles
- ensures families are aware of the roles and responsibilities of the staff delivering services directly to their children.

Standard 4: Equity is upheld and diverse needs are taken into account

Equity and non-discrimination are central tenets of the UNCRC. Article 2 emphasises non-discrimination and a commitment to fulfil children's rights 'irrespective of ... [their] race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status'. Just as the safety of children should not depend on where they live, their right to safety should not depend on their social or economic position, their cultural context or their abilities and impairments.

A child safe institution pays attention to equity by taking into account children's diverse circumstances. It recognises that some children are more vulnerable to sexual abuse than others, or find it harder to speak up and be heard, and makes the necessary adjustments to equally protect all children. A child safe institution would tailor standard procedures to ensure these children have fair access to the relationships, skills, knowledge and resources they need to be safe, in equal measure with their peers.

The standard's core components

We consider the core components of upholding equity and meeting diverse needs of children in an institution to be the following:

- a. The institution actively anticipates children's diverse circumstances and backgrounds and responds effectively to those with additional vulnerabilities.
- b. All children have access to information, support and complaints processes.
- c. The institution pays particular attention to the needs of Aboriginal and Torres Strait Islander children, children with disability, and children from culturally and linguistically diverse backgrounds.

Implementing the core components

The institution actively anticipates children's diverse circumstances and backgrounds and responds effectively to those with additional vulnerabilities

The institution:

- learns about circumstances and experiences that increase a child's vulnerability to harm or abuse in institutional contexts
- understands barriers that prevent children from disclosing abuse or adults from recognising children's disclosures, with particular attention to children's cultural contexts, languages, cognitive capabilities and communication needs
- takes action to minimise barriers to disclosure
- focuses particular attention on safety in closed or segregated environments, such as out-of-home care, boarding schools, youth detention, some religious institutions, specialist education facilities and disability support settings
- consults with a range of stakeholders from diverse backgrounds and with the necessary expertise (including children, families and communities) in developing institutional strategies for addressing all of the Child Safe Standards.

All children have access to information, support and complaints processes

The institution:

- recognises and respects diverse backgrounds, identities, needs and preferences
- provides culturally safe and culturally responsive child-friendly services
- uses translation services and bicultural workers with knowledge of child abuse issues, particularly to facilitate disclosure, reporting and complaint handling
- provides accessible information in multiple formats for individuals with different levels of English literacy and proficiency, modes of communication, languages and cognitive abilities
- accesses external expert advice when required, such as cultural advice or disability support.

The institution pays particular attention to the needs of Aboriginal and Torres Strait Islander children, children with disability, and children from culturally and linguistically diverse backgrounds

The institution:

- strives for a workforce that reflects diversity of cultures, abilities and identities
- implements awareness training as part of induction and ongoing staff education, with specific content related to Aboriginal and Torres Strait Islander children, children with disability, children from culturally and linguistically diverse backgrounds, and others with particular experiences and needs

- makes clear reference in its policies and procedures to additional considerations related to Aboriginal and Torres Strait Islander cultures, disability, culturally and linguistically diverse backgrounds, and other experiences and needs
- implements and monitors the outcomes of specific strategies tailored to the needs of Aboriginal and Torres Strait Islander children, children with disability, and children from culturally and linguistically diverse backgrounds, to ensure their safety and participation in the organisation.

Standard 5: People working with children are suitable and supported

Human resource management, through screening, recruitment and ongoing performance review, can play an important role in protecting children from harm.

Child-focused human resource practices help screen out people unsuitable for working with children or discourage their application. Such practices make sure child safety is prioritised in advertising, recruiting, employment screening, and selecting and managing staff and volunteers. During induction processes, all staff and volunteers should be given clear conduct and behavioural guidelines, such as a code of conduct. Child safe institutions recognise that Working With Children Checks can detect only a subset of people who are unsuitable to work with children, and that these checks should be part of a suite of screening practices.

The standard's core components

We consider the core components of human resource management in a child safe institution to be the following:

- a. Recruitment, including advertising and screening, emphasises child safety.
- b. Relevant staff and volunteers have Working With Children Checks.
- c. All staff and volunteers receive an appropriate induction and are aware of their child safety responsibilities, including reporting obligations.
- d. Supervision and people management have a child safety focus.

Implementing the core components

Recruitment, including advertising and screening, emphasises child safety

Employment advertising packages include:

- the organisation's statement of commitment to being a child safe institution
- the institution's code of conduct, and child safe policy and procedures
- specific selection criteria concerning attitudes to and application of child safety measures to which applicants must respond
- job descriptions and duty statements that set clear expectations about child safety, including induction and training.

Recruitment, selection and screening procedures:

- show clearly documented recruitment procedures and processes
- verify applicants' identity, qualifications and professional registration
- involve children and/or families where feasible and appropriate
- include thorough, structured interviews
 - providing clear information to applicants about the institutional commitment to child safety
 - assessing the values, motives and attitudes of job applicants who will work directly with children
 - establishing why the applicant is leaving their current job
 - thoroughly assessing the applicant's professional experience, qualifications and competence to work with children
- include stringent and careful reference checks
 - involving direct conversations with at least two professional referees
 - including the applicant's current or most recent employer
 - ascertaining, where possible, the applicant's attitudes and behaviours in previous child-related roles
 - ascertaining whether the applicant has ever been involved in any complaint processes
- check that staff have formal qualifications commensurate with their role and responsibilities, or are informed they will be expected to engage with and qualify in relevant study

- encourage a culturally diverse workforce to nurture and support children's cultural safety
- ensure human resources staff and interview panels have the appropriate education and training to dispense their obligations appropriately and effectively
- are followed by recruitment agencies, labour suppliers, contractors and volunteers.

Relevant staff and volunteers have Working With Children Checks

The institution:

- requires staff and volunteers to undertake screening procedures including criminal history checks to assess a person's fitness to work with children as specified in law (for example, Working With Children Checks)
- builds in allowance for revalidation.

All staff and volunteers receive an appropriate induction and are aware of their child safety responsibilities, including reporting obligations

The institution's induction for new staff and volunteers:

- is a documented process and tracked through a register for new staff and volunteers
- occurs immediately after appointment and, ideally, before work with children begins
- provides instruction on
 - children's rights
 - respect for children, regardless of their individual characteristics, cultural backgrounds, and abilities
 - the code of conduct and child safe policies and procedures
 - strategies that identify, assess and minimise risk to children
 - how to respond to a disclosure from a child
 - complaints processes, including how to respond to a complaint about behaviour towards children
 - reporting obligations (including mandatory reporting) and procedures including format, content and destinations for reports
 - protections for whistleblowers
- is more detailed for staff working in roles and situations with higher risk, for example, with children who may be more vulnerable to maltreatment
- is reviewed regularly.

Supervision and people management have a child safety focus

The institution's people management includes:

- a probationary employment period for new staff and volunteers, to allow time to assess suitability to the position
- regular reviews of staff and volunteer performance, including adherence to the code of conduct and child safe policies and procedures
- opportunities to formally or informally raise concerns about harm or risk of harm to children
- appropriate responses to concerns about performance in the institution's code of conduct
- feedback on staff performance from children and/or families, where feasible and appropriate
- a structure and process for professional supervision and support.

Standard 6: Processes to respond to complaints of child sexual abuse are child focused

A child-focused complaints process is an important strategy for helping children and others in institutions to make complaints. Child safe institutions respond to complaints by immediately protecting children at risk and addressing complaints promptly, thoroughly and fairly.

A child safe institution has clear and detailed policies and procedures about how to respond to complaints. Staff and volunteers understand their responsibility for making a complaint promptly if they become aware of concerning behaviours, as well as their reporting obligations to external authorities. Complaint processes specify steps that need to be taken to comply with requirements of procedural fairness for affected parties, have review mechanisms, and ensure any disciplinary action that is taken withstands external scrutiny in accordance with relevant employment law and other employer responsibilities.

The standard's core components

We consider the core components of complaint handling in a child safe institution to be the following:

- a. The institution has a child-focused complaint handling system that is understood by children, staff, volunteers and families.
- b. The institution has an effective complaint handling policy and procedure which clearly outline roles and responsibilities, approaches to dealing with different types of complaints and obligations to act and report.
- c. Complaints are taken seriously, responded to promptly and thoroughly, and reporting, privacy and employment law obligations are met.

Implementing the core components

The institution has a child-focused complaint handling system that is understood by children, staff, volunteers and families

The institution:

- ensures children, staff, volunteers and families know who to talk to if they are worried or are feeling unsafe
- takes all complaints seriously and responds promptly and appropriately, as detailed in clear procedures
- has an open culture that supports safe disclosure of risks of harm to children
- provides information in accessible, age-appropriate and meaningful formats to children and families who use the service, mindful of their diverse characteristics, cultural backgrounds and abilities
- offers a variety of avenues for children to make complaints
- provides information about its complaint handling process, including how to make a complaint and what to expect.

The institution has an effective complaint handling policy and procedure which clearly outline roles and responsibilities, approaches to dealing with different types of complaints and obligations to act and report

The institution's complaint handling policy includes:

- approaches to dealing with different types of complaints, including concerns, suspicions, disclosures, allegations and breaches
- links to the code of conduct and definitions of various forms of abuse, including sexual abuse and sexual misconduct
- actions to be taken where the subject of a complaint is a staff member, volunteer, parent, another child or person otherwise associated with the institution. In the case of a staff member, for example, this may include supervision, removal of contact with children or being stood down
- detailed guidance on how institutional members (including senior management, supervisors, staff and volunteers) should respond to allegations, including steps for reporting externally as required by law and/or the complaint handling policy
- communication, referral and support mechanisms for staff, volunteers, children and their families

- approaches to dealing with situations in which a child may cause abuse-related harm to another child
- a clear commitment that no one will be penalised or suffer adverse consequences for making a complaint.

Complaints are taken seriously, responded to promptly and thoroughly, and reporting, privacy and employment law obligations are met

When a complaint is made, the institution can show that:

- children are consulted and have input into the design of a complaint process and access to a support person at all times
- responses are quick and thorough and relevant people are kept informed of the progress, outcomes and resolution of the complaint
- cooperation occurs with investigating authorities, including police
- personal information arising from complaints is treated in accordance with the law
- effective recordkeeping practices are used in accordance with the law
- all complaints are documented regardless of whether the complaint meets statutory reporting thresholds.

Given the significant issues that we have heard regarding complaint handling, further guidance is available in Chapter 3 of Volume 7, *Improving institutional responding and reporting*.

Standard 7: Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training

A child safe institution promotes and provides regular ongoing development opportunities for its staff and volunteers through education and training, beginning with induction. Child safe institutions are ‘learning institutions’, where staff and volunteers at all levels are continually building their ability and capacity to protect children from harm.

This standard is premised on all staff and volunteers receiving comprehensive and regular training, including induction on the institution’s child safe strategies and practices, as well as broader training on child protection.

The standard's core components

We consider the core components of staff education and training in a child safe institution to be the following:

- a. Relevant staff and volunteers receive training on the nature and indicators of child maltreatment, particularly institutional child sexual abuse.
- b. Staff and volunteers receive training on the institution's child safe practices and child protection.
- c. Relevant staff and volunteers are supported to develop practical skills in protecting children and responding to disclosures.

Implementing the core components

Relevant staff and volunteers receive training on the nature and indicators of child maltreatment, particularly institutional child sexual abuse

Training has the following features:

- Training is culturally responsive to the needs of Aboriginal and Torres Strait Islander, migrant, refugee and multi-faith communities and to the needs of people with disability; for example, by being delivered jointly by bilingual and/or bicultural workers and interpreters.
- Training is evidence based and provided by expert trainers relevant to the institutional context.
- Training resources and tools are consistent, simple, accessible and easy to use. Materials are tailored to meet the needs of the particular institution with respect to individual characteristics, cultural backgrounds and abilities, and the roles of workers and volunteers.
- Training covers specific topics including
 - children's rights and children's perceptions of what makes an institution safe
 - respect for children, regardless of their individual characteristics, cultural backgrounds and abilities
 - the indicators of child sexual abuse
 - how to respond to indicators and disclosures of child sexual abuse
 - definitions and examples of child sexual abuse and grooming/manipulation
 - the characteristics of victims, offenders, and risky environments and situations
 - combating stereotypes of both victims and offenders
 - understanding and responding to harmful behaviours by a child towards another child.

- Methods used in training include presentation of information, interactive discussion, values clarification, worked examples, role play and feedback.
- Training programs are regularly and externally reviewed including in response to the emerging evidence base.

Staff and volunteers receive training on the institution's child safe practices and child protection

Training on the institution's policies and practices:

- is provided to all staff on induction and through frequent refresher training (for example, annually)
- includes records of participation to ensure all personnel attend training sessions
- covers institutional risk management, code of conduct, child safe policies and procedures, including specific information on reporting obligations, complaints mechanisms and protections
- includes examples of where, when, how, to whom and by whom child sexual abuse can occur in institutional settings.

Relevant staff and volunteers are supported to develop practical skills in protecting children and responding to disclosures

The institution:

- provides more detailed training for staff working in roles and situations with higher risk, such as closed or segregated settings or with children who may be more vulnerable to maltreatment
- provides training that empowers staff with the knowledge and competencies to identify risks, prevent sexual abuse, report complaints and respond appropriately
- trains senior leaders, supervisors and staff engaged in recruitment processes to be alert to signs of unusual attitudes towards children (for example, if applicants profess to have 'special relationships' with children, disagree with the need for rules about child protection, or have a desire to work with children that seems focused on meeting their own psychological or emotional needs)
- provides advanced training for senior leaders and supervisors and children's champions
- briefs all staff and volunteers on how to respond to children who disclose through a variety of mechanisms
- provides training that prepares staff to respond to critical incidents, such as complaints of child sexual abuse.

Standard 8: Physical and online environments minimise the opportunity for abuse to occur

Certain physical and online environments can pose a risk to children. Institutions seeking to be child safe could improve safety by analysing and addressing these risks, reducing opportunities for harm and increasing the likelihood that perpetrators would be caught.

A child safe institution designs and adapts its physical environment to minimise opportunities for abuse to occur. The institution finds a balance between visibility and children's privacy and their capacity to engage in creative play and other activities. It consults children about physical environments and what makes them feel safe.

Child safe institutions address the potential risks posed in an online environment, educating children and adults about how to avoid harm and how to detect signs of online grooming. The institution articulates clear boundaries for online conduct, and monitors and responds to any breaches of these policies.

The standard's core components

We consider the core components of a child safe physical and online environment to be the following:

- a. Risks in the online and physical environment are identified and mitigated without compromising a child's right to privacy and healthy development.
- b. The online environment is used in accordance with the institution's code of conduct and relevant policies.

Implementing the core components

Risks in the online and physical environment are identified and mitigated without compromising a child's right to privacy and healthy development

To minimise risks, the institution would have the following features:

- effective natural surveillance with few out-of-the-way places, taking into account children's right to privacy
- routine movements of responsible adults to provide formal and informal line-of-sight supervision

- rooms with large, unobstructed windows or observation panels (including for sensitive places such as principals', chaplains' or counsellors' rooms).
- surveillance equipment (for example, CCTV) installed in high-risk environments where natural surveillance is not feasible, taking into account children's right to privacy and complying with sector standards
- consultation with children about physical and online environments and what makes them feel safe
- consideration of the age, gender mix and vulnerabilities of children in the setting
- random checks of obstructed and out-of-the-way locations (for example, dressing rooms, first-aid rooms or sporting grounds away from main buildings)
- open discussions of children's safety, the nature of organisational activities, the quality of equipment and the physical environment
- a strong prevention and awareness focus, by educating children, parents, staff, volunteers and the institution's stakeholder community about online safety and security.

The online environment is used in accordance with the institution's code of conduct and relevant policies

The institution:

- routinely monitors the online environment, reporting breaches of its code of conduct or child safe policies in accordance with the institution's complaint handling processes
- reports serious online offences to police in accordance with mandatory reporting obligations
- provides education and training about the online environment that is consistent with its code of conduct and child protection and other relevant policies, and addresses the use of mobile phones and social media.

Standard 9: Implementation of the Child Safe Standards is continuously reviewed and improved

Child safe institutions know it is a significant challenge to maintain a safe environment for children in a dynamic organisation. The institution's leadership maintains vigilance by putting in place systems to frequently monitor and improve performance against the Child Safe Standards. An open culture encourages people to discuss difficult issues and identify and learn from mistakes. Complaints are an opportunity to identify the root cause of a problem and improve policies and practices to reduce the risk of harm to children. Where appropriate, the institution seeks advice from independent specialist agencies to investigate failures and recommend improvements.

The standard's core components

We consider the core components of continuous review and improvement of child safe practices to be the following:

- a. The institution regularly reviews and improves child safe practices.
- b. The institution analyses complaints to identify causes and systemic failures to inform continuous improvement.

Implementing the core components

The institution regularly reviews and improves child safe practices

The institution:

- regularly reviews and records its implementation of the Child Safe Standards, including improvement mechanisms
- is regularly audited for all of the Child Safe Standards, either internally or externally by an independent, specialist agency
- maintains a culture of awareness to ensure that policies and practices are implemented and routinely reviewed, even though staffing may change.

The institution analyses complaints to identify causes and systemic failures to inform continuous improvement

The institution:

- undertakes a careful and thorough review to identify the root cause of the problem, any systemic issues (including failures), remaining institutional risks and improvements to institutional policies and practices. This is undertaken as soon as a complaint is made, and again when it is finalised
- may consider employing an external expert or agency to offer an independent case review, which should be underpinned by the following key features
 - a preventive, proactive and participatory approach to ensure everyone understands, and has confidence in, the institution's child safety approach
 - accountability for maintaining child safe policies and practices that are communicated, understood and accepted at all levels of the institution
- can show the ways in which policies and practices have changed, when the need for improvement is identified

- if serving children who are at risk, more vulnerable or hard to reach, gives attention to the evolving evidence base in relation to the safety of all children, being mindful of their individual characteristics, cultural backgrounds and abilities
- if employing staff in roles that involve working either alone or without supervision with children, or in intimate care situations with them, gives attention in the institution's review and continuous improvement process to the evolving evidence base in relation to effective risk management in these contexts.

Standard 10: Policies and procedures document how the institution is child safe

A child safe institution has localised policies and procedures that set out how it maintains a safe environment for children. Policies and procedures should address all aspects of the Child Safe Standards. The implementation of child safe policies and procedures is a crucial aspect of facilitating an institution's commitment to them.

The standard's core components

We consider the core components of policies and procedures in a child safe institution to be the following:

- Policies and procedures address all Child Safe Standards.
- Policies and procedures are accessible and easy to understand.
- Best practice models and stakeholder consultation inform the development of policies and procedures.
- Leaders champion and model compliance with policies and procedures.
- Staff understand and implement the policies and procedures.

Implementing the core components

Policies and procedures address all Child Safe Standards

The institution's policies and procedures incorporate the intent of all Child Safe Standards to ensure the best interests of children are placed at the heart of their operation and central to their purpose.

Policies and procedures are accessible and easy to understand

The institution's child safe policies and procedures are:

- readily and publicly accessible (for example, there is a link to them from the institution's website home page that is no more than three clicks from the home page, or available on public noticeboards)
- downloadable or available as a single Word or PDF document
- provided to staff and volunteers at induction, and communicated further via education and training
- ideally available in multiple modes for individuals with different levels of English literacy and proficiency, modes of communication and access to digital technologies (for example, multiple languages/dialects, visual aids/posters, audio and audio visual resources)
- ideally available in child-friendly and developmentally appropriate formats that pay attention to children's diverse characteristics, cultural backgrounds and abilities
- provided to staff and volunteers at induction, and communicated further via education and training.

Best practice models and stakeholder consultation inform the development of policies and procedures

In institutions working primarily or exclusively with children, policies and procedures are subject to regular external review.

Specific administrative details appear on the policies and procedures document, including:

- the effective date, review date, author(s), and executive approval details
- a list of related documents or policies that must be read in conjunction with the child safe policies and procedures (including relevant legislation, regulations).

The policies and procedures document:

- states the underlying institutional child safety values or principles
- defines terms used in the policy
- specifies to whom the policy applies and the responsibilities of staff and volunteers
- defines the different types of child maltreatment covered by the policy
- lists indicators of possible abuse and how to respond
- specifies legal reporting obligations for staff and volunteers
- includes a diagram that shows reporting chains (for example, a decision tree)
- describes what actions to take if a child is at imminent risk of harm
- clearly identifies when reports are to be made and the relevant authority to whom they should be directed (including reporting child sexual abuse to the police)
- sets out child safe education and training requirements (including frequency) for staff and volunteers.

Leaders champion and model compliance with policies and procedures

Leaders in the institution:

- can access appropriate experts/mentors when dealing with complaints
- develop collaborative relationships with other relevant organisations and stakeholders to share knowledge about implementing practical child safety measures.

Staff understand and implement the policies and procedures

Staff and volunteers in the institution:

- are aware of, have read, understand and intend to follow the child safe/child protection policies and procedures and can provide examples in which they have done this
- receive adequate training and education regarding the policies and procedures and how to implement them
- know that they are required to comply with reporting obligations concerning suspected or known child sexual abuse
- know who to approach with concerns or questions.

Appendix C Catholic Church Insurance and prior knowledge

Introduction

Catholic Church Insurance Limited (CCI) is the principal insurer of most Catholic Church authorities in Australia. CCI provides a range of insurance policies to Catholic Church bodies, including insurance cover for sexual abuse claims.

When assessing whether indemnity is available for a claim of child sexual abuse, CCI conducts investigations to establish whether the relevant insured Catholic Church authority had prior knowledge of an alleged perpetrator's propensity to abuse.

We reviewed documents we received from CCI to identify cases in which CCI determined that a relevant Catholic Church authority had prior knowledge. Documents relating to CCI's determinations of prior knowledge in respect of 22 alleged perpetrators were tendered in *Case Study 50: Institutional review of Catholic Church authorities (Institutional review of Catholic Church authorities)* in February 2017. We also prepared summaries of these documents, which were provided to CCI and to relevant Catholic Church authorities for comment. These summaries are set out in full in this appendix.

Role of CCI and insurance cover for child sexual abuse claims

Background to CCI

As described in Section 13.1, 'Structure and governance of the Catholic Church', CCI is an insurance company registered as a tax-exempt charity and is the principal insurer of Catholic Church organisations in Australia. It provides approximately 80 per cent of all insurance services used by Catholic Church bodies, including insurance cover for all Australian dioceses and about 70 per cent of religious orders.¹

CCI is an unlisted public company, with shares held by or on behalf of a range of Catholic Church bodies in Australia. The Truth, Justice and Healing Council (Council) told us that CCI 'operates more like a mutual society for the benefit of its policy holders'.² CCI's constitution provides that it is established for charitable purposes, being the advancement of religion and, in particular, the Catholic Church in Australia. The Council told us that CCI achieves this objective by providing insurance services to Catholic Church organisations, as well as through distribution of surpluses to the Catholic Church organisations which are its shareholders and policyholders.³

CCI was established in 1911 to provide insurance cover for Catholic Church property in relation to fire and similar risks. It has since expanded to provide a full range of insurance policies to Catholic Church bodies, including insurance cover for sexual abuse claims.⁴ CCI is subject to prudential and other legislative and regulatory requirements that apply generally to corporations and other insurers.⁵ The Council told us that 'CCI's aim of providing support for Church organisations may favour underwriting a particular risk which a commercial insurer would be unwilling to take on, while on the other hand its prudential and legal obligations require it to be prudent and profitable'.⁶

The Council told us:

CCI's particular relationship with the Church, and the consideration it gives to the Church's interests, distinguish it from other insurers ... CCI is committed to providing insurance against all risks associated with the properties and activities of the Church, be they religious, educational, healthcare, or social welfare. No proposal is declined even though the exposure to the risk might be higher than what might be considered acceptable to a commercial insurer.⁷

In *Case Study 4: The experiences of four survivors with the Towards Healing process (The Towards Healing process)*, Ms Emma Fenby, employed by CCI as Special Issues Case Manager between 2011 and 2013, told us: 'CCI is, in practice, a captive insurer. It is owned by the church; its insureds are the church. It considers itself part of the church and it assists the church. It is a collaborative process'.⁸

CCI issued its first public liability insurance policies in 1969.⁹ In the late 1980s, CCI considered whether Catholic Church authorities were insured under its policies in respect of child sexual abuse claims, and identified problems in relying on existing policies to respond to such claims. In particular, CCI's Public Liability Policy did not cover events occurring prior to 1969 and there was uncertainty about whether the terms of the policy covered sexual abuse. CCI was also concerned that reinsurers might seek to exclude sexual abuse claims.¹⁰

Drawing on the experience of church-related insurers in the United States, in 1990, CCI's underwriting manager submitted a proposal to the Australian Catholic Bishops Conference (ACBC) about the introduction of a self-insurance 'pool' to fund claims for sexual abuse and a new 'Special Issues' insurance policy that would accompany it.¹¹ The submission to the ACBC said:

CCI's aim is to assist the Church by providing protection in a difficult area and one which is increasingly being excluded by worldwide insurance markets. We intend treating this insurance as a special accommodation line for the Church and the policy will not be 'underwritten' on a normal commercial basis. The premiums paid for this policy will be held in a separate holding account (or a self insured pool) and will be used to pay for the cost of obtaining reinsurance cover for the Special Issues Liability Policy.¹²

Special Issues Liability Policy

In 1991, the ACBC and Catholic Religious Australia (CRA) resolved to accept CCI's proposal to establish a Special Issues Pool and associated liability insurance policy.¹³ Under the proposal, only dioceses and religious institutes that contributed to the Special Issues Pool would be insured under the new policy. The policy would cover all claims made during the period when it was in force, irrespective of when the alleged sexual abuse occurred (including events prior to 1969).¹⁴

The new Special Issues Liability Policy ('Special Issues Policy') came into effect on 1 July 1991.¹⁵ The new policy provided for indemnity against loss arising from a claim against an insured resulting from a 'Wrongful Act', defined as:

any actual or attempted sexual activity with a child or any other person which constitutes a criminal act irrespective of whether such actual or attempted sexual activity shall result in a criminal prosecution or criminal conviction.¹⁶

A special condition of the new policy was that it applied only to insured archdioceses, dioceses and religious institutes which were subject to and complied with the 'Protocol for dealing with allegations of criminal behaviour', issued by the ACBC in May 1990.¹⁷

The first Special Issues Policy operated for 12 months, and was replaced by a new policy in the same terms in 1992 and again in 1993.¹⁸ The Special Issues Policy did not provide for indemnification of claims 'arising from any ... circumstances existing prior to or at the inception of this Policy and which [the insured Catholic Church authority] knew or ought reasonably to have known could give rise to a claim ... under this Policy'.¹⁹ The policy also required insured Catholic Church authorities to notify CCI of any claims or circumstances of which they became aware 'which might subsequently give rise to a claim'.²⁰

In 1994, the Special Issues Pool was discontinued.²¹ CCI replaced the Special Issues Policy with the Ethical Standards Liability Insurance Policy ('Ethical Standards Policy'), which had similar terms providing cover for sexual abuse claims made during the period of the policy, but with more restrictive conditions. In particular, indemnity under this policy was limited to claims arising from circumstances which occurred on or after 1 January 1976. The Ethical Standards Policy was no longer issued after 1995.²²

Public Liability Policy

From 1995, CCI considered that the terms of its Public Liability policies could cover child sexual abuse claims. CCI continued to respond to claims under the Special Issues Policy and the Ethical Standards Policy, but only where those claims had been made in the year the relevant policy was in force (that is, in one of the policy years between 1991 and 1995).²³

The Council told us that the Public Liability Policy is the only CCI policy that applies to child sexual abuse claims made today, provided the alleged abuse occurred after CCI first issued public liability cover in 1969 (or after a later date from when an insured Catholic Church authority first obtained cover under the policy).²⁴ The abuse must also have occurred while the alleged perpetrator was ‘in the ordinary course of business’ of the insured. For example, the policy does not apply to abuse by a priest which occurred in a family context, rather than in the context of the priest’s duties with the church.²⁵ No cover is provided for an alleged perpetrator whose conduct has given rise to a claim.²⁶

Investigations conducted by CCI into knowledge in child sexual abuse claims

When a claim relating to child sexual abuse is notified to CCI by a Catholic Church authority, CCI gathers information to make an assessment about whether indemnity is available under a relevant policy. This information may include details of appointments held by the alleged perpetrator, court or police documents, psychological reports, school or employment records, and Towards Healing assessment reports.²⁷

The Council told us that, in assessing whether a policy will respond to a child sexual abuse claim, CCI considers matters including whether the alleged perpetrator was an employee or had a relevant association with the Catholic Church authority at the time of the alleged abuse, and whether the alleged perpetrator was in a pastoral relationship with the victim at the time.²⁸

The Council told us that CCI also considers whether indemnity should be refused on the basis that the alleged perpetrator was known to the Catholic Church authority as a person with a ‘propensity to offend’ or history of offending against children.²⁹ The Council told us that CCI’s Public Liability Policy will not respond to child sexual abuse claims:

where the insured Church authority had prior knowledge of the propensity of the accused to commit acts of sexual abuse. The ‘prior knowledge’ must have been held by someone in a position to influence the conduct of the accused, such as a bishop or a vicar-general. If propensity were only known by, say, a local parish priest, this is not deemed to be the knowledge of the insured Church body.³⁰

CCI may also conduct further investigations (often through its lawyers or investigators), including interviews with the alleged perpetrator, senior personnel within the relevant Catholic Church authority, or others. Where previous claims have been made in relation to the same alleged perpetrator, CCI may already hold information from its earlier investigations about the date when the insured authority first became aware of the alleged perpetrator’s conduct, and on that basis determine if there was ‘prior knowledge’ and if the policy will respond.³¹

Where CCI determines that a Catholic Church authority had knowledge of an alleged perpetrator's propensity to offend at a certain date, the Public Liability Policy may not cover claims relating to child sexual abuse by the same alleged perpetrator which occurred after that date.

In *The Towards Healing process* case study, Ms Fenby told us that CCI's Public Liability Policy 'was an occurrence based policy, so it [the event giving rise to the claim] had to be in circumstances that were unknown and unintended for the insured'.³² Ms Fenby gave the following evidence about her involvement in managing a claim of child sexual abuse received by the Diocese of Lismore:

to determine whether [CCI's grant of indemnity] would stand, I was interested in determining the date of knowledge that the bishop of Lismore had of [the alleged perpetrator's] offending. The reason for that was, under the public liability policy, the insured was considered the bishop, and if the bishop of the time had knowledge of the offender's offending at the date of that offending [giving rise to the claim], the policy would not respond to the claim because it was not something unexpected or unintended from the standpoint of the insured; they already knew.³³

CCI has partially indemnified child sexual abuse claims where, for example, there has been disagreement with the Catholic Church authority about the date of prior knowledge.³⁴ We understand that CCI may also partially indemnify a claim for other reasons.

As discussed above, in assessing whether the Special Issues Policy applied to a claim of child sexual abuse, CCI also considered whether an alleged perpetrator was known to the insured Catholic Church authority 'prior to the inception' of the policy.³⁵ In *The Towards Healing process* case study, Ms Fenby gave evidence that:

The [Special Issues/Ethical Standards] Policy required that the accused was notified [to CCI by the Catholic Church authority] during ... one of the four policy years from July 1991 and that this notification was the first knowledge the insured had of the propensity of the accused to commit acts of sexual molestation. If the first knowledge was prior to the inception of the [Special Issues] Policy in July 1991, it was a 'known circumstance' under this claims made and notified policy and thus the policy would not respond.³⁶

Documents provided by CCI relating to prior knowledge

Our request for documents from CCI

In late 2013, we commenced discussions with CCI about information held by CCI relating to its prior knowledge investigations in child sexual abuse claims. In February 2015, we issued a summons requiring CCI to produce all documents comprising investigations undertaken by CCI

where it had made a determination that a Catholic Church authority had prior knowledge of an alleged perpetrator's propensity to abuse (whether or not this resulted in CCI refusing to indemnify or only partially indemnifying a claim).

The summons adopted the meaning of 'prior knowledge' used by CCI in its investigations, as follows:

the term 'prior knowledge of the propensity of the relevant individual to abuse' means there have been one or more claims or notifications of child sexual abuse in respect of a relevant individual to a Church Authority, before that abuse is alleged to have occurred, being a complaint or allegation of child sexual abuse against that same relevant individual made, whether directly or indirectly, to:

- a. a senior Diocesan official, such as a Vicar General, a Bishop and an Archbishop
- b. a senior member of an Order, such as a Provincial and a Vice Provincial,

or any person CCI would regard as a senior official of the relevant Church Authority for the purposes of CCI determining for indemnity purposes whether a Church Authority had prior knowledge of the propensity of a relevant individual to abuse.

CCI advised us that identifying the documents which fell within the terms of the Royal Commission's summons was a large and complex exercise. We were told there was no 'master list' of cases in which CCI denied indemnity on the basis of prior knowledge, and that CCI might deny indemnity in claims for multiple reasons which did not always relate to prior knowledge.

Ultimately, CCI identified about 60 alleged perpetrators who CCI believed potentially fell within the category of cases captured by the summons. We identified a further number of alleged perpetrators in our review of the documents CCI produced. There may be others not revealed by the documents produced or held by CCI and not considered within the terms of the summons.

We received over 128,000 documents from CCI and reviewed these documents to identify cases in which CCI determined that a Catholic Church authority had prior knowledge. Although CCI may have determined that a Catholic Church authority had prior knowledge, that Church authority may not have accepted that there was prior knowledge.

Summaries of documents relating to prior knowledge

We prepared summaries of the documents in relation to 22 cases where CCI determined that the relevant Catholic Church authority had knowledge in respect of an alleged perpetrator at a certain date, and where there were claims of child sexual abuse by that alleged perpetrator after that date.

These 22 cases do not represent all cases where CCI made a determination of prior knowledge. For example, almost a quarter of the individuals in the list of approximately 60 alleged perpetrators provided by CCI were considered in our case studies or in other inquiries. So as not to duplicate this work, we did not include these alleged perpetrators in our review. We also had regard to the existence of, and impact on, current criminal investigations, prosecutions and civil litigation in some cases, which we did not include in our review.

The 22 summaries related to 10 priests (or former priests), 10 religious brothers (or former brothers) and two lay people, within 16 different Catholic Church authorities.

Our summaries identified the date determined by CCI as to when the Catholic Church authority had knowledge of each alleged perpetrator's propensity to offend, and set out information from the documents on which CCI's determination was based. This included some documents containing information about the alleged perpetrator, such as their ministry or employment, and claims, allegations or convictions relating to abuse after the date of knowledge determined by CCI.

Our summaries included data provided to us by Catholic Church authorities about claims they received relating to child sexual abuse. This data was collected as part of a survey of Catholic Church authorities in Australia that we undertook from May 2015 to February 2017. An analysis of these claims is provided in our report titled *Analysis of claims of child sexual abuse made with respect to Catholic Church institutions in Australia* that was tendered in our *Institutional review of Catholic Church authorities* hearing in February 2017. A revised version of the report was tendered in June 2017.³⁷

The Catholic Church claims data provided us with additional information about dates and locations of alleged abuse which had been the subject of claims concerning each of the alleged perpetrators we considered. This included information about the number of claims of abuse alleged to have occurred after the date of knowledge determined by CCI.

We also required relevant Catholic Church authorities to provide us with documents setting out appointment histories of these 22 alleged perpetrators, and we included this information in our summaries.

Our engagement with CCI and Catholic Church authorities

Many documents produced by CCI were tendered in our case studies examining Catholic Church institutions. In some of those case studies, we made findings about the awareness of Catholic Church authorities of allegations of child sexual abuse.

For the material relating to these 22 cases we provided CCI and the relevant Catholic Church authorities with opportunities to comment on the summaries we prepared from the documents they produced. In our process for making public the material we received from CCI, we have had regard to considerations of fairness, protecting the privacy of victims and survivors referred to in the material, as well as the public interest.

Any comments made by CCI and the relevant Catholic Church authorities have been taken into account in finalising our summaries.

Most Catholic Church authorities told us that they were not in a position to know whether all the material on which the summaries were based was complete or accurate, and that they were unable to test this material (for example, because key persons named in the documents or makers of statements may be deceased or otherwise inaccessible). Catholic Church authorities also said that their comments were not intended to be an admission of any of the facts or matters in the summaries.

The documents relating to these 22 summaries were tendered in our *Institutional review of Catholic Church authorities* hearing in February 2017. CCI and the relevant Catholic Church authorities had notice of our intention to tender those documents. No objection was made to the tender. No evidence was called in relation to those documents and no request was made for any witnesses to give evidence or other relevant material tendered.

Reporting on the summaries

The 22 summaries and the documents tendered in relation to them identify the Catholic Church authorities involved in each case and those perpetrators who have previously been convicted of offences relating to child sexual abuse.

We also identify senior members of Catholic Church authorities (for example, archbishops, bishops, vicars general, provincials and provincial council members). We de-identify other members of Catholic Church authorities and institutional personnel below this senior level, unless deceased, by using a pseudonym or by redacting their names or other information in the documents which might identify them.

We de-identify all victims and survivors of child sexual abuse. In order to protect the identity of victims and survivors, we also de-identify other people and places in many of these cases. In particular, schools and other institutions where abuse is alleged to have occurred have been described in a general way in the summaries. For example, a school might be described by its broad location and/or any Catholic Church authority associated with it at the time.

In five of the cases, we do not identify the alleged perpetrator because they have not been convicted of any offences relating to child sexual abuse, or to protect the identity of victims or survivors, or so as not to prejudice current or future criminal proceedings. Information in the documents tendered that may identify or contain particularly sensitive material regarding victims or survivors has also been redacted.

The summaries also include high-level information about the outcomes of claims received by Catholic Church authorities in relation to each of the alleged perpetrators. Approximate figures have been used to protect the privacy of claimants in these cases.

These summaries do not represent a comprehensive examination of all information available about each Catholic Church authority's knowledge and response in relation to the alleged perpetrators. We make no comment on CCI's determinations as to prior knowledge, and we make no findings on the basis of this material in relation to any of these 22 cases.

Our summaries of these 22 cases are set out in full in this appendix.

Summaries

CCI Case 1: Brother GLX – Christian Brothers

GLX was born in 1926.³⁸

He professed his initial vows as a member of the Christian Brothers in 1945 and his final vows in 1951.³⁹

Between August 1945 and January 1947, Brother GLX was a teacher at a Christian Brothers school in Sydney, New South Wales.⁴⁰

Between January 1947 and January 1963, Brother GLX taught at various other schools across New South Wales.⁴¹

Between January 1963 and January 1970, Brother GLX was a teacher at a Christian Brothers school in regional Queensland, and was the superior of this school between January 1967 and January 1970.⁴²

One person made a claim in 2001 that he was sexually abused by Brother GLX at this Christian Brothers school in regional Queensland in 1965.⁴³

In 1970, Brother GLX taught at a Christian Brothers school in regional New South Wales.⁴⁴

In August 1970, Brother GLX told the provincial at the time, Brother James McGlade, that he:

felt ... seriously attracted to the children and I [pleaded] to be relieved from the classroom duties, if possible be given some kind of outside work. As he consoled me he said – Just keep up your prayers and everything will be alright. I knew in my own heart that I needed more than prayers, because I did keep up my prayers.⁴⁵

Brother McGlade was 'prepared to accept that what [Brother GLX] recalls most likely occurred ... I do have a recollection of [Brother GLX] raising with me in the course of a visitation some disruption or difficulty he was experiencing when in close contact with primary school students'.⁴⁶ He also recalled that he 'may have spoken to the principal [of the Christian Brothers school in Sydney where Brother GLX commenced teaching in 1971] ... about moving [Brother GLX] up to a more senior level within this school'.⁴⁷

CCI determined in 2003 that the Christian Brothers had knowledge of Brother GLX's propensity to offend based on this discussion between Brother GLX and Brother McGlade in August 1970.⁴⁸

In January 1971, Brother GLX commenced teaching at a Christian Brothers school in Sydney, New South Wales.⁴⁹ Brother McGlade said that by appointing Brother GLX to this position, Brother GLX would be with children one or two years older than those at his previous school:

[The subject Brother GLX was] teaching was only taught to secondary students. The students would be at least 13 in first year, second year, third year ... I took him out of the younger children, where usually the failures take place.⁵⁰

GBM and GBK made claims in 1999 and 2000, respectively, that they were sexually abused by Brother GLX at this Christian Brothers school in Sydney, between 1971 and 1975.⁵¹

GBM's contact person made a statement in 2002, which said that at least one complaint was made to the principal of the school about Brother GLX's conduct between 1971 and 1973. The statement said that Brother GLX:

would walk up and down the aisles and stand behind students, put his hands on their shoulders and would reach forward to point out something ... and then stimulate sexual activity by rubbing himself against the student. This happened on many occasions to [GBM] and to other students. They notified ... the school Head Master ... but he did nothing.⁵²

CCI said in 2003 that '[GBM] states that fellow students also raised concerns regarding [Brother GLX]'s behaviour to [the Principal] that was [sic] not acted upon. As school Principal [he] was in a position of authority where he could have removed [Brother GLX] and referred the matter to the Provincial. He did neither of these'.⁵³

In 2000, the (then) provincial, Brother Julian McDonald, said that GBK made a complaint to him that he had been sexually abused by Brother GLX in the early to mid-1970s:

[GBK] proceeded to tell me that he was a former student of [the Christian Brothers school in Sydney where Brother GLX was teaching in 1971] and that he had been sexually abused by [Brother GLX and another Brother] ... [GBK] indicated that he did not want me to broach the matter with either of the two Brothers ... From bits and pieces in his story, I was able to deduce that he was making an allegation of anal penetration by [Brother GLX] ... I have no reason to disbelieve [GBK]. His story seemed to be genuine and consistent. I told him that I would need to report his allegations to the NSW Professional Standards Resource Group. I also suggested that he might want to avail of some counselling assistance for which the Christian Brothers would meet the costs.⁵⁴

Brother GLX taught at two Christian Brothers schools in regional New South Wales in 1972 and 1973.⁵⁵

In 1974, Brother GLX was reappointed as a teacher at the same Christian Brothers school in Sydney, New South Wales, where he had taught in 1971. He remained at this school until 1976.⁵⁶

In 1977, Brother GLX was appointed as a teacher at a second Christian Brothers school in Sydney, New South Wales.⁵⁷

Brother GLX then taught at a third Christian Brothers school in Sydney, New South Wales, between 1978 and 1983.⁵⁸

GBL made a claim in 2004 that he was sexually abused by Brother GLX at this third school between 1979 and 1984.⁵⁹

Between January 1984 and January 1986, Brother GLX was appointed to a fourth Christian Brothers school in Sydney, New South Wales, with his apostolate recorded as 'School Aux'.⁶⁰

In January 1986, Brother GLX was semi-retired, residing in regional New South Wales. In January 1994, he retired.⁶¹

After receiving GBK's complaint in 2000, Brother McDonald referred Brother GLX for a psychological evaluation with Encompass.⁶² A report from Encompass recorded:

His very decisive and insistent move to live outside of the order in [regional New South Wales], which was initiated by him 17 years ago, was an attempt to find a ministry that did not place him in a school. [Brother GLX] acknowledged that he was frightened of his sexual feelings towards young boys and in order to protect them and himself, he insisted on living alone in [regional New South Wales] ...

Although [Brother GLX] is diagnosed with a sexual disorder it is our belief that this disorder has been in full remission for at least 15 years. [Brother GLX] has placed himself in a healthy, supportive environment where he enjoys the company of adults in his local community ... It is our belief that, in this environment, he poses a minimal risk to others and that his current living environment greatly reduces his risk of further acting out behaviours. Nevertheless, if [Brother GLX] becomes concerned about his sexuality at any time in the future, it is advisable that he approach Encompass.⁶³

In 2002, a Towards Healing investigation into the claim of GBM found that another former student of the Christian Brothers school in Sydney, where Brother GLX had taught in the early 1970s, 'essentially confirmed behaviour by the accused in much the same fashion as had been alleged by [GBM]'.⁶⁴ During the course of that investigation, Brother GLX wrote a letter of apology to GBM, which said:

I have acknowledged to my Provincial Superior and to the two independent assessors (from the Professional Standards Committee) that your complaint is accurate and justified. Your impressions are honest and true. I acknowledge and regret the harm that I have caused you by my unacceptable behaviour. I apologise unreservedly and am humbled and ashamed.⁶⁵

As GBM had told the Towards Healing assessors that all he wanted was an apology from Brother GLX,⁶⁶ in 2002 the assessors concluded the matter was 'resolved' and proposed that no further action be taken.⁶⁷ GBM received a payment from the Christian Brothers through a redress process other than Towards Healing.⁶⁸

An investigation initiated in 2004 by the Professional Standards Office and the Christian Brothers into GBL's claim found that his allegations that Brother GLX had sexually abused him were substantiated. The report concluded: 'Based upon the available evidence and the balance of probabilities a reasonable person would form the view that [GBL] was sexually abused by [Brother GLX] ... Based upon the findings of this investigation [Brother GLX] poses a significant risk of sexual abuse against young boys'.⁶⁹ GBL received a payment from the Christian Brothers through Towards Healing.⁷⁰

Four people, including GBM, GBK and GBL, made claims between 1999 and 2004 to the Christian Brothers, relating to allegations of sexual abuse by Brother GLX between 1965 and 1984. Three claims were processed through Towards Healing, one of which resulted in a payment and with no payment in the other two claims. The fourth claim progressed through another redress process and resulted in a payment. The total amount paid by the Christian Brothers in relation to these claims was approximately \$60,500.⁷¹

CCI Case 2: Brother John Vincent Roberts (Brother Christopher) – Christian Brothers

John Vincent Roberts was born in 1942.⁷²

He entered the Christian Brothers Novitiate in March 1961,⁷³ and professed his initial vows as a member of the Christian Brothers in 1962.⁷⁴

Between 1964 and 1971, Brother Roberts was appointed as a teacher at various Christian Brothers schools in New South Wales and Queensland.⁷⁵ In 1967, Brother Roberts professed his final vows.⁷⁶

Brother Roberts told a Towards Healing assessor in 2005 that:

In previous times I had put my arms around boys and had occasionally felt under their pants. There had been about three dozen boys I had done this to. There had been about one a year. There had been a letter written to the principal of [the school in Queensland where Brother Roberts taught in 1970] many years before – about 1970 I think. I had a history of sexually abusing children. The only help I had available was to go to confession.⁷⁷

Brother Roberts was a junior secondary teacher at various schools in New South Wales in the 1970s. He taught at a Christian Brothers school in regional New South Wales, between 1971 and 1974.⁷⁸

GDM made a claim in 1995 that he was sexually abused by Brother Roberts at the Christian Brothers school in regional New South Wales between 1973 and 1974.⁷⁹

In 1974, Brother Roberts taught at a school in Sydney, New South Wales, for one year,⁸⁰ and then at another Christian Brothers school in Sydney from 1975 to 1978.⁸¹

GDN and another person made claims that they were sexually abused by Brother Roberts at the Christian Brothers school in Sydney, New South Wales, where Brother Roberts taught from 1975 to 1978.⁸² In May 1994, Brother Roberts pleaded guilty and was convicted in respect of two charges relating to sexual abuse of GDN. He was sentenced ‘to a \$500 good behavior bond for five years’.⁸³

Between 1978 and 1982, Brother Roberts was a junior secondary teacher at a Christian Brothers school in another state.⁸⁴ One person made a claim in 2004 that he was sexually abused by Brother Roberts at this school.⁸⁵

In 1979, GDN disclosed details of sexual abuse by Brother Roberts that had occurred several years earlier at the Christian Brothers school in Sydney where Brother Roberts taught from 1975 to 1978. GDN disclosed this information to another teacher at the school, who reported the allegations to the principal at the time, Brother GDS.⁸⁶

GDN's mother, GDO, said she approached Brother GDS with her son's allegations sometime early in the school year (approximately 1979). She said: 'He just told me that he would look into the matter ... This matter was laid to rest at that stage'. She said that she and her husband, GDP, later made a complaint to the Christian Brothers in 1993.⁸⁷

GDN's father, GDP, said that after his wife's complaint to Brother GDS (in approximately 1979):

She then went to see our Parish Priest ... who expressed a view to her, unlike [Brother GDS], that the accusations may [be] true ... Since the school displayed a lack of resolve to investiga[t]e the matter, I contacted Polding House, and received a very unsympathetic response (I was told that frequently boys make untrue accusations), and a resolve not to investigate matter any further.

I was not going to be put off and allow these accusations to be untested and I contacted St. Mary's Cathedral, and I was contacted by the Provincial of the Christian Brothers Order ... and my wife and I were invited to attend his office to discuss the matter.

My wife and I did attend, explained the circumstances, and was [sic] assured by the Provincial that he would investigate the matter and report back to us. The Provincial was most business like, and instilled confidence. We believed he would investigate such a matter, and eventually report back to us. He never did so, but we believed he would have taken appropriate action. We also assumed that Brother Roberts had been transferred from the school because of this type of behaviour.⁸⁸

In 2005, CCI determined that the Christian Brothers had knowledge of Brother Roberts' propensity to offend in 1979 based on GDN's allegations being reported to the principal, Brother GDS, and GDP's account that the allegations were then reported to their parish priest, to the Catholic Church offices at Polding House and then to the provincial, in 1979.⁸⁹

In 1982 and 1983, Brother Roberts was a university student.⁹⁰

From January 1984 until January 1987, he taught junior secondary at Christian Brothers schools in Sydney and the Central Coast of New South Wales, before being appointed as a teacher in Papua New Guinea, from 1987 until 1989.⁹¹ A 1988 visitation report of the Christian Brothers community in Papua New Guinea said Brother Roberts was 'doing good work with the students. He tends to be a little too visibly overconscientious in personal checking of students'.⁹²

In 1989, Brother Roberts returned to the Christian Brothers school in regional New South Wales as a junior secondary teacher, and in 1990 he was again a university student.⁹³

GDT made a claim in 2005 that he was sexually abused by Brother Roberts at the Christian Brothers school in regional New South Wales, between 1989 and 1990.⁹⁴ Brother Roberts said in 2005 that at the time of his abuse of GDT: 'At this time I was confessing what I was doing in my confession. I was not aware of counsellors at that time'.⁹⁵

Brother Roberts then taught junior secondary at a Christian Brothers school in Sydney, New South Wales, for a year in 1991.⁹⁶

GDU and another boy made a complaint about Brother Roberts while they were students at this school between 1991 and 1992.⁹⁷ In January 1992, GDU's parents contacted the principal of the school after their son 'indicated that Brother [Roberts] had behaved inappropriately with him and one of his friends'.⁹⁸

The principal contacted the provincial at the time, Brother Julian McDonald, on 22 January 1992, who discussed procedure with Father Brian Lucas. Father Lucas and Father John Usher interviewed the boy's parents in the presence of the principal on the evening of 23 January 1992.⁹⁹

Brother Roberts was interviewed by Father Lucas and Father Usher on 24 January 1992 and agreed with the substantial truth of the allegations. The matter was then reported to the Department of Community Services and the police began preliminary investigations.¹⁰⁰

In early 1992, Brother Roberts was removed from school teaching and direct contact with young people and started counselling with Father Usher and another psychologist from Centacare.¹⁰¹ 'It was decided that Brother [Roberts] would announce to the staff that he had received a late transfer'.¹⁰² Brother Roberts then undertook 'clerical work in another community'.¹⁰³

From 1992 Brother Roberts held various appointments, including to the Australian Conference of Leaders of Religious Institutes in New South Wales between 1992 and 1995, and the Association for International Teaching, Educational and Curriculum Exchange Australia between 1992 and 1997.¹⁰⁴

In May 1994, Brother Roberts pleaded guilty and was convicted in respect of two charges relating to sexual abuse of GDN. As noted above, he was sentenced 'to a \$500 good behavior bond for five years'. An unsigned note by Brother McDonald said: 'The probation officer has since ceased supervision. Roberts continues in counselling and is not to be in the company of children without another adult present'.¹⁰⁵

From 1995 to 1997, Brother Roberts held a teaching position in adult education at Villawood Immigration Detention Centre, Villawood, New South Wales, and then in Burwood, New South Wales, from 1997 to 1999.¹⁰⁶ He was placed on restricted ministry in 1996.¹⁰⁷

Brother Roberts was working as a computer network supervisor with Caritas Australia in 1997.¹⁰⁸

A 2008 visitation report said that further allegations were brought against Brother Roberts at some time between 1995 and 1999: 'He was found not guilty but this second set of allegations undermined his self-esteem'.¹⁰⁹

In 1999, Brother Roberts was a bursar at the International School, Marsfield, New South Wales for one year, and then in 2000 in the Macquarie Community, Carlingford, New South Wales for another year.¹¹⁰

In December 2000, Brother Roberts was assessed by Encompass. During that assessment, Brother Roberts admitted to inappropriate activity with approximately 24 boys:

Inappropriate contact with young boys (ranging in ages from 10 to 15) has been his dominant mode of sexual expression, at least, according to his account, up until his removal from the school setting in 1991. Br Roberts acknowledged involvement with approximately 24 boys over the years, physical activity ranging from kissing and hugging, fondling of their genitals and, on occasion, self-masturbation in one another's company.¹¹¹

Brother Roberts also disclosed during the Encompass assessment sexual contact with adult women who were his students during the time he was employed in adult education: 'Over the last few years he has had physical contact with three women ... [two] who have been adult pupils of his. He spoke about genital touching and kissing with these women, but, more important in his estimation, there has been a felt sense of closeness and intimacy'.¹¹²

In 2001, Brother Roberts was appointed Bursar, Provincial Administration, Balmain, New South Wales.¹¹³ A 2008 visitation report of the Marsfield Community recorded that, since 2002, Brother Roberts 'has worked at Balmain looking after the former Province website, newsletter and assists in the finance department'.¹¹⁴

Five people, including GDM, GDN and GDT, made claims to the Christian Brothers relating to allegations of sexual abuse by Brother Roberts between 1973 and 1990. Four claims resulted in payments, three of which were processed through Towards Healing and one progressed through another redress process. The Christian Brothers paid a total amount of approximately \$550,000 in relation to these claims, with payments ranging between \$20,000 and \$210,000. The fifth claim was progressed through other redress and was ongoing.¹¹⁵

CCI Case 3: (Former Brother) David Johnson – Christian Brothers and Diocese of Wollongong

David Johnson was born in 1953.¹¹⁶

In 1973, he professed his initial vows as a member of the Christian Brothers.¹¹⁷

As a trainee Brother, he was appointed as a junior school teacher at a Christian Brothers school in Sydney, New South Wales, in January 1975.¹¹⁸

GDJ said that in early 1975, his son GDK, then a student at the school, ‘complained to my [GDJ’s] wife about being fondled by Br. David Johnson, who was a teacher in the junior school. [GDK] also bought home a note from Br. Johnson stating [that] he now trusted the boys to do what ever he asked them to do, and they could trust him’.¹¹⁹

GDJ went immediately to see the junior school principal and told him what had happened to his son. He said that the junior school principal: ‘told me categorically that it was the imagination of a young boy and he couldn’t act on the information, even though we showed him the note Br Johnson had written’.¹²⁰

GDJ was not satisfied with the junior school principal’s response and told him he was going to see the provincial, Brother James McGlade. GDJ said:

We went around straight away, and Br McGlade was on the phone to [the Junior School Principal]. He subsequently saw my wife and I, and I told him [about] Br Johnson ... After explaining the situation, Br McGlade told me that Br Johnson was packing his belongings as we spoke, and that he would be gone from the school within 12 hours for counselling. We were satisfied with his response, and the meeting concluded and we left.¹²¹

Brother McGlade accepted that GDJ made a complaint to him about Brother Johnson in 1975, but said that he was not given details of the complaint.¹²² Brother McGlade said he recalled GDJ indicated that Johnson ‘had been involved in some type of episode with one of [GDJ]’s sons’. He said:

My best recollection had been that he merely said words to the effect that he required Brother Johnson to be out of the school immediately or he would be removing his sons ... I did not seek from him nor did he provide any detail of the nature of the incident and knowing him as well as I did I accepted his word that there had been a difficulty of a serious type with the young trainee brother ... the detail of the complaint was not revealed to [me] by [GDJ] but rather I accepted from the forcefulness of his brief statements that there was some incident of an unsatisfactory nature.¹²³

Brother McGlade also said:

There had been no complaint made against him [Brother Johnson] in his training years. This was the first compl[ai]nt that was made against him and I believed that he was worthy of continuing and not of dismissal for his single failure ... I had sufficient trust in them [GDJ and his wife] to believe that David Johnson had been guilty of a moral offence and that therefore, it was reprehensible.¹²⁴

Following that complaint, Brother McGlade told Brother Johnson he would be transferred to a different Christian Brothers school in Sydney, 'and that this was unacceptable behaviour. My experience dealing with others led me to believe that Brother Johnson was sincere in his repentance and very unlikely to offend again and thus worthy of a second chance. ... Frankly, I was quite confident that there would be no further problem'. Brother McGlade said he did not tell the principal there about the complaint 'as I felt this was a case where the Brother should be given another chance in an unpolluted environment. I did not think at the time Brother Johnson would abuse this chance'.¹²⁵

Minutes of a Christian Brothers Provincial Council meeting on 7 March 1975 stated: 'It was decided, in view of an incident at [the first Christian Brothers school in Sydney], to transfer Br D. Johnson to [the second Christian Brothers school in Sydney]'.¹²⁶

CCI determined in 2004 that the Christian Brothers had knowledge of Brother Johnson's propensity to offend in March 1975, based on GDJ's complaint to Brother McGlade following which Brother McGlade moved Brother Johnson to a different school.¹²⁷

Brother Johnson was appointed as a teacher at the second Christian Brothers school in Sydney, New South Wales, from March 1975 until October 1977.¹²⁸ GMV, the principal of the school at the time, said: 'I was told of the transfer and given no reason. Mid year transfers were not a regular thing but in those days one accepted them without questioning the reason'.¹²⁹

Six people, including GDX, GDW and GDV, made claims in approximately the late 1990s or 2000s, that they were sexually abused by Brother Johnson at the second Christian Brothers School in Sydney, New South Wales.¹³⁰ On 12 June 1998, Johnson was sentenced in Wollongong District Court after pleading guilty to offences involving the abuse of children.¹³¹ A 1998 newspaper article said that he was convicted of offences which included the indecent assault of one boy in 1976.¹³² The sentencing judge also took into account additional charges admitted by Johnson including the indecent assault of another boy in 1976.¹³³

In approximately October 1977, parents of the school to which Brother Johnson was transferred complained about Brother Johnson to the principal, GMV.¹³⁴ GMV said:

There were complaints made by the fathers of [some] boys ... if my memory was correct, it was exposure by David rather than physical abuse of the boys. I remember no specific details were mentioned at the meeting with the fathers. I sent for David and he admitted to the fathers that the incident(s) had occurred. I immediately withdrew David from teaching and told the Provincial through a Provincial council member that he could not be at [the school].¹³⁵

Brother Barney Garvan, a member of the provincial council at the time, said that he spoke to Brother Johnson in 1977 about these allegations. Brother Garvan said:

that was one of my positions, to talk with our young Brothers around the Province, and I said to him that what he has been accused of could be very serious, and he could be in trouble with the law over it. Now he found that very difficult to believe. He sort of dismissed that, that he could be in any trouble with the law.¹³⁶

Brother McGlade said:

It was around the end of the time that I was Provincial in 1977 that I learnt that further complaints had been made at the new school. Discussions then ensued in which the young Brother was not permitted to continue on with his training to become a Christian Brother. As I recall, I was not involved in this decision to remove Brother Johnson from the second school. When I heard that there were further complaints against him I was shocked and saddened.¹³⁷

In October 1977, Brother Johnson was transferred to the Christian Brothers Community in Gosford.¹³⁸ GMV said that Brother Johnson was 'sent to Gosford, not in school, [but] for some counselling'.¹³⁹

On 6 December 1977, Brother Johnson was refused admission to profess his sixth vows and left the congregation.¹⁴⁰ Former provincial council member Brother Garvan said that Brother Johnson was not admitted to vows 'because of what had happened'.¹⁴¹

From 1978 until 1996, Johnson worked as a lay teacher in various locations within the Diocese of Wollongong and New South Wales.¹⁴² He was appointed as a teacher to one school in the Diocese of Wollongong, between January 1978 and January 1979, and then senior primary teacher from January 1979 to January 1982. He was also acting principal at this school from July to December 1980.¹⁴³

Between 1982 and 1996, Johnson taught at various other schools within the Diocese of Wollongong. During this period he also acted as principal at one of the schools and was principal of another.¹⁴⁴

According to Johnson's employment history from the Diocese of Wollongong Catholic Education Office (CEO), he was on long service leave from November 1996.¹⁴⁵

In December 1996, a member of the community provided information to the Diocese of Wollongong regarding allegations of sexual abuse by Johnson which they had heard. A priest also reported to the diocese having received 'third hand information re misconduct' by Johnson. The Bishop of Wollongong was informed about these allegations in December 1996, as part of the Towards Healing process.¹⁴⁶

On 12 December 1996, the Director of the CEO and other senior staff of the diocese met with Johnson and informed him of the complaints, and he 'admitted to the offence, and said he had told a priest about it and had sought counselling in another city'.¹⁴⁷ Johnson was stood down from teaching and placed on administrative leave and the diocese notified the police. On 16 December 1996, the police indicated 'that the matter was now in their hands'. On 17 December 1996, the bishop was informed that Johnson was to be arrested the following Sunday.¹⁴⁸

On 7 January 1997, the Director of Education in the Diocese of Wollongong wrote to Johnson terminating his employment.¹⁴⁹

A December 1997 file note of an attendance with Brother Julian McDonald, the (then) provincial, recorded that, 'Apparently' Johnson 'had a Christian Brothers letterhead and typed up his own reference ... and this was apparently used to assist him to get a job as a teacher in the Wollongong Diocese'. The file note also said:

The Bishop of Wollongong and [a senior officer of the Diocese of Wollongong] made contact with Brother Julian earlier this year expressing great displeasure at the fact that David Johnson had ended up in the teaching system in the Wollongong area on the strength of a reference from the Christian Brothers. However, when this reference was examined it turned out that it had not been signed by the Christian Brothers, nor had there been any attempt on the part of the Diocese to contact the Brothers or to make any further enquiries and the Brothers have been quite unaware that Johnson was in fact in a teaching position.¹⁵⁰

The CEO said:

It is believed that employment procedure was following the practices of the day ... In the early eighties Catholic employers became more sophisticated in employment processes and screening of applicants ... [including] a distrust of written references and requirement to check directly with referees.¹⁵¹

As noted above, on 12 June 1998, Johnson was sentenced in Wollongong District Court after pleading guilty to offences involving the abuse of children.¹⁵² A June 1998 newspaper article said that he was convicted of offences including indecent assault and acts of indecency against two boys in 1976 and 1979, respectively.¹⁵³ The sentencing judge also took into account additional charges admitted by Johnson relating to indecent assault of another boy in 1976, and acts of indecency against two other boys in 1979.¹⁵⁴

Six people, including GDX, GDW and GDV, made claims in approximately the late 1990s or 2000s to the Christian Brothers, relating to allegations of sexual abuse by Brother Johnson at the second Christian Brothers School in Sydney, New South Wales, where Brother Johnson taught from March 1975 until October 1977.¹⁵⁵ Two of the claims progressed through Towards Healing, and the other four claims progressed through other redress processes. The total amount paid by the Christian Brothers in respect of these claims was approximately \$580,000, with payments ranging between \$5,000 and approximately \$160,000, and an average payment of approximately \$96,000.¹⁵⁶

The Diocese of Wollongong also received one claim made by a 'concerned community member' in 1996, relating to allegations of sexual abuse by Johnson between 1978 and 1981. The claim was processed through Towards Healing, but was not a claim for monetary compensation or financial support, and the outcome was an acknowledgement of wrongdoing and an assurance regarding the cessation of Johnson's position.¹⁵⁷

CCI Case 4: Brother Patrick Timothy Farrell (Brother Timothy) – Christian Brothers

Patrick Farrell was born in 1919.¹⁵⁸

He professed his initial vows as a member of the Christian Brothers in 1940 and his final vows in 1946.¹⁵⁹

Between 1941 and 1947, Brother Patrick Farrell was appointed to unknown positions in Toorak, St Kilda and Warrnambool, Victoria.¹⁶⁰

He was then appointed to a Christian Brothers school in another state from 1947 until 1957, where he had responsibility for a dormitory.¹⁶¹

Six people, including GBB, GBA and GBF, made claims between 2000 and 2011 that they were sexually abused by Brother Patrick Farrell at this Christian Brothers school, between 1951 and 1964.¹⁶²

A visitation report of the Christian Brothers community at the school, dated August 1957, recorded the following:

Br. Timothy Farrell had occasion to punish a few of his boys for their treatment of a classmate. This happened towards the end of the Visitation. Immediately the boys took their revenge by reporting him to the Superior for his molestation of boys in his dormitory. Several charges were made covering a period. The Superior [Brother GBC] investigated the complaints, felt that there might be some truth in some of them and then interviewed Br. Timothy. Br. admitted some guilt in the matter and [the matter was reported] to me. I then communicated with the Br. Provincial. Br. will be brought to St. Kilda for interview and transfer pending a final decision on his case.¹⁶³

In 2008, CCI determined that the Christian Brothers had knowledge of Brother Patrick Farrell's propensity to offend in 1957, based on the information in the visitation report.¹⁶⁴

Brother Patrick Farrell was appointed to Adelaide, South Australia, in September 1957, before being appointed to Canberra, Australian Capital Territory, in 1958.¹⁶⁵ His position at those locations is unknown.

Between 1959 and 1961 he was appointed to a Christian Brothers school in Sydney, New South Wales.¹⁶⁶

Between 1961 and 1967, he was appointed to a second school in Sydney, New South Wales.¹⁶⁷

One person made a claim in 2006 that he was sexually abused by Brother Patrick Farrell at this second school in Sydney, between 1964 and 1965.¹⁶⁸

In 1967, Brother Patrick Farrell was appointed to an unknown position in a location in regional New South Wales, where he remained until 1973. In 1970, he was appointed to a senior position there.¹⁶⁹

One person made a claim in 1996 that he was sexually abused by Brother Patrick Farrell at this location in regional New South Wales, in 1968.¹⁷⁰

Between 1973 and 1986, Brother Patrick Farrell was appointed to various positions in Canberra, Australian Capital Territory.¹⁷¹ He was a teacher, sub superior and house bursar from at least 1979 to 1983.¹⁷² A March–April 1981 visitation report of the Canberra community recorded that Brother Patrick Farrell’s role involved helping with remedial work, and ‘taking responsibility for the Cathedral altar boys’.¹⁷³ A June 1982 visitation report recorded that Brother Patrick Farrell was undertaking some remedial teaching, and that the principal of the school was ‘very appreciative of the influence that Tim has on the boys, especially as he is well known to them and he is happy to spend time among them in the playground’.¹⁷⁴ An October 1983 visitation report recorded that Brother Patrick Farrell was undertaking some teaching in remedial and special education.¹⁷⁵

From 1986, Brother Patrick Farrell was appointed to an unknown position at Waverley, New South Wales.¹⁷⁶ He was then appointed to Charingfield, an aged care facility in Waverley, New South Wales, in September 1993.¹⁷⁷

In approximately 1993, GBA reported to the police that he had been sexually abused by Brother Patrick Farrell in 1956 (at the Christian Brothers school where Brother Patrick Farrell had been appointed from 1947 to 1957).¹⁷⁸ GBA said:

They interviewed Br Farrell who denied any knowledge of the issue ... The police contacted [some former students who went to the same Christian Brothers school with GBA] who supported what was said about Br Farrell taking the little boys into his bedroom and fiddling with them but the matter was dropped because they could find insufficient corroborating evidence.¹⁷⁹

Brother Patrick Farrell died on 12 June 1997, aged 78.¹⁸⁰

Eight people, including GBB, GBA and GBF, made claims between 1996 and 2011 to the Christian Brothers relating to allegations of sexual abuse by Brother Patrick Farrell between 1951 and 1968. Two claims were progressed through Towards Healing and the other six claims were progressed through other redress processes. Seven claims resulted in payments and one claim resulted in nil outcome. The total amount paid by the Christian Brothers in respect of the seven claims was approximately \$425,000, with payments ranging between approximately \$5,000 and \$245,000, and an average payment of approximately \$61,000.¹⁸¹

CCI Case 5: Brother Rex Francis Elmer (Brother Ignatius) – Christian Brothers

Rex Francis Elmer was born in 1944.¹⁸²

He professed his initial vows as a member of the Christian Brothers in February 1965 and his final vows in December 1970.¹⁸³

Brother Elmer was appointed to an unknown position at a Christian Brothers school in a suburb of Melbourne, Victoria, between 1970 and 1971.¹⁸⁴

Between January 1971 and September 1976, Brother Elmer was a dormitory master at a Christian Brothers residential facility and school for male wards of the state, Victoria, in St Patrick's Province.¹⁸⁵ He was appointed to a senior position at the school attached to the residential facility in 1971 and was still in this position in June 1976.¹⁸⁶

Twenty-three people made claims between 1995 and 2015 that they were sexually abused by Brother Elmer between 1971 and 1976 during his appointment to the Christian Brothers residential facility and school.¹⁸⁷

In 1998, Brother Elmer pleaded guilty to the indecent assault of 12 males under the age of 16 at this residential facility which occurred between 1973 and 1975, and was sentenced to five years' imprisonment.¹⁸⁸

A visitation report of the Christian Brothers residential facility and school, dated 13 June 1976, reported that a child welfare officer told the (then) acting superior of the residential facility and school, Brother GMS, that Brother Elmer had sexually abused a number of boys: 'Whilst the Visitation was in progress, a child-welfare office [sic] reported to [Brother GMS] that Rex had been interfering with little boys; this was true and it has been attended to by the Provincial'.¹⁸⁹

The provincial at the time, Brother Patrick Naughtin, told Brother GMS in a letter dated 20 June 1976 that he had spoken to Brother Elmer. Brother Naughtin wrote:

Thank you very much for the report on the situation which developed at [the residential facility and school] in connection with Brother Elmer. It is indeed a serious and most unfortunate state of affairs and I am grateful for your bringing it to my attention so promptly.

I have interviewed Brother Elmer and discussed the position with him. He is clearly aware of the serious nature of his actions and I took pains to point out his legal and moral obligations in the matter. It seems to be extremely unlikely that there will be any recurrence of what has happened, for I have great confidence in Brothers' sincerity and he has assured me that he will take the necessary precautions ...

It would seem to me best at this stage not to transfer Brother from [the residential facility and school] immediately, though I would propose to announce his change next August – the usual time for releasing details of staffing for the following year. In coming to this decision I have been guided by Brother’s assurances for the future, by his excellent record to date and by consideration for his reputation which would undoubtedly be harmed by a sudden transfer at this time. However, I am aware of the possibility of embarrassment to the Department inherent in this proposed course of action. Hence I would like you to discuss the matter fully with the officials of the Department and let me know their opinion. Should they feel strongly that there is need for an immediate transfer then we would make the necessary arrangements.¹⁹⁰

CCI determined in 2015 that the Christian Brothers had knowledge of Brother Elmer’s propensity to offend on 13 June 1976, based on the 1976 visitation report and Brother Naughtin’s letter.¹⁹¹

Brother Elmer left the residential facility and school in September 1976,¹⁹² and was placed in an administrative position in Parkville, Victoria, until January 1977.¹⁹³

In 1977, Brother Elmer was then appointed to an unknown position at a Christian Brothers school in regional Victoria until 1982.¹⁹⁴

Between January 1982 and January 1986, Brother Elmer was appointed to a senior position within a Christian Brothers community in a suburb of Melbourne, Victoria.¹⁹⁵

One person made a claim in 1998 that he was sexually abused by Brother Elmer in 1985 at the Christian Brothers residential facility and school in Victoria.¹⁹⁶

Brother Elmer was again appointed in 1986 to the school attached to the residential facility in Victoria, and remained there until September 1988 in a senior position.¹⁹⁷

Brother Elmer was then appointed to an unknown position at a Christian Brothers institution in Melbourne for the last few months of 1988.¹⁹⁸

Between January 1989 and 1993, Brother Elmer was teaching at a school in Tanzania.¹⁹⁹ He was recalled to Australia in 1993 after further complaints were made about his conduct at the residential facility and school in Victoria.²⁰⁰

Brother Elmer was appointed to an unknown position in Brunswick, Victoria, in January 1994, and then to an administrative position in Parkville, Victoria.²⁰¹

In 1994, Brother Elmer was ‘removed from ministry with boys in accordance with policy regarding any substantial allegations’.²⁰²

In 1995, Brother Elmer was sent to St Luke's Institute, US, to undertake treatment.²⁰³ A report written on Brother Elmer's discharge as an in-patient to a halfway house in January 1996 said his prognosis in the context of paedophilia was 'Guardedly positive', and a further report from April 1996 said 'Regarding his paedophilia we believe he poses little to no risk of sexually acting out'.²⁰⁴

On 30 July 1997, Brother Elmer was charged with numerous offences including gross indecency, indecent assault and buggery of 14 individuals at the residential facility and school in Victoria in the early to mid-1970s.²⁰⁵ In 1998, he pleaded guilty to the indecent assault of 12 males under the age of 16 which occurred between 1973 and 1975, and was sentenced to five years' imprisonment.²⁰⁶

Brother Elmer was placed on restricted ministry in 2002.²⁰⁷

In October 2003, Brother Elmer was appointed to an unknown position at Kelty House, Parkville, Victoria.²⁰⁸

Twenty-four people made claims between 1995 and 2015 to the Christian Brothers, relating to allegations of sexual abuse by Brother Elmer between 1969 and 1985.²⁰⁹ Of the 22 claims recorded in the data survey produced by the Christian Brothers, seven claims were processed through Towards Healing (two of which then progressed through other redress processes), a further 13 claims were progressed through other redress processes, and no information on redress was provided for the other two claims. Twenty claims resulted in payments ranging between \$7,500 and \$170,000, with an average payment of approximately \$60,000. The total amount paid to claimants by the Christian Brothers in relation to these claims was approximately \$1,180,000.²¹⁰

CCI Case 6: Brother William John Obbens (Brother Dominic) – Christian Brothers

William John Obbens was born in 1945.²¹¹

He professed his initial vows as a member of the Christian Brothers in 1965.²¹²

His first appointment was in Queensland as a teacher for one year in 1967.²¹³ Between January 1968 and January 1974, Brother Obbens was a teacher (and later the teacher in charge) at a Christian Brothers primary school in Sydney, New South Wales.²¹⁴

Brother Obbens professed his final vows in 1970.²¹⁵

In relation to his time at the Christian Brothers primary school in Sydney, Brother Obbens said in 2003 that ‘there would be ... a couple of boys that potentially have allegations against me ... it was touching the genitals again on the outside of the trousers’. However, he said that he was not aware of any complaints.²¹⁶

In 1974, Brother Obbens was a primary teacher at another Christian Brothers school in Sydney, for one year.²¹⁷ In 2003, Brother Obbens said in relation to his time at that school: ‘there would be one or perhaps two boys there that have reasons for allegations’, but that he was not aware of any complaints made at the time.²¹⁸

In January 1975, Brother Obbens was appointed to a third Christian Brothers school in Sydney. He remained there for the next six years and held various positions, including as a junior secondary teacher, religious education coordinator and bursar.²¹⁹

GCX made a claim in 2002 that he was sexually abused by Brother Obbens at this third school between 1976 and 1977.²²⁰ In 2003, Brother Obbens told CCI’s investigators: ‘I certainly touched him [GCX], I touched him through the pants on perhaps two occasions’.²²¹

Brother Obbens also said in 2003 that a complaint was made about him at the time to the principal of the school, Brother GMB:

[Brother GMB] called me for an interview and told me that the [family of GCX] had made a complaint and that Brother McGlade, the Provincial, wanted to see me about this, and so the next day I was up to ... where Brother McGlade was staying at the time. I admitted the truth of the matter to Brother McGlade. He arranged for me to have counselling with [a counsellor] of the Family Counselling Centre ... run by the Little Company of Mary Sisters, and he also proposed to transfer me to [another location in regional New South Wales].²²²

Brother Obbens also said that a senior Christian Brother in the community at the time, GMD, 'told Brother McGlade that he felt it was inappropriate to just relocate the problem, that I should attend the counselling locally and be supervised locally, and that's the way it was'.²²³ Brother Obbens said that the transfer to the other location in regional New South Wales did not go ahead and he stayed at the school until 1981.²²⁴

In 2003, GMD said that the principal, Brother GMB, asked him to attend an interview in 1975 or 1976 with the parents of a student, regarding Brother Obbens 'and allegations of inappropriate behaviour'.²²⁵ GMD said:

[Brother GMB] conducted the interview, and from the content of the conversation, I formed the distinct impression that this particular issue had been discussed previously. [Brother GMB] spoke of the student concerned being asked or directed previously, not to have contact with Br Obbens during spare time, and he put the onus on the student that he had not adhered to that request.²²⁶

GMD also said:

I understood from what he said that he had asked the boy to cease approaching Brother Dominic at the time, that there had been some sort of touching of legs, and that at least one incident had occurred before the given one that was mentioned and the boy had been asked by specifically [Brother GMB] not to approach Brother Dominic ... So the emphasis at the interview was on the boy not approaching the Brother.²²⁷

GMD said that following the interview, Brother Obbens attended counselling.²²⁸

Minutes of provincial council meetings held in July and August 1976 recorded that Brother James McGlade discussed the possible transfer of Brother Obbens with the provincial council, and that Brother McGlade said 'further developments suggested there was no need of transfer'.²²⁹

On 17 September 1976, the counsellor from the Family Consultation Service wrote to Brother McGlade: 'Brother Obbens is doing well, but with some difficulty. He is certainly prepared to make a good effort. I shall continue to see Brother as long as I can'.²³⁰ In 2003, the counsellor said she did not remember Brother Obbens or any matter in which she may have counselled him.²³¹

Brother GMB said he had no recollection of any complaints about Brother Obbens, or of speaking to Brother McGlade about him.²³²

Brother McGlade also said he had no recollection of a complaint about Brother Obbens at the school, of interviewing him or arranging counselling for him.²³³

CCI determined in 2004 that the Christian Brothers had knowledge of Brother Obbens' propensity to offend in 1976, based on the complaint relating to GCX's allegations, which Brother Obbens said he admitted to Brother McGlade, following which Brother Obbens was sent for counselling and his transfer was discussed with the provincial council.²³⁴

In January 1981, Brother Obbens was appointed junior secondary teacher and bursar at a fourth Christian Brothers school in Sydney, New South Wales, for five years.²³⁵ Brother Obbens said that 'there would be no basis for any allegations while I was at [the fourth Christian Brothers school in Sydney]'.²³⁶

Brother Obbens was then appointed in January 1986 to a Christian Brothers school in regional New South Wales, as a teacher and dormitory master.²³⁷ Brother Obbens said in 2003 that he was 'rather surprised' about the transfer, and 'a little concerned as to whether [it] was appropriate for me to go there, being a boarding school. I think that I expressed a sudden reservation, but there was no objection and I was happy enough to go there'.²³⁸

GCY and three other people made claims in the late 1990s and 2000s that they were sexually abused by Brother Obbens at the Christian Brothers school in regional New South Wales, in approximately the late 1980s.²³⁹ Brother Obbens said in 2003 that the incidents involving GCY involved 'touching of the genitals from the outside of the clothing. It was on one occasion definitely and perhaps one another occasion not so certainly'.²⁴⁰

In 1989, Brother GMC, the principal of the Christian Brothers school in regional New South Wales at the time, said GCY told him that 'Brother OBBENS last night stood behind me and placed his hands over my shoulders. He then placed his hands on my private parts. He did this on the outside of my clothing', and that Brother Obbens 'had cuddled other boys'.²⁴¹

Brother GMC told Brother Obbens that same night that he had received a complaint about Brother Obbens' 'inappropriate behaviour with one of the boys', and Brother Obbens admitted to the allegation.²⁴² According to Brother GMC, Brother Obbens said: 'On a previous occasion many years ago I have received assistance with a similar problem. I thought I had it under control'. Brother GMC said he told Brother Obbens he would have to report the matter, and that he 'then reported the matter to my superiors in Sydney and at a later stage informed the Family and Community Services'.²⁴³

A 1994 Special Issues Incident Report said: 'The allegation was reported to the then Provincial, Br. Kevin McDonnell, on ... 1989 ... Br. Obbens was interviewed by Frs. Brian Lucas and John Usher ... Br. Obbens admitted the essential truth of the allegations'.²⁴⁴

Brother Obbens was stood aside from his position at the school and transferred to the Provincial House in Strathfield to undertake 'routine administrative duties'.²⁴⁵ The provincial, Brother Kevin McDonnell, advised the magistrate of the local court:

Certainly in the short term he would not be engaged in any form of work which would bring him into contact with children. In fact it seems to me unlikely that he would be so engaged at any time in the future, though this may depend to some extent on the outcome of rehabilitation programs which he will be following.²⁴⁶

In 1989, Brother Obbens was charged by New South Wales Police on one count of indecent assault of a student under his care. In June 1989, Brother Obbens pleaded guilty to the charge and entered into a recognizance in the sum of \$100 to be of good behavior for two years.²⁴⁷

In January 1990, Brother Obbens was appointed Provincial Archivist and Bursar, Provincial House of the Christian Brothers, Strathfield, New South Wales.²⁴⁸ During this time he was 'attending regular therapy sessions with Father John Usher'.²⁴⁹ Brother Obbens said: 'I saw [Father Usher] for a number of months and I felt that I was getting nowhere ... It wasn't helping and so I terminated the series of interviews with him'.²⁵⁰

He was then appointed to an unknown position at Haberfield, New South Wales, in September 1992, and from January 1993 to November 1994, he was a provincial archivist and bursar at Haberfield, New South Wales.²⁵¹

Brother Obbens was accepted for evaluation and therapy at the St Luke Institute in Washington, US, for seven months, commencing on 27 November 1994.²⁵² According to his Christian Brothers appointment histories he was overseas for 'Studies' in 1994.²⁵³

After returning to Australia, Brother Obbens was appointed Provincial Archivist, Balmain, New South Wales, in November 1995.²⁵⁴ He was later appointed to unknown positions in Sutherland in 2006, Ryde in May 2010 and Putney in April 2011.²⁵⁵

Five people, including GCX and GCY, made claims between 1997 and 2007 to the Christian Brothers, relating to allegations of sexual abuse by Brother Obbens between 1976 and 1989.²⁵⁶ Four claims were processed through Towards Healing (one of which then progressed through another redress process), and one claim was progressed through other redress. The total amount paid by the Christian Brothers in respect of claims relating to Brother Obbens was approximately \$556,000, with payments ranging between approximately \$66,000 and \$200,000.²⁵⁷

CCI Case 7: Father Brian Norman (Albert) Davis – Dominican Friars

Brian Davis was born in 1926.²⁵⁸

He professed his final vows as a member of the Dominican Friars in 1949 and was ordained in 1951.²⁵⁹

Father Davis was appointed to a Dominican Friars school in South Australia from about the mid-1950s.²⁶⁰

Eleven people reported incidents to the Dominican Friars in 2007 relating to alleged sexual abuse by Father Davis at this Dominican Friars school in South Australia in 1955.²⁶¹

GCG, GCE, GCF and three other people made claims between 2004 and 2009 that they were sexually abused by Father Davis at this Dominican Friars school in South Australia between 1957 and 1960.²⁶²

In 2007, a letter from a claimant's lawyers said: 'Father Davis had been charged with various criminal offences. We understand that the majority of the criminal charges made against Father Davis relate to his conduct ... at [the Dominican Friars school in South Australia] in the late 1950s'.²⁶³

GCE and GCF said that in approximately 1960, when they were students at the Dominican Friars school in South Australia, they told the principal at the time, Father GLH, about the abuse by Father Davis.²⁶⁴ Another former student, GCG, said that he told his parents in late 1960 about the abuse by Father Davis, and that his parents reported this to the principal, Father GLH.²⁶⁵

In a Special Issues Incident Report in 1994, Father Mark O'Brien, the provincial from 1992 to 2000, said that although he had 'no written record', he had been told that an allegation had been made against Father Davis in relation to a 'male school pupil' in the early 1960s, and that Father Jerome O'Rourke, the provincial from 1956 to 1972, was advised.²⁶⁶

In 2011, Father Kevin Saunders, the provincial from 2008 to 2016, told CCI's lawyers:

From what I have heard, I presume Fr Jerome went to [the Dominican Friars school in South Australia] and, together with [Father GLH] and I think another deceased Dominican who was [Father GLI] who at the time was Superior of the other house ... as I understand it, those three undertook an investigation ...²⁶⁷

Father Saunders said his recollection from the material was he 'reached that conclusion that the Provincial went from Melbourne to [the Dominican Friars school in South Australia] to conduct an investigation', and that 'any comments he made ... about how the matters concerning Fr Davis unfolded in 1960, and who had access to information about Fr Davis, were not based on any evidence he then had but were matters which he presumed to be the case'.²⁶⁸

Father O'Rorke transferred Father Davis to St Dominic's Priory, Camberwell, Victoria, in late 1960.²⁶⁹ On 10 December 1960, Father O'Rorke wrote a letter to the Prior of St Dominic's Priory that said: 'I am writing this note that I may have a record of directions to you with regard to Fr Albert Davis'. Father O'Rorke said that he had assigned Father Davis to assist another priest at the priory in his 'Provincial Work', and that: 'With regard to other works to which the Prior may assign Fr Davis, I put the following restrictions: He may not be a curate, syndic of the House, confessor to the Novices or students, in charge of the altar boys, Y.C.W. or Junior H.N.S. He may be sent only rarely to St Joseph's home'. Father O'Rorke also wrote: 'What I have said above about my arrangements for Fr Davis is strictly confidential and is not to be communicated to anyone'.²⁷⁰

Father Saunders told CCI's lawyers that Father O'Rorke's 1960 letter indicated 'that there obviously was a problem with Fr Davis involving young boys and that was the reason he was sent to Melbourne'.²⁷¹ Father Saunders said he accepted that 'the fact that Fr Davis was taken out of the school at the end of the year and moved on to Melbourne under restricted duties indicates that Fr Davis probably did acknowledge some inappropriate behaviour to Fr Jerome'.²⁷² Father Saunders said he also accepted that 'every strong indication is that the provincial knew during late 1960 about the sexual problems relating to Fr Davis'.²⁷³

CCI determined in 2011 that the Dominican Friars had knowledge of Father Davis' propensity to offend in approximately December 1960 based on the allegations reported by the students at the Dominican Friars school in South Australia at the time, following which Father O'Rorke moved Father Davis to St Dominic's Priory with restricted duties.²⁷⁴

Father Davis was assigned to Melbourne until 1971. He held various positions during this time, including at Nazareth House, Camberwell, as editor of the Dominican News and promoter of vocations between 1961 and 1965, lecturer in spirituality at Loreto between 1964 and 1965, librarian from 1966 until 1968, and then promoter of province mission and editor of Province News from Solomons between 1967 and 1968.²⁷⁵

Between 1970 and 1972, Father Davis was appointed Dean of Mannix College, Victoria.²⁷⁶

Between 1973 and 1974, Father Davis was assigned to St Dominic's Priory, Melbourne, Victoria. During this period, he acted as a parish priest in Newcastle.²⁷⁷

Between 1975 and 1978, Father Davis was appointed to Blackfriars, Canberra, Australian Capital Territory. Over this period, he held various positions, including sub-prior, provincial bursar, secretary to the provincial, chairman of Economic Council and guest master.²⁷⁸

GCC made a claim in 2010 that he was sexually abused by Father Davis in approximately 1977.²⁷⁹

In June 1978, Father Davis was appointed priest in charge of Holy Rosary Parish, Watson, Australian Capital Territory. In 1979, he was appointed to Blackfriars Priory, Australian Capital Territory as parish priest, and in 1980 he also held other positions including sub-prior, provincial bursar and secretary.²⁸⁰

Between 1983 and approximately 1986, Father Davis was appointed chaplain to the Australian National University and was living in John XXIII College.²⁸¹ In 1985 and 1986, Father Davis was also house bursar.²⁸²

In approximately 1986, Father Davis withdrew himself from all active ministry and no official statement was made other than that he was retired.²⁸³ He moved to the Dominican priory in Sydney, New South Wales.²⁸⁴

Between 1988 and 1989, Father Davis was appointed to a church apostolate in Wahroonga, New South Wales.²⁸⁵

Between 1997 and 2003, Father Davis was a house councillor at Watson, Australian Capital Territory.²⁸⁶

The Dominican Friars officially placed Father Davis on restricted ministry in 2004.²⁸⁷ Between 2004 and 2007, he was retired.²⁸⁸

In 2007, a letter from a claimant's lawyers said: 'Father Davis had been charged with various criminal offences. We understand that the majority of the criminal charges made against Father Davis relate to his conduct ... at [the Dominican Friars school in South Australia] in the late 1950s'.²⁸⁹

Father Davis died on 9 March 2007, aged 80.²⁹⁰

Seven people, including GCG, GCE, GCF and GCC, made claims between 2004 and 2010 to the Dominican Friars, relating to allegations of sexual abuse by Father Davis between 1957 and 1977. One claim was progressed through Towards Healing and six claims were progressed through other redress. The claims resulted in payments ranging between approximately \$35,000 and \$120,000, with an average payment of approximately \$58,000. The total amount paid to claimants by the Dominican Friars was approximately \$406,000.²⁹¹

CCI Case 8: Father William Kevin Glover – Society of Mary (Marist Fathers) and Diocese of Bunbury

William Kevin Glover was born in 1917.²⁹²

He attended St Columba's Seminary, Springwood, New South Wales, between 1934 and 1935.²⁹³

He entered the novitiate in 1936.²⁹⁴ He attended St Mary's Seminary, Greenmeadows, New Zealand between 1936 and 1938 and again in 1939.²⁹⁵ He also attended Marist Seminary, Toongabbie, New South Wales in 1938 and again in 1940.²⁹⁶

In 1940, Father Glover was ordained in Albury, New South Wales, and was a member of the Marist Fathers until 1959.²⁹⁷

Between 1941 and 1954, Father Glover was appointed to unknown positions in the parishes of Hunters Hill and St Patrick's in Sydney, and as a staff member at Marist Seminary, Toongabbie, New South Wales.²⁹⁸

Between 1946 and 1948, he attended the Catholic University of America in Washington, US and between 1948 and 1949, he undertook the second novitiate in Rome.²⁹⁹

In 1954, Father Glover was appointed by the Marist Fathers as superior and parish priest of a parish in Victoria.³⁰⁰

One person made a claim to the Marist Fathers in 1998 that he was sexually abused by Father Glover at the parish in Victoria in 1956.³⁰¹

In 1993, Father Peter McMurrich, Vicar Provincial of the Marist Fathers, said that Father Glover 'was removed from his position as Parish Priest at [the parish], Victoria, in June 1958 after evidence came to light of systematic sexual abuse of adolescent boys'.³⁰² Father McMurrich also said: 'In September of that year [1958] a Marist Priest working in the Parish expressed the view that Glover had been involved with as many as 30 boys over a 3 year period. We have no further names, nor any further details'.³⁰³

A chronology from the Marist Fathers relating to Father Glover said that he was removed from the parish:

for immoral and criminal sexual behaviour with boys and male adolescents. When confronted, he eventually admitted the behaviour to the Provincial [Father James Harcombe] ... Kevin Glover was given a formal canonical warning, and sent to do a 30 day penitential retreat at Armidale.³⁰⁴

Between July 1958 and July 1959, Father Glover was appointed to an unknown position in a parish in Queensland.³⁰⁵

The chronology relating to Father Glover recorded that when he was transferred to the parish in Queensland, 'he was to have no contact with young people. However he continued writing to young males in [his previous parish in Victoria], inviting some to visit him at [the parish in Queensland]; he ignored the ban on associating with young people in the parish'.³⁰⁶ The chronology also said that in July 1959, Father Glover was removed from the parish in Queensland, brought to Sydney, given a second canonical warning and 'specifically threatened with dismissal from the Society. He was sent to the St John of God Hospital at Richmond. He was told he would not be given ministry by the Society in Australia. Attempts were made to see if another Marist Province would be willing to accept him'.³⁰⁷

In September 1959, the Provincial of the Marist Fathers at the time, Father Harcombe, wrote to the Superior General of the Marist Fathers in Rome concerning Father Glover.³⁰⁸ Father Harcombe said that Father Glover had written to the Bishop of Rockhampton asking to be accepted into Rockhampton Diocese.³⁰⁹ Father Harcombe said that the Bishop of Rockhampton questioned the superior at the parish in Queensland about Father Glover's 'dealings with boys while there', and the superior 'replied that while he had no definite evidence of falls with them, yet he strongly suspected that such was the case, as he [Father Glover] was with the boys day and night'.³¹⁰

In September 1959, the (then) Bishop of the Diocese of Bunbury, in Western Australia, Bishop Launcelot Goody, told Father Harcombe he had received a letter from Father Glover asking to be accepted into his Diocese.³¹¹ Bishop Goody said:

His letter was a very frank one, telling me of his troubles at [the parish in Victoria] and I was impressed by the whole tone of his letter. In any case although not personally acquainted, I had heard of him and his work in Victoria.

I always feel the greatest of sympathy for a priest who has had a fall and I replied to Fr. Glover that I would be prepared to accept him on trial 'ad triennium' in this Diocese if all the Canonical requirements were observed. Bunbury is so distant from the Eastern States of Australia that I feel that here he would have the opportunity of a fresh start with a completely clean sheet.³¹²

Father Harcombe told the Superior General of the Marist Fathers in Rome that:

The Bishop [Bishop Goody] knows the reason for [Father Glover] being at Richmond, and says he thinks that Father Glover will have a better chance away over there of rehabilitating himself than anywhere else in Australia. Father Glover is writing to you to seek a dispensation from his vows. We have had a Council meeting about it and unanimously we recommend with all our hearts that the dispensation be obtained for him, and that as quickly as possible.³¹³

Father Harcombe also told the superior general:

the Doctor says that he and the Priest who works with him admit complete failure in Father Glover's case. They say he is so steeped in pride that they cannot see any hope of any repentance or change of heart nor could they recommend that he be allowed to go back to work in any of our houses ...

[The Doctor] said to tell you from his experience of Father Glover at Richmond, that this is the only solution to what he considers would have been a catastrophe for the Society. He is convinced that [if] he remained in the Society, Father Glover would have done untold damage. In a Diocese however he will stand alone and will succeed or fail with a Bishop by the way he acts and speaks. He knows that this is his only chance and we feel that he will do anything to prove himself with the Bishop.³¹⁴

In September 1959, Father Glover was accepted into the Diocese of Bunbury on a trial basis.³¹⁵

CCI determined in 2008 that the Diocese of Bunbury had knowledge of Father Glover's propensity to offend in September 1959, based on the letters between Father Harcombe and Bishop Goody, and between Father Harcombe and the Superior General of the Marist Fathers in Rome.³¹⁶

In November 1959, Father Glover was appointed to a parish as 'Assistant' in the Diocese of Bunbury, Western Australia.³¹⁷

In October 1960, Father Glover was incardinated into the Diocese of Bunbury.³¹⁸

In November 1960, he was appointed priest in charge at another parish in the Diocese of Bunbury.³¹⁹ In 1970, he became parish priest of this parish and remained in this position until 1977.³²⁰

Father McMurrich said that in December 1962, Father Glover visited his former parish in Victoria, and that during this visit:

Accusations were made that he attempted advances to a boy he had formerly been associated with. He also took boys on trips in his car. At the direction of the Provincial, a written statement was read to the parents of several boys, warning them of the danger to their sons of further contact with Glover.³²¹

Four people made claims between 1997 and 2014 to the Diocese of Bunbury that they were sexually abused by Father Glover between 1967 and 1976 at a parish in the Diocese of Bunbury, Western Australia.³²²

Between 1977 and 1978, Father Glover was appointed administrator at various locations in the Diocese of Bunbury, Western Australia.³²³

Between January 1979 and October 1990, Father Glover was appointed parish priest of a parish in the Diocese of Bunbury, Western Australia.³²⁴

One person made a claim in 2000 to the Diocese of Bunbury that he was sexually abused by Father Glover between 1980 and 1986 at this parish.³²⁵

Father Glover was transferred to the Cook Islands in October 1990.³²⁶ His position there is unknown.

He died there in December 1998, aged 81.³²⁷

One person made a claim to the Marist Fathers in 1998, and five people made claims to the Diocese of Bunbury between 1997 and 2014, relating to allegations of sexual abuse by Father Glover between 1956 and 1986. The claim made to the Marist Fathers was processed through Towards Healing and resulted in a compensation payment. Of the five claims made to the Diocese of Bunbury, three claims were processed through Towards Healing and resulted in payments. The total payment in these three claims was approximately \$106,000, with payments ranging from approximately \$4,500 to \$60,000 and an average payment of approximately \$35,000 per claim. The other two claims were progressed through other redress processes and were ongoing.³²⁸

CCI Case 9: Father GMG – Society of Mary (Marist Fathers)

GMG was born in 1934.³²⁹

In 1954 he entered the seminary, and in 1955 he entered the novitiate at Armidale, New South Wales.³³⁰

He professed his initial vows as a member of the Marist Fathers in February 1956 and his final vows in 1959.³³¹

Father GMG was ordained in 1961 at St Patrick's, Sydney, New South Wales.³³²

Between 1962 and 1965, Father GMG was appointed to a classroom teaching/dormitory position at a Marist Fathers school in northern New South Wales.³³³

Between 1966 and 1968, Father GMG was appointed to a classroom teaching/dormitory position at a Marist Fathers school in Tasmania.³³⁴

A chronology relating to Father GMG from his personnel file recorded that on 8 October 1967, Father GMG told the provincial at the time, Father Glynn: 'I am sending a registered letter to you within a few days ... it will contain matter relating to the personal difficulty which I mentioned to you earlier in the year. Circumstances have become grave, and so I have decided to inform you about them'.³³⁵

The chronology also recorded that on 11 October 1967, Father GMG told Father Glynn:

I have had some serious temptations, and I have decided I cannot in conscience allow myself to remain in circumstances which seem to produce these temptations – I mean of course, a boarding school, and especially care of a dormitory.³³⁶

A further entry in the chronology on 26 October 1967 recorded that Father Glynn told Father GMG: 'I am well aware of the difficulty you refer to as we have discussed it in detail previously. I can assure you I will give you the assistance you are asking for at the end of the year'.³³⁷

In November 1967, Father GMG was again appointed to the Marist Fathers school in northern New South Wales.³³⁸ The rector of this school at the time, Father GMH, wrote to Father Glynn on 21 November 1967 regarding the appointment:

We respectfully suggest that if [Father GMG] remains in school work, [a different Marist Fathers school in southern New South Wales] is the only reasonable place for him. At least boys cannot get to his room there [and] there are no dormitories [and] day teachers have so little time with the boys.³³⁹

Father GMH's letter also included references to: 'in a dormitory he can be a menace'; 'One cannot police them'; 'some boys here would know of [Father GMG]'s problems. So we beg of you please do not send him here'; 'He is one of those [who should] be got out of schools soon. His case is ... priority than that of many others'; 'we are appalled to think one is such a bad risk, who has been here already'.³⁴⁰

On 27 November 1967, Father Glynn replied to Father GMH:

Thank you for your letter of November 21 with further details of the problems involved in the appointment of [Father GMG] to [the Marist Fathers school in northern New South Wales] and the transfer of [another priest] to [the Marist Fathers school in Tasmania]. [The other priest] has also supplied further information on these two problems. The reference he makes to the approximately one hundred students who are still at [the Marist Fathers school in northern New South Wales] and could easily recall [Father GMG] and his problem, is a deciding factor in my mind. Under these circumstances, you can take it for granted [Father GMG] will not go to [the Marist Fathers school in northern New South Wales]. At our meeting on Sunday next, everything possible will be done to propose some alternate appointment which will allow us to leave [the other priest] on the staff at [the Marist Fathers school in northern New South Wales].³⁴¹

In December 1967, Father GMG was appointed a teacher and sports master at the Marist Fathers school in southern New South Wales, where he remained until 1972.³⁴²

A letter dated 28 December 1967, addressed to a priest, said:

[Father GMG] has now been appointed to [the Marist Fathers school in southern New South Wales] ... [Father GMG] is having serious problems of conscience in his dealings with boys, and because of these difficulties he has stated that he could not in conscience accept an appointment to a boarding college where he could quite easily be assigned to the care of a dormitory.³⁴³

CCI determined in 2014 that the Marist Fathers had knowledge of Father GMG's propensity to offend in 1967. This was based on the correspondence from 1967 between Father GMG and Father Glynn in which Father GMG said that he was having 'serious temptations' and did not want to remain at a boarding school. It was also based on the correspondence between Father GMH and Father Glynn regarding Father GMG's appointment to Father GMH's school, following which the appointment was changed and Father GMG was referred for treatment.³⁴⁴

Father GMG saw a psychiatrist in May 1968.³⁴⁵ The chronology relating to Father GMG recorded that on 4 May 1968, Father GMG told Father Glynn: 'I saw [the psychiatrist] yesterday. His view at the moment is that this problem will soon disappear ... I have two more appointments with [the psychiatrist]'.³⁴⁶

On 6 May 1968, the psychiatrist wrote to the Rector of St Peter Chanel's Seminary, a Marist Fathers seminary in Toongabbie, New South Wales, about this consultation:

the essence of the problem is that this person had a homosexual problem which over recent years has diminished considerably to the extent now that he is fairly well heterosexually orientated. I don't feel that [Father GMG] is a really 'fair dinkum' homosexual at all, but because of the fairly prudish and Victorian attitude in his home when he was a child I think this has contributed towards a mixing up of his sexual orientation in his younger years. I suggest that I see him several times more to give him some little psychotherapy to help him sort out some of his difficulties.³⁴⁷

Between 1972 and 1981, Father GMG returned to the same Marist Fathers school in northern New South Wales, as a classroom teacher and dormitory discipline master, and was also appointed to a senior position at the school.³⁴⁸

GMI made a claim in 2014 that he was sexually abused by Father GMG at the Marist Fathers school in northern New South Wales, in the 1970s.³⁴⁹

Father GMG undertook his second novitiate between 1975 and 1976.³⁵⁰

Following an anonymous phone call to the Marist Fathers school in northern New South Wales in 1993, Father GMG told the provincial administration that in 1976 a complaint had been made about him by GMJ, after an incident involving 'touching and fondling' of the boy, to the principal of the school at that time.³⁵¹ In a 1994 Special Issues Incident Report, the Marist Fathers said that the principal had 'discussed the matter with [Father GMG]. [Father GMG] was retained as discipline master. There is no evidence to indicate that the Provincial at that time was advised'.³⁵²

Father GMG attended the Ignatian Spirituality Programme, Pymble, New South Wales, in 1981.³⁵³

Father GMG was again appointed to a senior position at the school in Tasmania, between 1982 and 1984.³⁵⁴

In September 1984, Father GMG resigned from his position at this school and went on sick leave.³⁵⁵

Between September and October 1984, Father GMG worked in an unknown position at a parish in Victoria.³⁵⁶

According to the chronology relating to Father GMG, he commenced treatment with a clinical psychologist in November 1984, continuing until 1985.³⁵⁷

Father GMG undertook study at the University of Wollongong, New South Wales, between 1985 and 1987.³⁵⁸

In 1988, Father GMG was again appointed to the same Marist Fathers school in northern New South Wales as a school counsellor. In mid-1988, he was transferred to a position as a teacher and dormitory master until approximately June 1990.³⁵⁹ The chronology in Father GMG's personnel file recorded that in March 1990, Father GMG gave notice to the provincial council of his wish to terminate his position at the school at the end of the year, and that, 'In May resigned from teaching but offered to stay on as dormitory master; offer not accepted'.³⁶⁰

Father GMG undertook the Marianella Course in Dublin, Ireland, between July and December 1990.³⁶¹

Father GMG was appointed to an adult education institution in 1991, but resigned 'after a couple of weeks'.³⁶² He was then appointed chaplain at a Marist Brothers school in Sydney, New South Wales, in 1991.³⁶³

In 1992, Father GMG was again appointed to the Marist Fathers school in northern New South Wales, as a teacher and housemaster, until approximately May of that year.³⁶⁴

He was appointed to an unknown position at a parish in Sydney, between July 1992 and 1993,³⁶⁵ before again being appointed as chaplain of the Marist Brothers school in Sydney, between 1993 and 1994.³⁶⁶

On 7 December 1993, Father McMurrich was told about the anonymous phone call made to the Marist Fathers school in northern New South Wales in relation to allegations of sexual abuse by Father GMG, following which an interview was arranged with Father GMG:

During this interview, [Father GMG] acknowledged that there may be grounds for the laying of criminal charges against him in this respect relating to an incident at [the Marist Fathers school in northern New South Wales] in 1976. We indicated to [Father GMG] that because of this situation he would have to be withdrawn from his position as chaplain at [the Marist Brothers school in Sydney] immediately. [Father GMG] was cognisant of the situation and was happy to resign this position and move out of [the Marist Brothers school in Sydney] today. We assured [Father GMG] that he would be given every support by the Marist Fathers Provincial Administration but that we could not and would not do anything to pervert the course of justice.³⁶⁷

The Provincial of the Marist Fathers at the time, Father Anthony McCosker, notified Brother Alexis Turton, the (then) Provincial of the Marist Brothers, who 'agreed that [Father GMG] should be withdrawn from the chaplaincy position at [the Marist Brothers school in Sydney] immediately'. Father McCosker also contacted Father Brian Lucas, who advised that '[Father GMG] must resign his position and that he should not talk to anyone about this matter'.³⁶⁸

Father Lucas then interviewed Father GMG with Father McCosker and Father McMurrich present: 'Fr Lucas's advice to which [Father GMG] agreed was that [Father GMG] should not take part in any public ministry at this time and that he should seek some counselling. [Father GMG] agreed to these recommendations'.³⁶⁹

Handwritten file notes obtained by CCI dated between December 1993 and January 1994 recorded events relating to Father GMG that followed.³⁷⁰ A file note dated 17 December 1993 said:

Spoke by phone with Brian Lucas and informed him that there was no police interest in [Father GMG]. Raised with him, at [Father GMG]'s request, whether it would be ok for [Father GMG] eventually to do one off parish supplies. Brian agreed that there would be a minimal risk factor here. Would be concerned about a permanent parish appointment, as in the past this has caused problems where a priest with proclivities has access to families. Thought something like [a parish] would be relatively safe.³⁷¹

Another file note, dated 20 December 1993, recorded that Father GMG had said that he had seen a psychologist, and that: 'they had agreed to call it quits for the moment. [Father GMG] said that [the psychologist] had agreed with him that he had sorted out the psycho-sexual side of things'.³⁷²

Father GMG was placed on restricted ministry in 1993.³⁷³

In 1994, Father GMG was appointed to a senior position at Villa Maria, Hunters Hill, New South Wales.³⁷⁴

In 1998, Father GMG was appointed to an unknown position at Maryvale, New South Wales.³⁷⁵

Between 2001 and 2003, Father GMG was appointed chaplain to a retirement home in Sydney, New South Wales.³⁷⁶

A summary of Father GMG's record, provided by the Marist Fathers to their lawyers, said: 'Disciplinary Action Taken: Initially withdrawn from ministry, but subsequently allowed to celebrate occasional Masses in parishes and act as chaplain to a retirement home for nuns. Thence, completely retired'.³⁷⁷

Father McMurrich said that in 2014, Father GMG was questioned by the Marist Fathers about allegations made by GMI. Father McMurrich said that Father GMG denied remembering the incident or the complainant but said: 'I acknowledge I have been guilty of other offences and I remember them clearly, and since I have no recall on anything like this happening, I'm sure it didn't. But I'm worried about him going to the police, so perhaps I could pretend I remembered it, and meet with him and tell him I'm sorry'.³⁷⁸

Father McMurrich also said:

[Father GMG] wants at all costs to avoid anything that would precipitate a police complaint because he is vulnerable to other complainants coming forward if there is any publicity arising out of this matter. His preference is to meet with the complainant and try and reach a resolution/reconciliation. He realises of course that this involves an admission to the complainant which leaves him vulnerable, and he just wants to talk his dilemma over with a lawyer.³⁷⁹

As noted above, GMI made a claim to the Marist Fathers in 2014 that he was sexually abused by Father GMG in the 1970s. The claim was progressed through direct legal negotiation. The claim resulted in a compensation payment, an apology and an assurance that Father GMG was no longer in ministry.³⁸⁰

CCI Case 10: Father Francis (Frank) Klep – Salesians of Don Bosco (Salesians)

Francis (Frank) Klep was born in 1943.³⁸¹

He entered the pre-novitiate in January 1961, and the novitiate in January 1962, and took his first temporary profession of vows as a member of the Salesians in January 1963, in Victoria.³⁸² In 1963 and 1964, Brother Klep studied philosophy in Victoria.³⁸³

One person made a claim in 2010 relating to sexual abuse by Brother Klep in Victoria, between approximately 1963 and 1965.³⁸⁴

From 1965 to 1967, Brother Klep was a teacher in Port Pirie, South Australia.³⁸⁵

From 1968 to 1970, he studied theology at Columbus, Ohio, US. In January 1969, he professed his perpetual vows at Columbus.³⁸⁶

In 1971 and 1972, he studied theology at Oakleigh, Victoria. He was ordained at Melbourne, Victoria, in 1972.³⁸⁷

Between 1973 and 1979, Father Klep was a religious education coordinator and infirmarian at a Salesian school in Victoria.³⁸⁸

Twenty people, including GHD, made claims between the mid-1990s and 2014 that they were sexually abused by Father Klep at the Salesian school in Victoria between 1973 and 1982.³⁸⁹

Father Klep was convicted in December 2005 after pleading guilty to 14 counts of indecent assault of a male person under the age of 16 years. The offences related to the abuse of 11 victims at the Salesian school in Victoria, between 1973 and 1979, and almost all the offences occurred in the infirmary at the school. Father Klep was sentenced to 36 months' imprisonment with 24 months suspended for three years. In April 2006, the Victorian Court of Appeal increased Father Klep's sentence to five years and 10 months' imprisonment, with a three-and-a-half-year non-parole period.³⁹⁰

In 1980 and 1981, Father Klep was rector at Brooklyn Park, Adelaide, South Australia.³⁹¹

From 1982 to 1986, Father Klep was appointed rector of the same Salesian school in Victoria where he had been appointed between 1973 and 1979.³⁹²

Four people made claims between 2004 and 2013 that they were sexually abused by Father Klep at the Salesian school in Victoria, between 1982 and 1986.³⁹³

CCI's lawyers noted that Father Frank Bertagnolli, the Provincial of the Salesians from 1982 to 1987, prepared a report for them in July 2004 'recording his best recollections of his visit to the Riverina families in 1986 to investigate the allegation against Frank Klep'. The report said: 'Sometime around the middle of 1986, I had a visit from the Priest of the Wagga Diocese, to advise me that there had been reports made to him ... about allegations of sexual abuse going on at [the Salesian school in Victoria] (concerning Klep)'.³⁹⁴

CCI's lawyers also said that Father Bertagnolli provided information that:

There were two main sources on which the allegations were supposedly based – [GKW] (concerning her son [GHD]) and [another parent] (concerning her son ...). Fr Bertagnolli traveled to the Wagga Diocese and spent 4 or 5 days in the Riverina and visited several families ... Fr Bertagnolli found that 'a few parents supporting the position of [GKW], but most of the parents did not believe her allegations ...'

... He asked [GHD] directly whether he had any complaints about any of the Salesians at [the Salesian school in Victoria] but [GHD] did not offer any information at all and did not want to talk about it.

... Fr Bertagnolli returned to [the Salesian school in Victoria] and spoke with Fr Klep and other Salesians ... Fr Bertagnolli decided in any event to remove Fr Klep from [the Salesian school in Victoria] at the end of the year and asked him to go to the USA to do a course in Spirituality and Counselling 'and to address any issues he may have had regarding the allegations'.³⁹⁵

Father Bertagnolli's successor as provincial, Father Julian Fox, also said in 1992 that he spoke to Father Bertagnolli about the 1986 complaint, and that Father Bertagnolli told him:

The allegation was of a general kind, alleging some physical abuse which also included sexual abuse ... As a result of seeing parents and speaking with Fr. Klep he concluded that there was not sufficient basis in these allegations, and that, in fact, they were based on some quite unacceptable speculation.³⁹⁶

CCI's lawyers said that Father Bertagnolli told them the provincial council minutes for 1986 did not refer to this matter:

He is not surprised by that because ... Frank Klep was a member of the Provincial Council at the time. Fr Frank Bertagnolli believes that he would therefore have discussed this issue informally with certain other Provincial Council members at the time to get their input and guidance, but that he never raised it formally at the Provincial Council.³⁹⁷

CCI determined in 2015 that the Salesians had knowledge of Father Klep's propensity to offend by 31 May 1986, based on Father Bertagnolli's knowledge of complaints about Father Klep that were reported by some families through their parish priest, following which he travelled to the area to meet with the families and investigate the allegations.³⁹⁸

Father Klep studied at Salesian University in Rome, Italy, in 1987, and then at Fordham University in New York, US, in 1988.³⁹⁹

Between 1989 and 1991, Father Klep was the rector of a Salesian institution in Victoria. During this time, he was also involved in the conduct of a facility for young people in Victoria.⁴⁰⁰

GHB made a claim in 2007 that he was sexually abused by Father Klep at this facility for young people, between approximately 1989 and 1992.⁴⁰¹ In 2007, Father Klep denied the allegations, and a Towards Healing assessment found that the allegations were not substantiated.⁴⁰² The data survey produced by the Salesians recorded that after his claim progressed through Towards Healing, GHB received a compensation payment.⁴⁰³

From 1992 to 1994, Father Klep was appointed rector of another Salesian institution, which included a facility for young people, in Victoria.⁴⁰⁴

In September 1992, Father Fox received a letter signed by members of GHD's family and others, referring to:

a matter which is of great concern to us and we refer to what we believe is your responsibility to keep certain members of your order away from adolescent boys ... there are boys that attended [the Salesian school in Victoria] still suffering severely – growing older and ready to speak out. Indeed some have already spoken. To think that your religious order can ignore all this and still place these men to work with young boys in a position of trust is beyond the comprehension of many parents. This volatile situation should be acted upon immediately so as to protect the young and vulnerable from those who are ready to ruin their lives.⁴⁰⁵

Father Fox said he spoke to Father Bertagnolli about the letter, and said that Father Bertagnolli told him about the complaint he received in 1986.⁴⁰⁶ In September 1992, Father Fox replied to GKV and GKW, GHD's parents, and said he was 'dismayed' by the contents of their letter. He requested further information.⁴⁰⁷ In December 1992, Father Fox said he had received no response. Father Fox said he then discussed the matter with Father Brian Lucas, and that Father Lucas 'felt that sufficient steps had been taken to respond at this stage and the next move was really up to those who had more specific allegations to make'.⁴⁰⁸

In December 1994, Father Klep was convicted in Melbourne Magistrates Court of indecent assault of two victims and sentenced to a nine-month intensive correctional order.⁴⁰⁹

From January 1995 to April 1998, Father Klep was Bursar at Auxilium College (a Salesian training and retreat centre for clergy) at Lysterfield, Victoria.⁴¹⁰ While resident at Lysterfield, Father Klep occasionally provided 'healing services at the Belgrave Parish'.⁴¹¹

In April 1997, Father Klep was assessed by Encompass following an October 1996 recommendation from the Professional Risk Standards Management Service. During his assessment, Father Klep said he was teaching spirituality and scripture, visited prisons, presided at funerals and was part-time chaplain to the Dutch community, and that he had 'no longer any direct involvement in schools'.⁴¹²

The Encompass report said that '[Father Klep] repeatedly claimed there was no truth in the allegations even though he had been found guilty and he said the Magistrate simply believed the story'.⁴¹³ The report also said:

there are contradictions between some of his statement he gave to the police and some of what he told us. In effect, we remain suspicious about this man's truthfulness and whether or not the activities as alleged occurred ...

From a career point of view, it would be wise to make certain that he not be exposed to temptation and not be dealing with young people who might trigger drives to similar behaviours. You might also like to consider the question of him having a formal treatment program which we expect to be developing in the second half of the year.⁴¹⁴

From April 1998 to June 2004, Father Klep was Bursar at Moa Moa Theological College in Samoa. He was also the priest in charge from 2000 to 2002.⁴¹⁵ Father Ian Murdoch, the Provincial of the Salesians from 2000 to 2005, said Moa Moa Theological College was: 'a teaching institution working with adult seminarians and adult catechists. The college is not part of any local parish. It does not encompass any school for minors or any youth centre'.⁴¹⁶

In June 2004, Father Klep was deported from Samoa to Australia, where, in 2005, he was charged with child sex offences.⁴¹⁷ CCI's lawyers said that Father Klep did not disclose his 1994 conviction in his visa application for Samoa.⁴¹⁸

As noted above, Father Klep was convicted in December 2005 after pleading guilty to 14 counts of indecent assault of a male person under the age of 16 years. The offences related to the abuse of 11 victims at the Salesian school in Victoria, between 1973 and 1979, and almost all the offences occurred in the infirmary at the school. Father Klep was sentenced to 36 months' imprisonment with 24 months suspended for three years. In April 2006, the Victorian Court of Appeal increased Father Klep's sentence to five years and 10 months' imprisonment, with a three-and-a-half year non-parole period.⁴¹⁹

In 2007, the Salesians applied for a canonical dismissal and on 8 November 2008, Klep was formally dismissed as a priest by Rome.⁴²⁰

Klep was convicted in April 2014 after pleading guilty to 12 counts of 'indecent assault, buggery, attempted buggery and rape', in the Victorian County Court. He was sentenced to 10 years and six months' imprisonment with a non-parole period of six-and-a-half years.⁴²¹

Twenty-six people made claims between the mid-1990s and 2014 to the Salesians, relating to allegations of sexual abuse by Klep between 1963 and 1992. Fifteen claims progressed through Towards Healing, and a further two progressed through Towards Healing and also through other redress processes. Eight claims progressed only through other redress processes, and one claim was initiated through civil proceedings. Six of these claims were ongoing and 20 claims resulted in a monetary outcome. The total amount paid by the Salesians in relation to these 20 claims was approximately \$1,200,000, with payments ranging between \$5,000 and \$150,000, and an average payment of approximately \$61,000.⁴²²

CCI Case 11: Father David Rapson – Salesians of Don Bosco (Salesians)

David Edwin Rapson was born in 1953.⁴²³

He entered the Salesians' pre-novitiate at Chadstone, Victoria, in January 1972 and the novitiate in January 1973. He was a student at a Salesian institution in Victoria, between 1973 and 1976, and professed his temporary vows as a member of the Salesians in March 1974.⁴²⁴

Rapson was found guilty and convicted in 2015 of one count of indecent assault on a male in 1975 or 1976, when he was training to be a priest.⁴²⁵ One person made a claim in 2000 that he was sexually abused by Brother Rapson in the mid-1970s.⁴²⁶

From 1976 to 1977, Brother Rapson was a teacher and assistant at a Salesian school in Victoria.⁴²⁷ GFG made a claim in 1993 that he was sexually abused by Brother Rapson at the Salesian school in Victoria in 1976.⁴²⁸

Rapson was found guilty and convicted in 2015 of three counts of indecent assault on a male in relation to two complainants, between 1976 and 1977.⁴²⁹

In 1978, Brother Rapson was a teacher and assistant at a Salesian school and residential facility in New South Wales.⁴³⁰ One person made a claim in 2009 that he was sexually abused by Brother Rapson at this Salesian school and residential facility in New South Wales in 1978.⁴³¹

From 1979 to 1982, Brother Rapson was a theology student at a monastery in Oakleigh, Victoria.⁴³² In January 1980, he professed his perpetual vows, and in August 1981, he entered the diaconate at Chadstone, Victoria.⁴³³

On 8 May 1982, he was ordained at Sacred Heart, Oakleigh, Victoria.⁴³⁴

From 1983 to 1985, Father Rapson was a religious education coordinator at a Salesian school in another state.⁴³⁵ One person made a claim in 1997 that he was sexually abused by Father Rapson at this school between 1983 and 1985.⁴³⁶

From 1986 to 1987, Father Rapson was the religious education coordinator at the same Salesian school in Victoria where he had been appointed in 1976 and 1977.⁴³⁷ In 1986, he was awarded a Bachelor of Education.⁴³⁸

GHH, GFD, GHV and GFE made claims to the Salesians between 1989 and 2013 that they were sexually abused by Father Rapson at the Salesian school in Victoria between 1986 and 1988.⁴³⁹

Rapson was found guilty and convicted in 2015 of one count of indecent assault on a male in 1987.⁴⁴⁰

GHH said he told the principal of the Salesian school in Victoria in 1986, Father Frank Klep, that he had been sexually abused by Father Rapson: 'I told him what had just happened, trusting him. Looking back now I have always wondered why he took my report so calmly – he didn't seem shocked or anything. He simply said to me, "I'll report this and I'll talk to him (Father Rapson) about it"'.⁴⁴¹

In late 1987, GFE told Father Gregory Chambers, the (then) deputy principal of the Salesian school in Victoria, and Father Julian Fox, the (then) principal, that he was sexually abused by Father Rapson.⁴⁴² In 1995, Father Rapson admitted to abusing GFE.⁴⁴³ Father Chambers said: 'I still remember him telling me that Fr Rapson put his hands down his pants at the back and touched his backside and immediately I told Fr Fox as Rector/Principal about this and told the young person to go and see Fr Fox about it immediately'.⁴⁴⁴ GFE said that Father Chambers told him: "'don't be ridiculous" they are serious allegations', and that Father Fox did not believe him.⁴⁴⁵

Father Fox told CCI that GFE:

made some sort of allegation of improper conduct on Fr. Rapson's part. I frankly don't recall whether there was much detail attached to that complaint, i.e. detail as to just what the improper conduct was. I didn't take a great deal of notice at the time. I did discuss it briefly with Fr. Chambers. I did not feel there was very much to it ... There had been nothing in Fr. Rapson's observable behaviour to indicate anything untoward of this nature. I wondered about the veracity of the boy concerned.⁴⁴⁶

Father Fox also said:

One thing that did seem fairly obvious to me was that whatever had happened, it was a once off thing and it did not make a lot of sense to me ... I did not take up the matter with Father Rapson at that time as I wondered about the veracity of [GFE]. It was also towards the end of the year ... shortly thereafter I was to leave for Rome ... which would be another reason why I did not do a great deal about it ... I feel there was enough there to just suggest that possibly there was some problem he had with Father Rapson quite apart from this.⁴⁴⁷

Father Fox also said that in 1988, another priest 'had taken over as Rector and I did not raise the issue with him'.⁴⁴⁸

Father Fox became Provincial of the Salesians in January 1988.⁴⁴⁹

CCI determined in 2013 that the Salesians had knowledge of Father Rapson's propensity to offend in January 1988, based on Father Fox's knowledge of GFE's complaint in late 1987 when Father Fox became provincial.⁴⁵⁰

From 1988 until 1992, Father Rapson was appointed deputy principal at the same Salesian school in Victoria.⁴⁵¹ Father Fox wrote of Father Rapson's appointment as deputy principal: 'I had had no other complaint in the meantime [since the complaint in 1987]. Indeed, Fr. Rapson's general competence had induced me to offer him the deputy's job in place of the REC [Religious Education Coordinator]'.⁴⁵²

GHQ, GFH and three other people made claims that they were sexually abused by Father Rapson at the Salesian school in Victoria between 1987 and 1992.⁴⁵³ Father Rapson told CCI's lawyers in 1993 that he had sexually abused GFH on one occasion.⁴⁵⁴

Rapson was found guilty and convicted in 2015 of five counts of rape and one count of indecent assault in relation to two complainants, between 1988 and 1990.⁴⁵⁵

In 1989, GFE made another complaint to Father Fox about Father Rapson. Father Fox said:

In 1989 I was Provincial and [GFE] and his parents came to see me ... the nature of the allegation at this time was far more specific [than the 1987 complaint]. As I understood it, however, it related to what had happened towards the end of 1987 and specifically it was an allegation of oral sex ... In 1989 the protocol was beginning to be formulated but it really had not trickled down to every level of Provincial ... The approach I took was first of all to confront Father Rapson and I got a lot of confusion from him, a lot of denial but at the same time in the middle of this, some sort of admission in as much as he said it may have happened. I put the actual allegation of oral sex to him and he did not admit to it but after pressing him further and stressing the seriousness of the situation, he said that something may have happened and I took this back to the family.⁴⁵⁶

Father Fox said he suggested to Father Rapson that he attend counselling and that Father Rapson attended several sessions, but Father Fox 'did not make any effort to get any information from the Counsellor'.⁴⁵⁷ In 1992, Father Fox wrote: 'At that time, I saw no need to take the matter further; was not clear about an appropriate process, either, and felt that the issue had been responded to in terms of the family at that time, and my own assurances that there was not an ongoing problem'.⁴⁵⁸

Father Fox's file notes made in 1992 said that another Salesian priest received a complaint from GFD's family on 14 April 1992 and told Father Fox of the complaint on 15 April 1992.⁴⁵⁹ Father Fox met with GFD and his family on 15 April 1992.⁴⁶⁰ Father Fox wrote:

[GFD], in that interview, provided details of the alleged offences which, if correct, are indeed serious in nature. He claims that these took place [over] a long period of time 'perhaps several times a week', over the two year period indicated above ['1986–87'] ... This most recent allegation corroborates the first [from GFE] (yet my questions of [GFD] could not elicit the information that he knew anything of any others being involved – he believed that he might be the only one). It points to the existence of a serious situation which I believe now must be acted upon in an appropriate manner.⁴⁶¹

On 16 April 1992, Father Fox also wrote:

I went to see Msgr. Hilton Deakin [the (then) Vicar General of the Archdiocese of Melbourne] to inform him of the allegation, to discuss the protocol and to seek advice. On the same day I confronted Fr. Rapson with the nature of the allegation, but did not indicate who the complainant was. He denied the allegation categorically. I indicated that he might be asked to stand aside ... I also asked him to arrange an appointment with a priest trained in psychology (suggested to me by Msgr. Deakin).⁴⁶²

On 17–19 April 1992, Father Fox wrote that he had informed the provincial council of the situation and told them that he ‘felt that David [Rapson] had to be stood down as there was every indication that the boy, either now, or within a short period of time might want the matter to be dealt with by police’. Father Fox wrote that he: ‘was faced with a moral dilemma – to stand him down simply on the basis of an allegation seemed unjust; yet this was the second case of such allegation. I had dealt with the earlier one’.⁴⁶³

Father Rapson was removed from his position at the Salesian school in Victoria in April 1992 and transferred to Auxilium College in Lysterfield, Victoria.⁴⁶⁴ Father Fox told CCI he had not removed Father Rapson previously as ‘I had not been fully convinced that something had happened which warranted his removal. The moment at which I became certain of this was in April of this year [1992]. At that point I removed him immediately’.⁴⁶⁵

In November 1992, Father Rapson was convicted of three charges of indecent assault and sentenced to two years’ imprisonment with a 10-month minimum non-parole period.⁴⁶⁶

In June 1993, Father Rapson was convicted of two counts of indecent assault and sentenced to 14 months’ imprisonment, of which 12 months were suspended.⁴⁶⁷

In September 1993, Father Rapson was released from prison.⁴⁶⁸

From approximately 1993 until at least October 1996, Father Rapson was working at the Uniting Church mission in Sydney and was posted to the University of New South Wales.⁴⁶⁹

In 2003, he was the subject of a canonical application for dismissal from the priesthood, which was granted in 2004.⁴⁷⁰

In 2015, Rapson was found guilty and convicted of five charges of rape, two charges of indecent assault and four charges of indecent assault on a male, in relation to six complainants. The offending occurred over the period 1975 to 1990, and included five counts of rape and one count of indecent assault in relation to two complainants, between 1988 and 1990.⁴⁷¹ In May 2015, Rapson was sentenced to 12 years and six months’ imprisonment with a non-parole period of nine years and four months, with 445 days deducted for time already served.⁴⁷²

Thirteen people made claims between approximately 1989 and 2013 to the Salesians, relating to allegations of sexual abuse by Rapson between the mid-1970s and 1992.⁴⁷³ At least five of these 13 claims included allegations of abuse after January 1988.⁴⁷⁴ Of the 12 claims in the data survey produced by the Salesians, six progressed through Towards Healing, three of which then progressed through other redress processes which were ongoing, and six other claims progressed only through other redress processes. Five of the 12 claims resulted in a monetary outcome. The total amount paid by the Salesians in relation to these five claims was approximately \$344,000, with payments ranging from approximately \$15,000 to \$128,000, and an average payment of approximately \$69,000.⁴⁷⁵

CCI Case 12: Father Daniel Hourigan – Diocese of Sale

Daniel Hourigan was born in 1930.⁴⁷⁶

In 1947, Daniel Hourigan attended the Missionaries of the Sacred Heart (MSC) Apostolic School, Douglas Park, New South Wales, but said that he was told by the end of the year, ‘my vocation did not lie with the M.S.C’s’.⁴⁷⁷

Between 1948 and 1949, Daniel Hourigan was a student at St Joseph’s Christian Brothers College, Geelong, Victoria.⁴⁷⁸

Daniel Hourigan said that in 1949 he applied to the Bishop of Sale at that time, Bishop Richard Ryan, to become a priest of the Diocese of Sale. He said that Bishop Ryan ‘replied saying that, considering the fact that the M.S.C’s had thought I had no vocation, he would not consider me for the diocese of Sale’.⁴⁷⁹

Between 1950 and 1951, Daniel Hourigan was a staff member at De La Salle Teachers College, Yule Island, Papua New Guinea, and a member of the Missionary Laymen’s Movement.⁴⁸⁰ He was then appointed to a senior position at a school in Yule Island, Papua New Guinea, in 1952 for one year.⁴⁸¹

Between 1953 and 1958, Daniel Hourigan was appointed to a senior position at a boarding school in Mainohana, Papua New Guinea.⁴⁸² In a 1972 application to study for the priesthood in the Diocese of Sale, Daniel Hourigan told the Bishop of Sale at that time, Bishop Arthur Fox, that during his appointment at this school, a number of students ‘complained to the priest in charge ... that I was a homo-sexual’, after he had punished them. Daniel Hourigan wrote that the priest in charge, ‘informed Bishop Sorin who asked me for an explanation ... to cut a long story short, I continued [in the same position at the school]’.⁴⁸³

Daniel Hourigan was a postulant at De La Salle Brothers Novitiate, Sydney, New South Wales, for a few weeks in early 1959.⁴⁸⁴

Between 1959 and 1960, he was appointed to a senior position at another school in Papua New Guinea.⁴⁸⁵ In his 1972 letter to Bishop Fox, Daniel Hourigan said that in 1960 two further complaints were made about him to the chaplain of the boarding school by students who ‘complained of being punished and accused me of being a homo-sexual. So I had to explain to [the chaplain] ... that we had had the same problems on the coast when the boys were out to “pay back”’.⁴⁸⁶ Daniel Hourigan said that after the second complaint, the chaplain reported this to the administrator of the mission, who then ‘passe[d] the matter over to the Director of Education ... He suggested that the following year, 1961, I return to the coast and open a boarding school ... However, I decided to return to Australia’.⁴⁸⁷

Between 1961 and 1968, Daniel Hourigan was a lay staff member at a Christian Brothers school in Melbourne, Victoria.⁴⁸⁸ During this period, he was also a member of the Legion of Mary, including as President of the Melbourne Senatus of the Legion of Mary.⁴⁸⁹

Two people made claims to the Christian Brothers in 2013 and 2014 respectively, that they were sexually abused by Daniel Hourigan at this Christian Brothers school in Melbourne, Victoria between 1957 and 1968.⁴⁹⁰

GHX made a claim to the Diocese of Sale in 2002 of sexual abuse by Daniel Hourigan in Victoria, in the late 1960s.⁴⁹¹

Between 1969 and 1972, Daniel Hourigan was a missionary coordinator for the Legion of Mary Envoy to South America.⁴⁹²

On 3 July 1972, Daniel Hourigan wrote from South America to Bishop Fox expressing interest in 'studying for the priesthood for the Diocese of Sale'.⁴⁹³ As noted above, Daniel Hourigan told the Bishop about the 'accusations' made against him in Papua New Guinea.⁴⁹⁴

Between 1973 and 1976, Daniel Hourigan was a student at St Paul's National Seminary, Kensington, New South Wales.⁴⁹⁵

He was ordained to the Diocese of Sale on 21 August 1976.⁴⁹⁶

Between January 1977 and January 1980, Father Hourigan was appointed assistant priest at two parishes in the Diocese of Sale.⁴⁹⁷

GHY, GHZ and GIC made claims in approximately the 1990s that they were sexually abused by Father Hourigan in Victoria, between 1977 and 1983.⁴⁹⁸

Between January 1980 and October 1984, Father Hourigan was appointed assistant priest at another parish in the Diocese of Sale, Victoria.⁴⁹⁹

GID and another person made claims in 1993 and 2015 respectively that they were sexually abused by Father Hourigan in Victoria, between 1980 and 1984.⁵⁰⁰

Between October 1984 and August 1985, Father Hourigan was appointed assistant priest to a different parish in the Diocese of Sale, Victoria.⁵⁰¹ Father Hourigan said that during this appointment, 'I was the Master of Ceremonies to Bishop Eric D'Arcy and I was with Bishop D'Arcy during Confirmations and we would go to Debutante Balls and I was his unofficial Secretary'.⁵⁰²

GII made a claim in 2008 that he witnessed the sexual abuse of another child by Father Hourigan between 1984 and 1985.⁵⁰³

Father Hourigan was appointed parish priest of another parish in the Diocese of Sale, from August 1985 until November 1986 or September 1987.⁵⁰⁴ Father Hourigan was also appointed as Diocesan Director of Religious Education at the Catholic Education Office, in late 1986 until 1987.⁵⁰⁵

GHY said that he told his brother and parents in 1985 that Father Hourigan had sexually abused him. He said they then telephoned Father GMF, a priest of the Archdiocese of Melbourne, who contacted Father Ian Waters, the Judicial Vicar for the Archdiocese of Melbourne at the time.⁵⁰⁶ GHY said he met with Father GMF and Father Waters in early 1986 and told them what had occurred, after which they then 'went ... and confronted him [Father Hourigan]. I have been told that HOURIGAN admitted everything to Ian WATERS. I was told that WATERS then informed the Vicar General who went to Bishop D'ARCY who was the Bishop in Sale'.⁵⁰⁷

CCI determined in 1996 that the Diocese of Sale had knowledge of Father Hourigan's propensity to offend in 1986. This was based on a letter dated 1 May 1987 to Bishop D'Arcy from GIB and GIA regarding the abuse of their son, GHY, in which they said they first made an official complaint about Father Hourigan in January 1986.⁵⁰⁸ In 2016, the Diocese of Sale informed the Royal Commission that it has accepted that there was prior knowledge of Father Hourigan as from 1986.⁵⁰⁹

On 31 December 1986, Father Waters wrote to Bishop D'Arcy:

In our telephone conversation [on 26 December 1986], I mentioned that I understood that you had been warned about Father's problems and you said that you could not recall being warned. I have checked with Mgr. Peter Connors [the Vicar General of the Archdiocese of Melbourne at the time], who was the one who 'warned' you. Peter recalls mentioning the matter to you in your study during a visit by him to Sale during 1986 to address the priests of the diocese. Peter believes he asked you whether you had ever had complaints about sexual misconduct by Father [Hourigan]. Peter recalls you answering in the negative, and that he told you that such an accusation had been made. Such a warning was meant to alert you confidentially.⁵¹⁰

GIB and GIA said in their 1987 letter to Bishop D'Arcy:

The Vicar General visited you in February [1986] and informed you of a report of Father Hourigan's homosexual activities. In April of that same year we were given definite assurance that this meeting had taken place and we felt confidence in your perspicacity as our bishop and firmly believed that we had nothing more to fear.⁵¹¹

Father Hourigan was appointed parish priest of a different parish in the Diocese of Sale in November 1986 or September 1987, and remained there until September 1987 or November 1988.⁵¹²

Two people made claims in 2011 and 2012 respectively, that they were sexually abused by Father Hourigan at various locations, between 1986 and 1989.⁵¹³

In a 1986 letter to Bishop D'Arcy, Father Waters said that following a telephone conversation with the bishop on 26 December 1986, he went to see GHY and GHZ and Father Hourigan in December 1986 because their parents had raised concerns around that time that Father Hourigan had been visiting them.⁵¹⁴ Father Waters said he interviewed GHY and GHZ on 27 December 1986, and that the abuse they disclosed was 'very serious'.⁵¹⁵ Father Waters also told Bishop D'Arcy that he then went to see Father Hourigan and told him 'what had been alleged, that I was acting as your delegate and that no priest of the Sale Diocese had any knowledge of the allegations'. Father Waters said that GHY and GHZ 'believe that other lads have been assaulted (and gave reasons). But Father admitted to me only the assaults on [GHY and GHZ]. As I had no first hand evidence about other lads, I didn't push Father any further'.⁵¹⁶

Father Waters also told Bishop D'Arcy: 'At first [Father Hourigan] said that the activities could be viewed from different points of view I then said that the activity, as described by the lads to me, was clearly criminal ... and that the seeking of legal advice and police action had been discussed'. Father Waters said that Father Hourigan then 'calmly and humbly admitted he was guilty and needed help ... I said I would arrange for him to see Dr Eric Seal, psychiatrist, that I would report to you and that I would guarantee the [parents] that Father would not visit them or make any contact'.⁵¹⁷

Father Waters also told Bishop D'Arcy that Father Hourigan's appointment as parish priest and Diocesan Director of Religious Education was:

not the one he should have. I say this for three reasons – (i) if Father has personal problems in that area, he should not be put into a job that involves children in any way; (ii) if this problem ever became public, a lot more harm would be done if Father holds a diocesan rather than parochial position; (iii) in such a position, Father and/or the Church would be open to blackmail.⁵¹⁸

Father Waters wrote: 'I think that if you want to replace him, you could do so without him losing face or reputation. I understand that he does have other health problems ... in addition to health he could always plead that his age does not permit him to move around the diocese as easily as a younger man could'.⁵¹⁹

In a letter dated 31 December 1986, Father Waters told Father Hourigan that he had arranged for him to see Dr Seal in February 1987, and had sent a copy of this letter to Bishop D'Arcy.⁵²⁰

Psychiatrist Dr Seal told Bishop D'Arcy that he saw Father Hourigan on 3 February 1987 and again on 6 April 1987.⁵²¹

A psychologist, Mr Ronald Conway, assessed Father Hourigan in April 1987 and reported his findings in a letter to Dr Seal dated 14 April 1987. He wrote:

Thank you for referring this priest from the Sale diocese to me, who has been involved in a series of rather distressing incidents of homosexual involvement with ... boys ... By all accounts, Fr. Hourigan has not been involved in other incidents in the interim period ... I am inclined to accept his assurances at face value, despite the heinous nature of his original behaviour.⁵²²

Mr Conway told Dr Seal that in his assessment of Father Hourigan:

His attitude towards his sexual nature was far more repressive and avoiding than would be possible today for an incoming seminarian ... He was a late vocation from St. Paul's, and was ordained in 1976. Thus he escaped the overview by me at that time, since I screened most of the candidates for the province at that period. It is, of course, not altogether certain that I would have elicited the signs even then, although it is probable that I could have pointed to some warning indications had he seen me.⁵²³

Mr Conway said in relation to Father Hourigan's position as Director of Education:

he is in a position of some responsibility, but he is kept pretty busy, and this may well be one of the best posts in the diocese for a man who might still have residual inclinations in that direction. His parochial duties would be somewhat limited, and he would be confined to a great extent to official and desk duties ... Looking at the situation from a pragmatic viewpoint, I think his present appointment is probably about the best that the Bishop could have chosen.⁵²⁴

Mr Conway also said:

I think it highly improbable that he has been engaged in anything of a reprehensible nature of recent years. Certainly the revelation of his past behaviour is such that I think it most unlikely that he will ever attempt anything like it again ... However, I do urgently recommend that he stay in contact with a counsellor, priest or lay person whom he has in confidence, in order that he will be able to alleviate some of the emotional tensions which caused this series of incidents in the first place.⁵²⁵

On 22 April 1987, Dr Seal wrote to Bishop D'Arcy enclosing a copy of Mr Conway's report. Dr Seal wrote:

I must say [Father Hourigan] presented as a gentle kindly man, who seems very repentant over what happened. He did not seek to rationalise or exculpate himself by blaming anyone else and he seemed highly confident that he could avoid such problems in the future ... I would have to admit that one cannot give an absolute guarantee about his prognosis for the future ... I personally feel now justified in recommending that you allow him to persist in his present appointments. He is happy to keep under periodic but reasonably regular therapy with me ...⁵²⁶

On 24 April 1987, Bishop D'Arcy wrote to Dr Seal:

Thank you especially for the clear recommendation which you make for this and I am especially grateful. It would have been seriously disappointing to Father, but also seriously unfortunate for the appointment, if you had judged that it should not continue.⁵²⁷

Father Hourigan said in 1995 that he did not admit to Father Waters, Dr Seal or Ronald Conway 'that I had had this sexual activity with [GHY or GHZ] or with anyone else'.⁵²⁸

On 1 May 1987, GIB and GIA wrote to Bishop D'Arcy that they were concerned Father Hourigan had been appointed as Diocesan Director of Religious Education.⁵²⁹ GIA said that Bishop D'Arcy invited them to Sale for a meeting and Father Hourigan's appointment as Director of Catholic Education was withdrawn.⁵³⁰

In a letter to Bishop D'Arcy dated 10 August 1987, Father Hourigan requested a transfer for 'health reasons' to another parish, 'from my present position (looking after [the current parish] and working at the Catholic Education Office as Diocesan Director of Religious Education)'.⁵³¹ On 12 August 1987, Dr Seal told Bishop D'Arcy that Father Hourigan had written asking 'if I could give you a psychiatric opinion that it is unlikely that the situation will recur. I am indeed happy to state that I have confidence that a recurrence is indeed very unlikely'.⁵³²

Father Hourigan was appointed parish priest of another parish in the Diocese of Sale, in September 1987 or November 1988, and remained there until May 1990.⁵³³

Bishop Jeremiah Coffey, the Bishop of Sale from 1989 to 2008, said that when he had been nominated for the Diocese of Sale but was not yet bishop, GID told him that when he was a child he had been sexually abused by Father Hourigan.⁵³⁴

A 1996 report prepared for Bishop Coffey, in response to a request from the National Committee for Professional Standards (1996 report), noted that in June 1989, Bishop Coffey was told by his predecessor, Bishop D'Arcy, about 'very serious allegations made against Father Dan Hourigan'.⁵³⁵

Bishop Coffey said that after he was appointed Bishop of Sale in 1989, he confronted Father Hourigan about GID's allegation and that Father Hourigan 'denied every single thing about this molestation of [GID]. I had some other information at that time and it seemed to be a pattern of his behaviour'.⁵³⁶

In May 1990, Father Hourigan was appointed an assistant priest at St Mary's Cathedral Parish, Sale, and remained in this position until February 1993.⁵³⁷ Bishop Coffey also put Father Hourigan on sick leave at this time.⁵³⁸ Bishop Coffey told CCI's investigators in 1997:

when I became Bishop of Sale and discovered that Dan Hourigan wasn't terribly well and I knew about his activities, I took action. You have to be careful, you can't just whip a fellow out, unless you get advice ... But what I did with Dan Hourigan was that he was unwell and the doctor rang me and said 'He can't keep going'. I brought him out of [his parish], he went to hospital and had two bypasses ... So I brought him back here to Sale as a parish Priest on sick leave. The name is important, because if I sacked him, every Priest in the Diocese would know and they would say he is entitled to his good name, so I called him a Parish Priest on sick leave with no official appointment. I sat down here and kept an eye on him all the time; I watched him out the window when he was talking to young people.⁵³⁹

In August 1990, Monsignor Allman, the Administrator of the Cathedral at Sale at the time, appointed Father Hourigan as chaplain to senior boys and girls at a school in the Diocese of Sale, Victoria.⁵⁴⁰ The 1996 report said: 'This again was most inappropriate and should not have happened. Bishop Coffey must also have had his concerns about this placement because he felt obliged to tell the Superior and the Deputy Superior of the [school] about the situation'.⁵⁴¹

Bishop Coffey said in 1997: 'Monsignor Allman was of the old school and he thought he was doing the right thing and he knew all about it. I had to tell the Principal and the Vice Principal of the [school] and we couldn't pull him out straight away, so we left him there from September till November'.⁵⁴² In 1995, Bishop Coffey said: 'As far as we know, nothing happened, but as soon as we could get him out quietly at the end of the term we did'.⁵⁴³

Father Hourigan was placed on restricted ministry in 1992.⁵⁴⁴

In early 1993, Father Hourigan retired to Cowwarr Presbytery, Victoria.⁵⁴⁵ He continued his pastoral work during his retirement, including celebrating mass.⁵⁴⁶ In 1997, Bishop Coffey said: 'I didn't realise that although Hourigan was retired at Cowarr [sic], he used to say Mass in the morning in the little church next to it ... I said to Dan Hourigan "you can't say Mass privately"'.⁵⁴⁷

Father Hourigan was placed on administrative leave in 1994.⁵⁴⁸ His priestly faculties were withdrawn on 14 February 1994.⁵⁴⁹ The 1996 report noted that in 1995, after a person brought a civil action against Father Hourigan and the Bishop of Sale, the police interviewed Father Hourigan.⁵⁵⁰ The police were issued a search warrant for files relating to Father Hourigan at the offices of the Diocese of Sale in September 1995, and 'informed Bishop Coffey that they were going to charge Father Hourigan'.⁵⁵¹ The 1996 report also noted that 'Bishop Coffey informed the Consultors of the matter in relation to Father Hourigan and then the priests [of the diocese] at the In-Service'.⁵⁵²

Father Hourigan died on 19 September 1995, aged 65.⁵⁵³

Ten people made claims between 1993 and 2015 to the Diocese of Sale (and one also made a claim to the Marist Brothers), relating to allegations of sexual abuse by Father Hourigan between 1968 and 1989.⁵⁵⁴ Five of these claims were processed through Towards Healing (two of these claims were discontinued), two claims involved direct legal negotiation, one claim was initiated through civil proceedings, and in two claims no redress process was indicated. Five claims resulted in payments ranging between \$3,000 and \$250,000, with an average payment of approximately \$107,000. The total amount paid to claimants by the Diocese of Sale in respect of claims relating to Father Hourigan was approximately \$534,000.⁵⁵⁵

Two people also made claims to the Christian Brothers in 2013 and 2014 respectively, relating to allegations of sexual abuse by Daniel Hourigan between 1957 and 1968. Both claims were progressed through Towards Healing. The total amount paid by the Christian Brothers in relation to these claims was approximately \$143,000, with one claim recorded as ongoing.⁵⁵⁶

CCI Case 13: Brother Keith Boyd Farrell (Brother Stephen) – Marist Brothers

Keith Boyd Farrell was born in 1922.⁵⁵⁷

He entered the aspirancy/juniorate in January 1940 and undertook his postulancy in 1941, at Mittagong, New South Wales.⁵⁵⁸

In July 1941, Keith Farrell entered the novitiate.⁵⁵⁹ He wrote in a 1978 letter to ‘Brother Kieran’: ‘I didn’t mind the Novitiate but I was troubled a fair bit with scruples, especially, I think, on sexual matters (I confided these in great detail to the priest Chaplain, but not to the Provincial ... well, he never asked.)’⁵⁶⁰

Brother Keith Farrell professed his initial vows as a member of the Marist Brothers in July 1942.⁵⁶¹

Between July 1942 and December 1947, Brother Keith Farrell was a secondary teacher at four Marist Brothers schools across New South Wales.⁵⁶² He professed his final vows at Mittagong, New South Wales, in 1947.⁵⁶³

Between January 1948 and December 1961, he was a secondary teacher, boarding and sports master at a Marist Brothers school in Sydney, New South Wales.⁵⁶⁴

GCO and one other person made claims, in 1996 and 2006 respectively, that they were sexually abused by Brother Keith Farrell at this school, between approximately 1958 and 1960.⁵⁶⁵ A third person also made a claim in 1996 relating to allegations that other male students were sexually abused by Brother Keith Farrell at the same school in 1959.⁵⁶⁶

In his letter to ‘Brother Kieran’ in 1978, Brother Keith Farrell wrote that in 1960:

In the matter of sex ... My first failings now started to occur ... There was nothing serious but I was worried and asked Quentin [Brother Quentin Duffy was the Provincial from 1958 to 1964⁵⁶⁷] for a shift ... refused! I did my darndest next year but there [were a] few indiscretions and, at the end of year, Othmar [Brother Othmar Weldon was the Headmaster of the Marist Brothers school in Sydney from 1955 to 1962⁵⁶⁸] said I should be shifted ... the new boss, Charles Howard, tried to get me to stay on ... but I refused to justify myself before Quentin so he had no alternative but to shift me.⁵⁶⁹

Brother Weldon said that he was aware of ‘rumours’, while Brother Keith Farrell was at the school, relating to massages ‘which went too far (or may have gone too far)’. Brother Weldon said: ‘These were all whispers that I heard of afterwards and so I was not in a position then to do anything about it. When we heard these rumours, however, it was late in the year and at the end of the year he [Brother Keith Farrell] was then shifted’.⁵⁷⁰ Brother Weldon was Provincial of the Marist Brothers Sydney Province from 1964 until 1972.⁵⁷¹

Brother Alexis Turton, the provincial from 1989 to 1995, said that Brother Weldon told him about two complaints that he had received regarding Brother Keith Farrell, while Brother Weldon was headmaster of the school in Sydney. One boy had asked to be shifted from Brother Keith Farrell's dormitory, saying 'I don't like him ... I think he's picking on me'. Brother Weldon said he shifted the boy, but 'never got any more information' and when he asked the boy 'are you alright – he [the boy] said yes I'm all right'.⁵⁷²

Brother Turton said that Brother Weldon also told him: 'two other boys had come to him and said they objected to Br Stephen's coaching ... what they said was Br Stephen [told] us that we should think about masturbating before a game because it would enable us to relax before the game and play better, and they said we don't want to do that'. Brother Weldon spoke to Brother Farrell who said he 'may have said something that could be interpreted that way and be careful about it in the future and Othmar made it very clear to these kids what was the appropriate response to that – so in that sense, there was that incident and that sort of message that this guy got'.⁵⁷³

Between January 1962 and June 1965, Brother Keith Farrell was a secondary teacher at a Marist Brothers school in regional New South Wales.⁵⁷⁴ He undertook his second novitiate at Fribourg, Switzerland, between July and December 1965, before returning to Australia where he again taught, and was also in a senior position and in vocations ministry, at the same school in regional New South Wales, between January 1966 and December 1969.⁵⁷⁵

On 5 January 1968, Brother Keith Farrell took his vows of stability.⁵⁷⁶

Between January 1970 and December 1974, Brother Keith Farrell was a teacher, and was also appointed to a senior position and in vocations ministry, at another Marist Brothers school in Sydney, New South Wales.⁵⁷⁷

GCM made a claim in 2012 that he was sexually abused by Brother Keith Farrell at this school in the early 1970s.⁵⁷⁸

Brother Weldon said that he told his immediate successor as provincial, Brother Charles Howard (Provincial of the Sydney Province between 1972 and 1976), about the 'rumours' that he had heard relating to Brother Keith Farrell:

I remember telling Brother Charles Howard that they should not put Brother Farrell in a boarding school environment but was somewhat surprised later on to see that he was either [at a Marist Brothers school in Queensland] or [another Marist Brothers school in northern Queensland] which were both boarding schools.⁵⁷⁹

Between January and May 1975, Brother Keith Farrell was a teacher, boarding housemaster and in vocations ministry at a Marist Brothers school in Queensland.⁵⁸⁰

Brother Turton said he received a complaint about Brother Keith Farrell in April 1975, when Brother Turton was the principal of this Marist Brothers school in Queensland: 'one morning a group of senior boys came to see me and said he'd [Brother Keith Farrell] attempted to get them to go to bed with him. I actually laughed at them, I thought it was funny'.⁵⁸¹

Brother Turton said that he laughed at the report that Brother Keith Farrell had 'attempted to get them to go to bed with him' because he initially believed that the students were joking, and that when they said they were serious he removed Brother Keith Farrell from his position in charge of the dormitory and contacted the provincial at the time, Brother Charles Howard. Brother Turton said:

it was about 5 or 6 boys came to my office and said that [Brother Keith Farrell] had approached them virtually saying that he would like them to come in and lie next to him in bed and that where I was surprised to say the least ... I sort of laughed and they were very sombre and one of them, I remember him actually saying, Br we would not laugh, we would not joke about something like this and so I said Oh you are serious, and they said we are serious. So I immediately got hold of the man and I said you are not to go back into that dormitory, I'll put someone else there immediately as of tonight and I rang the Provincial ...⁵⁸²

Brother Turton said that Brother Keith Farrell denied the allegations.⁵⁸³ He also said that the provincial had been in the Solomon Islands at the time, and that he 'flew down to Brisbane airport and I took this man out to see the Provincial and the result of that was that he [Brother Keith Farrell] was immediately moved from [the Marist Brothers school in Queensland]'.⁵⁸⁴

In his letter to 'Brother Kieran' in 1978, Brother Keith Farrell wrote that when he was at the Marist Brothers school in Queensland:

At Beginning of 2nd Term I drank ... rum one night ... Well, it seems I got up and invited kids into my bedroom. As far as I still know, nothing really serious happened – but it lasted two nights, because I don't remember anything after the first night, and just one or two vague things after the second night. Those 'vague' things were enough to make me stop it ... but a few days later I had to see Chas and was told I should leave [the school]. This was, perhaps, the right decision; but I had felt that now that I knew what had happened that I'd never do it again and I should be given the chance to stay there and prove it ... but I didn't argue.⁵⁸⁵

CCI determined in 1996 that the Marist Brothers had knowledge of Brother Keith Farrell's propensity to offend in April 1975, based on a 1993 Special Issues Allegation Report provided by the Marist Brothers which set out the circumstances of the April 1975 complaint.⁵⁸⁶

Between May and December 1975, Brother Keith Farrell was appointed as a secondary teacher at another Marist Brothers school in northern Queensland.⁵⁸⁷

Brother Keith Farrell said that after he moved to this school: 'there was one act of indiscretion on my part that [the Headmaster] tried to use to shift me. Since I felt I couldn't do a thing at [the school] under him as boss I said to Chas that I'd agree with a shift'.⁵⁸⁸

Between January 1976 and December 1978, Brother Keith Farrell was appointed to a senior position and was also a secondary teacher at a Marist Brothers school in a different state.⁵⁸⁹

Two people made claims, in 2008 and 2010 respectively, that they were sexually abused by Brother Keith Farrell at this school between 1976 and 1978.⁵⁹⁰

Brother Keith Farrell said that during his time at this school, the (then) principal, GLJ, 'told me that our higher superiors would refuse to allow me to have senior kids under my control (i.e. as [senior] Form Religion Teacher or [senior] Form Master ... I found this absolutely incredible'.⁵⁹¹

GLJ said:

during 1978, two parents came to see me ... They told me that Br Farrell had been 'touching their boy'. They told me that this happened when Br Stephen Farrell [Brother Keith Farrell's religious name was Brother Stephen⁵⁹²] was driving their son to [a location]. I immediately confronted Br Steve Farrell with these allegations. He did not admit them. I did not hold him or his honesty in particular high regard. I immediately informed the Provincial (Br Kieran Gearney [sic]) and arranged for him to come down to see us ...⁵⁹³

GLJ also said: 'I took the complaint from [this] family very seriously. I was told that Br Stephen Farrell had been touching his penis in the car ... I believed them. I never interviewed their son'.⁵⁹⁴

GLJ said that he and Brother Keith Farrell were interviewed by the provincial:

At those meetings, Br Farrell tried to rationalise things in a very curious way, with reference to a general suggestion that he had been 'holding boys too close to him' or something similar ... The outcome of all of this was that Br Farrell was moved quickly and promptly from the school to another Marist facility, without any explanation being provided to other members of the Marist Community or staff.⁵⁹⁵

GLK, a former staff member at the school, said that during 1978 'one or perhaps more boys approached him about inappropriate touching' by Brother Keith Farrell. GLK said he told GLJ about the incident, and that Brother Farrell had been moved from the school 'very suddenly'.⁵⁹⁶

GLJ said:

I do not recall [GLK] speaking to me as he remembers ... the incident I dealt with arose from the complaint from the ... family ... I do not think I would have told [GLK] anything about the complaint from the ... family. I dealt only with the Provincial. That was the way things were done.⁵⁹⁷

Brother Kieran Geaney was the Provincial of the Sydney Province between 1976 and 1983. In a letter to 'Brother Kieran' dated 23 May 1978, Brother Keith Farrell wrote:

This is just a brief note to thank you very much for your kind understanding and help given to me today. I might have given the impression, at times, that the whole thing was not a very important matter to my mind; but I can assure you that I cannot imagine any more serious matter to ever have to contend with during my life.⁵⁹⁸

He also wrote: 'your willingness to give me the opportunity to go overseas and work through a course that should straighten me out means a very great deal to me'.⁵⁹⁹

In September 1978, Brother Keith Farrell wrote to Brother Geaney:

Your letter of August 31st arrived today ... I fully agree with all that you said in it ... I am also so happy that you made the decision yourself and did not put the matter before your Council ... I still believe that my main charisma is in leadership of young men; it is just unfortunate that it was not always being used in the best manner. As you said, I must 'own' my faults – the thing is that they happened whether I realised it or not. I thought I could suppress any troubles by doing extra work ... I greatly appreciate your quick decision and your courage in letting me know by such a letter. I also appreciate that you mention you want me to work with senior boys. This is important for two reasons: firstly, I think that this was a mistake made at [the Marist Brothers school where Brother Keith Farrell taught between 1976 and 1978] and, secondly, I do really think that there is probably greater risk with younger lads than older lads. Of course, I really hope that all will be 100% in future and, at this moment, I just cannot imagine any possibility of error with students of any age; but I also realise that I must always be on guard.⁶⁰⁰

Between January and June 1979, Brother Keith Farrell was appointed as a secondary teacher at the same Marist Brothers school in Sydney where he taught between 1970 and 1974.⁶⁰¹

He then undertook studies at Notre Dame de l'Hermitage, France, between July 1979 and December 1980,⁶⁰² before again returning to teach secondary at the same Marist Brothers school in Sydney, between January 1981 and December 1986.⁶⁰³ GLJ said that Brother Turton had made enquiries regarding Brother Keith Farrell's appointments and that when Brother Keith Farrell returned to this school in 1981, he was 'probably not in a teaching role. He was never returned to a teaching role'.⁶⁰⁴

Between March and September 1987, Brother Keith Farrell undertook research and studies at various locations, including Notre Dame de Bon Accueil and Notre Dame de l'Hermitage in France, Fratelli Maristi in Italy, and second novitiate in Fribourg, Switzerland.⁶⁰⁵

He was 'retired' between September 1987 and March 1989.⁶⁰⁶

Between April and July 1989, he undertook 'Spiritual and Apostolic renewal' at Hawkstone Hall Study Centre, London, UK.⁶⁰⁷ He then returned to study in France until September 1989.⁶⁰⁸

Brother Keith Farrell was recorded as working as a groundsman and studying at the Marist Brothers school in Sydney, New South Wales, between 1990 and 1999.⁶⁰⁹

Between March 1999 and January 2004, Brother Keith Farrell's position was recorded as 'retired, infirmary', at a different Marist Brothers school in Sydney, New South Wales.⁶¹⁰

Brother Keith Farrell died on 27 January 2004, aged 81.⁶¹¹

Six people, including GCO and GCM, made claims between 1996 and 2012 to the Marist Brothers, relating to sexual abuse by Brother Keith Farrell between 1958 and 1978. Five claims progressed through direct legal negotiation and the sixth claim progressed through civil proceedings. Five claims resulted in payments ranging between \$20,000 and \$150,000 with an average payment of approximately \$62,000. The total amount paid by the Marist Brothers in relation to these claims was approximately \$311,000. The remaining claim resulted in no monetary outcome, and an assurance given that Brother Keith Farrell was no longer in ministry.⁶¹²

CCI Case 14: Brother GLW – Marist Brothers

GLW was born in 1940.⁶¹³

One person made a claim to the Christian Brothers in 2010 that he was sexually abused by GLW at a school in Sydney, New South Wales between 1965 and 1967.⁶¹⁴

GLW undertook his postulancy with the Marist Brothers in 1972. He entered the novitiate in 1973, before professing his initial vows as a member of the Marist Brothers in Sydney, New South Wales in January 1974.⁶¹⁵

Between January 1974 and December 1980, Brother GLW was appointed as a secondary teacher to two Marist Brothers schools in Sydney, New South Wales, and to a Marist Brothers school in Queensland.⁶¹⁶ He was a dormitory master while appointed to one of the schools in Sydney, at least in 1977.⁶¹⁷

Brother GLW professed his final vows in May 1980 in Queensland.⁶¹⁸ In 1981, he studied and taught at the University of Queensland.⁶¹⁹

Brother GLW was appointed as a secondary teacher to another school in Queensland in 1983, and then to a third Marist Brothers school in Sydney, New South Wales, between January 1984 and November 1986.⁶²⁰

Brother GLW attended the Southdown Institute, a treatment centre in Canada, on two occasions: on the first occasion for residential therapy, recorded in an appointment history as 'Studies', in 1986⁶²¹ or 1988;⁶²² and on the second occasion for residential therapy, recorded in an appointment history as 'Personal Renewal', in 1990.⁶²³

According to Brother GLW's appointment history, he first attended Southdown in December 1986 for two months, before attending Fordham University, New York, US, in 1987.⁶²⁴ He then undertook his second novitiate from January until July 1988 in Rome, before returning to Australia in August 1988.⁶²⁵

A 1994 Special Issues Allegation Report by the Marist Brothers said that Brother GLW attended Southdown in late 1988 after an allegation was reported to the provincial that Brother GLW had engaged in 'inappropriate sexual contact' with a student in November 1988.⁶²⁶ The report said:

Discussions were held with the lad, the parents and legal representatives. AB4 [Brother GLW⁶²⁷] was withdrawn from all contact subject to counselling and further investigation. Because this seemed to be an isolated incident AB4 was directed towards Southdown in Canada for residential therapy. AB4 was unable to maintain the intensity of the therapy and proceeded to study in New York and take up with a therapist. Therapist's advice was that there was no sexual dysfunction, that the alcohol had been significant and there was no paedophilia.⁶²⁸

CCI determined in 2013 that the Marist Brothers had knowledge of Brother GLW's propensity to offend in 1988, on the basis of the 1994 Special Issues Allegation Report.⁶²⁹

Brother GLW was appointed as a secondary teacher to a school in regional New South Wales from August 1988 until December 1989.⁶³⁰ The 1994 Special Issues Allegation Report said: 'AB4 returned to Australia, taught for twelve months, but moved back into isolated and anti-social behaviour. This behaviour included some times of heavy drinking. AB4 then requested a second opportunity for residential therapy'.⁶³¹

Brother GLW again went to Southdown, Canada, in January 1990 for five or six months.⁶³² The 1994 Special Issues Allegation Report said:

The result was again confirmation that problems were not in any sexual area or such things as paedophilia. There were significant family issues going back some time. Again there was a full clearance to teach, but a strong recommendation for a supportive community with ongoing therapy and spiritual direction.⁶³³

Brother GLW was appointed as a secondary teacher to another Marist Brothers school in Queensland in June 1990 for approximately three months,⁶³⁴ and then to a high school in Sydney, New South Wales, from September 1990 until October 1992.⁶³⁵

GCI and another person made claims to the Marist Brothers in 1993 and 2013 respectively that they were sexually abused by Brother GLW at this high school in Sydney, in 1992.⁶³⁶

The 1994 Special Issues Allegation Report said that in 1992, one student from the high school had 'admitted to the school counsellor ... [an] inappropriate relationship with AB4 [Brother GLW⁶³⁷]'.⁶³⁸

The 1994 Special Issues Allegation Report also said that at the same high school in 1992, Brother GLW had been found in a locked room with another student.⁶³⁹ The report said that 'Nothing inappropriate was evident apart from a sheepish look. AB4 denied any inappropriate contact', but that after the student was interviewed, 'He then alleged that sexual involvement had been the case with AB4'.⁶⁴⁰

GCI said he told the school counsellor in 1992 that he had been sexually abused by Brother GLW during that year.⁶⁴¹ GCI said that in approximately September or October 1992, after some students and teachers witnessed him yelling at Brother GLW to leave him alone, he was approached by a person whom he understood to be a school counsellor. GCI said: 'The [counsellor] told me that I was safe and that they would look after me. I returned to school on the Monday and [Brother GLW] was gone. I explained what had happened to me ... with [Brother GLW] during the course of the year'.⁶⁴²

Brother GMW said that in approximately October 1992, as the principal of the high school at the time, he notified the Catholic Education Office, the victim's family and the police about the incident, and offered ongoing counselling to the victim.⁶⁴³ After meeting with the police, the victim did not pursue the complaint.⁶⁴⁴

Brother GMW said he also notified the Marist Brothers' provincial of the incident and asked that Brother GLW be stood down immediately and removed from the school property.⁶⁴⁵ Brother GLW was removed from the school that day and did not return.⁶⁴⁶

Between October and December 1992, Brother GLW undertook a period of 'Rest' at the Marist Brothers Provincial House in New South Wales.⁶⁴⁷ Brother GLW was:

admitted to John of God Centre in a state of severe depression. He entered into ongoing therapy. As a result of the revelations, the police interviews, AB4 has been totally withdrawn from contact with young people. AB4 gained employment working on curriculum design for schools and teachers ... AB4 will never be put in a position of teaching non-adults. The intention is to minimise the face-to-face teaching at any level and to work in remote correspondence situation.⁶⁴⁸

Between 1993 and 2006, Brother GLW was in various positions, including undertaking general duties at the Champagnat Centre, Dundas; at the Religious Education Department of the Catholic Education Office, Sydney; at Edith Cowan University, Churchlands; as a member of the Churchlands community; and at the Catholic Institute of Western Australia.⁶⁴⁹ The 1994 Special Issues Allegation Report said that Brother GLW had 'taken up a position in Western Australia in Adult Education ... [T]he Bishop responsible for Special Issues area, has been informed. Therapy has been continuing in Western Australia. A member of the community (former provincial) is aware of the situation and is monitoring the progress of AB4'.⁶⁵⁰

In 2006, Brother GLW went on sabbatical to the US and Europe.⁶⁵¹

Between 2007 and 2011, he was employed in various roles in the Gladesville community in Sydney, New South Wales, including at the Catholic Enquiry Centre, the Australian Catholic University Sydney and the Broken Bay Institute.⁶⁵²

Brother GLW retired in October 2011.⁶⁵³

The Marist Brothers informed the Royal Commission that Brother GLW was charged in 2014 by the NSW Police in relation to child sexual abuse offences.⁶⁵⁴ In January 2016, the NSW Police said that Brother GLW was found unfit to stand trial due to medical and cognitive impairment.⁶⁵⁵

Brother GLW died in 2016, aged 75.⁶⁵⁶

One person made a claim to the Christian Brothers in 2010 relating to allegations of sexual abuse by Brother GLW between 1965 and 1967. The claim was progressed through Towards Healing and resulted in a payment.⁶⁵⁷ Two other people, including GCJ, made claims to the Marist Brothers in 1993 and 2013 respectively, relating to allegations of sexual abuse by Brother GLW in 1992. One claim was progressed through Towards Healing and the other progressed through another redress process. The total amount paid by the Marist Brothers in relation to these two claims was approximately \$590,000.⁶⁵⁸

CCI Case 15: Father Robert McNeill – Archdiocese of Sydney and Diocese of Broken Bay

Robert Alban McNeill was born in 1927.⁶⁵⁹

He entered the seminary at St Columba's College, Springwood, New South Wales in 1946 and then attended the seminary at St Patrick's College, Manly, New South Wales from 1947 to 1952.⁶⁶⁰

He was ordained to the Archdiocese of Sydney on 19 July 1952.⁶⁶¹

Between December 1952 and August 1955, Father McNeill was appointed assistant priest at a parish in Sydney, New South Wales.⁶⁶²

One person made a claim in 2014 that he was sexually abused by Father McNeill at this parish in 1953.⁶⁶³

Father McNeill was then appointed to various parishes across Sydney as an assistant priest, between 1955 and 1965.⁶⁶⁴

GDY made a claim in 1997 that he was sexually abused by Father McNeill at various locations in Sydney between the 1950s and mid-1960s.⁶⁶⁵

From 1 January to 30 June 1965, Father McNeill was on leave.⁶⁶⁶

In July 1966, Father McNeill was appointed an assistant priest to another parish in Sydney, New South Wales.⁶⁶⁷

He was then appointed a temporary assistant priest at Woy Woy, New South Wales, in December 1966, before being appointed permanently there in February 1967.⁶⁶⁸

A 2002 Towards Healing assessment report recorded that Father McNeill said he went to court in 1969 for 'exposing himself to school children', and that he was found guilty and fined.⁶⁶⁹ He said that Cardinal Norman Thomas Gilroy, the Archbishop of Sydney at the time, was made aware of the conviction.⁶⁷⁰ Father McNeill told the Towards Healing assessor that 'there were two incidents, one in 1969 and one in 1970', and that after he was convicted, Cardinal Gilroy 'forbade him to exercise mass'.⁶⁷¹ Father McNeill also said that Cardinal Gilroy 'sent me to [a location in regional Victoria] after the first incident and then after the second wrote to me and asked me to apply to la[i]cise myself and I told him I would not that I was a sick man'.⁶⁷² CCI's lawyers reported that a record of interview in 2004 between the (then) Bishop of Broken Bay, Bishop David Walker, and Father McNeill revealed that the conviction related to Father McNeill's time in the parish in Sydney where he was appointed in July 1966, and that there 'may have been a similar episode in [the location in regional Victoria]'.⁶⁷³

Father McNeill told the Towards Healing assessor that at the time of his conviction in 1969 he had been 'suffering very badly from depression'.⁶⁷⁴ He was admitted to St John of God Hospital in July 1969 after undergoing 'an acute nervous breakdown'.⁶⁷⁵

Father McNeill also told the Towards Healing assessor that Cardinal Gilroy told him to return to Sydney and sent him to stay with the Brothers of St Gerard Majella, where he remained for about six years.⁶⁷⁶

CCI determined in 2004 that the Archdiocese of Sydney had knowledge of Father McNeill's propensity to offend in '1969/1970' based on Father McNeill's conviction for sexual offences involving children, which was brought to the attention of Cardinal Gilroy at the time.⁶⁷⁷

The 2002 Towards Healing assessment report said that Father McNeill received some treatment for his depression from the St John of God Hospital while he was with the Brothers of St Gerard Majella.⁶⁷⁸

CCI's lawyers reported that the 2004 record of interview between Bishop Walker and Father McNeill revealed that Cardinal Gilroy allowed Father McNeill to do some supply work in the period he was with the Brothers of St Gerard Majella.⁶⁷⁹ Father McNeill told the Towards Healing assessor that 'towards the end of the 1970's [former] Bishop Gilroy apologised to the accused [Father McNeill] because he didn't know he was suffering from depression'.⁶⁸⁰

In May 1976, Father McNeill was appointed an assistant priest, parish priest, or administrator at a different parish in Sydney, New South Wales.⁶⁸¹

GEA made a claim in 2004 that he was sexually abused by Father McNeill at this parish between 1979 and 1985.⁶⁸²

In May 1983, Father McNeill was appointed an assistant priest to the parish of Berowra. In this position he had responsibility for, and resided in, Brooklyn, New South Wales.⁶⁸³ Between 1983 and 1986, Father McNeill was associated with a primary school in Berowra Heights, and an orphanage in Brooklyn, New South Wales.⁶⁸⁴

Father McNeill was in Brooklyn at the time the Diocese of Broken Bay was established (in 1986).⁶⁸⁵ He was incardinated into the Diocese of Broken Bay.⁶⁸⁶

In October 1990, Father McNeill was appointed Chaplain at St John of God Hospital, Richmond, New South Wales.⁶⁸⁷

In 1990, Father McNeill retired.⁶⁸⁸ The Diocese of Broken Bay has informed the Royal Commission that after his retirement, it appears Father McNeill continued doing supply work for the Diocese of Broken Bay.⁶⁸⁹

In 1993 and 1994, Father McNeill was staying with the Brothers of St Gerard (Society of St Gerard Majella), at Greystanes, New South Wales.⁶⁹⁰

During 1995, Father McNeill moved to Nazareth House retirement/nursing home in Turramurra, New South Wales.⁶⁹¹

On 3 June 1997, the Professional Standards Office NSW/ACT advised Bishop Walker that GDY had made a complaint against Father McNeill.⁶⁹²

The Professional Standards Office NSW/ACT said in 2000 that, since the 1997 complaint, the Child Protection Enforcement Agency had been informed of the complaint at the direction of Bishop Walker, the police were investigating to see whether any other complaint had been made, and 'The Bishop has taken action in directing the accused not to go to parishes of a weekend, the only official duties he was performing as a priest'.⁶⁹³

GDY said he wrote a letter to the (then) Archbishop George Pell in 2001, and that two months later, he met with Father Brian Lucas.⁶⁹⁴

The Towards Healing assessor said in 2002: 'I have some concerns in the way Bishop Gilroy has handled the matter, and question whether the accused was well enough to practice as a priest again. However I am acutely aware that there were no protocols in place at the time and it was left up to the discretion of the Bishop'.⁶⁹⁵

The Toward Healing assessor also found:

That Father Robert McNeil acted inappropriately in his relationship with [GDY]. That the Church initially acted appropriately in suspending [Father McNeill] when found guilty of criminal offences of a sexual nature against children, but some years later lacked discretion in placing him back into the parish community without an appropriate medical assessment.⁶⁹⁶

In September 2002, Bishop Walker told the Professional Standards Office NSW/ACT that Father McNeill 'has had his faculties withdrawn, and is now only permitted to celebrate Mass alone'.⁶⁹⁷

In November 2004, Bishop Walker wrote to Father McNeill and reminded him that he was not to be alone with children, that he was to remain a retired member of the clergy in the diocese, and that he should not contact any of the complainants.⁶⁹⁸

In 2009, Father McNeill died, aged 81.⁶⁹⁹

Three people, including GEA and GDY, made claims between 1953 and 1985 to the Archdiocese of Sydney between 1997 and 2014, relating to allegations of sexual abuse by Father McNeill. One claim was processed through Towards Healing with no outcome and then progressed through civil proceedings, and two claims progressed through other redress processes, with one claim ongoing. The total amount paid by the Archdiocese of Sydney in relation to the two claims which resulted in monetary outcomes was \$290,000.⁷⁰⁰

CCI Case 16: Father Charles Alfred Barnett – Congregation of the Mission (Vincentian Fathers) and Diocese of Port Pirie

Charles Alfred Barnett was born in 1941.⁷⁰¹

In 1964, he entered St Francis Xavier Seminary in South Australia.⁷⁰² He was ordained into the Archdiocese of Adelaide in September 1970. He then applied to become a member of the Vincentian Fathers, and was ‘definitively incorporated to the Congregation’ in 1975.⁷⁰³

From September 1970 to June 1971, he undertook a ‘Spiritual year (first phase)’ at St Joseph’s Seminary in Eastwood, New South Wales.⁷⁰⁴ He professed his initial vows as a member of the Vincentian Fathers in 1971.⁷⁰⁵

From June to December 1971, Father Barnett was a teacher at St Stanislaus College in Bathurst, New South Wales,⁷⁰⁶ before undertaking parish duties at a parish in Queensland from December 1971 to January 1972.⁷⁰⁷

In 1972, Father Barnett undertook a ‘Spiritual Year (2nd period)’ at St Joseph’s Seminary in Eastwood, New South Wales.⁷⁰⁸ He was then a student in Rome, Italy, from October 1972 to July 1974.⁷⁰⁹

From July to December 1974, Father Barnett undertook parish duties in Victoria.⁷¹⁰

From February 1975 to April 1977, Father Barnett was a staff member of a Catholic institution in South Australia.⁷¹¹

In 1975, Father Barnett took his final vows.⁷¹²

During 1977, Father Barnett undertook pastoral duties at a parish in Queensland and assisted with supply at other parishes in Queensland.⁷¹³

Between February 1978 and December 1983, Father Barnett was loaned to the Diocese of Port Pirie by the Vincentian Fathers. During this period, he was also appointed to an unknown position on the Vincentian Fathers’ ‘Mission Team’, Ashfield, New South Wales, between February and September 1979.⁷¹⁴ The Diocese of Port Pirie has informed the Royal Commission that Father Barnett’s location was unknown between September 1979 and January 1980.⁷¹⁵

Father Barnett was a priest in various parishes in the Diocese of Port Pirie, South Australia, from February 1978 to February 1979, and again from January 1980 to December 1983.⁷¹⁶

Seven people, including GEF and GEH, made claims to the Diocese of Port Pirie between 1999 and 2014 that they were sexually abused by Father Barnett at various locations in the Diocese of Port Pirie between approximately 1978 and 1982.⁷¹⁷ Another person made a claim to the Diocese of Port Pirie in 2008 that he was sexually abused by Father Barnett in South Australia between 1980 and 1985.⁷¹⁸

Barnett was convicted in 2010 after pleading guilty to five offences relating to the sexual abuse of four victims, which occurred between 1977 and 1994. The offences included three counts of indecent assault and one count of unlawful sexual intercourse, which occurred between 1977 and 1982. Barnett was sentenced to six-and-a-half years' imprisonment (reduced from seven-and-a-half years to take into account his time in custody in Indonesia, as noted below) with a four-year non-parole period.⁷¹⁹

GEF said that he told Bishop Bryan Gallagher (who was the Bishop of the Diocese of Port Pirie from 1952 until late 1980⁷²⁰) 'that he had a priest with a problem and would he look into it. I told him that it was [Father Barnett] and the response I got was something similar to "Yes we have some problems with him" and he told me he would look into the matter but I don't know what was done if anything'.⁷²¹

In 2011, CCI's lawyers recorded that Father GML, a priest in the Diocese of Port Pirie, told them that in 'about March. Pretty close to St Patrick's Day, March 17' in 1981, 1982, or 1983,⁷²² he had reported a complaint made to him by a family, involving sexual abuse by Father Barnett, to Bishop Peter De Campo, who was the Bishop of Port Pirie from late 1980 to 1998. Father GML said:

I went up to the [family's home] ... They said that the night before ... [Father Barnett] was going past their place and said he was running low on fuel and wondered if he could get some fuel and could he stay the night ... During the night, he went down to the boys' bedroom and apparently had interfered with them before and wanted to do so again, but they objected and went to tell mum and dad and so [the father, GMN] filled him up with fuel and expelled him from the property and then he said to me 'what should be done'. And I said 'I'll go to the Parish Priest and have a talk with him' and he suggested I go to the Bishop.⁷²³

CCI's lawyers said that Father GML told them he spoke to Bishop De Campo 'for about three hours' that night: 'I told him that [the parents, GMN and GMO] and [their sons], were upset with Charlie [Father Barnett] because of what he had tried to do and he had been doing it for a long time'.⁷²⁴

CCI determined that the Diocese of Port Pirie had knowledge of Father Barnett's propensity to offend by 17 March 1983 based on Father GML's report to Bishop De Campo.⁷²⁵

The Diocese of Port Pirie has informed the Royal Commission that it believes this complaint was received in 1983, based on a file note of a telephone call in 2002 between Father Jim Monaghan (the Port Pirie Diocesan Representative on the Professional Standards Resource Group at the time) and the family of one of GMN's sons which 'records that [GMN's] family reported a complaint about Fr Barnett to Bishop De Campo in 1983'.⁷²⁶

Father Barnett remained on loan to the Diocese of Port Pirie until December 1983.⁷²⁷ Father Gerald Scott, the Provincial of the Vincentian Fathers from 1982 to 1990, said in 2011 that while Father Barnett was in the Diocese of Port Pirie, Father Scott received a telephone call from Bishop De Campo. Father Scott said:

First of all it was an unexpected call and I knew the Bishop, somewhat well. So I recognised he was very concerned and his concern was in reference to Charlie Barnett who was serving in the Diocese at the time; that he had been with a catholic family and staying overnight and sometime in the earlier hours of the morning, the father of the family heard a lot of noise coming from his boys' bedroom or bedrooms, I am not sure of that and on investigation there was Charlie Barnett jumping around. Jumping around having fun with the boy or boys whereupon the father of course ordered him out of the house straight away ... The upshot was that the Bishop would deal with Charlie and the situation as he saw fit ... Because he knew the family. I did not.⁷²⁸

CCI determined in 2011 that the Vincentian Fathers had knowledge in late 1983 of Father Barnett's propensity to offend on the basis of Father Scott's "prior knowledge" of seriously inappropriate sexual behaviour by Barnett with young boys in the Diocese of Port Pirie during late 1983'.⁷²⁹ CCI's lawyers told CCI that Father Scott:

was obviously given significant detail about the episode ... Bishop De Campo obviously must have directed Barnett to leave the Diocese ... Given the timing of events, it seems certain that Fr Scott [was] talking about the episode relating to the [family of GEH], and that this input would seem to confirm that the complaint by [the father of GEH] to Bishop De Campo must have been in late 1983, towards the very end of Barnett's time in Port Pirie.⁷³⁰

The Diocese of Port Pirie has informed the Royal Commission that it believes:

it is unclear whether the report of a complaint made by Bishop De Campo (who is deceased) to Fr Scott related to [GEH]'s complaint. The Diocese notes that in his 2011 interview Fr Scott had no recollection of the name of the family involved in the complaint made to Bishop De Campo. The Diocese notes that CCI also considered that it was not clear that the report related to the [GEH]'s complaint, nor when the report was conveyed to Fr Scott. The Diocese considers, particularly since the abuse of [GEH] continued over a number of years, that the report of the abuse may have occurred after Charles Barnett left the Diocese at the end of 1983, during a visit back to the Diocese (which he was known to make). This timing is more consistent with the account of his departing the Diocese by bus, and avoiding any meeting with the Bishop.⁷³¹

From January 1984 to January 1986, Father Barnett was a chaplain in the Royal Australian Navy.⁷³² During this period he was on loan to the Catholic Military Ordinariate of Australia.⁷³³

Father Scott said that when Father Barnett left the Diocese of Port Pirie:

I did not take him on specifically with the issue of homosexual behaviour with children. I am pretty sure of that and I am sorry about that but my realisation at the time was that when he was with other official bodies, then he was under their jurisdiction, especially in the armed services and that they would be taking their own steps in order to deal with the problem ... Now he would have had approval of course to go into the army or whatever armed service it was ... He would not have been accepted without the Provincial's approval. So somewhere along the line I would presume that I must have given approval to join the armed services and once you did that, especially the armed services, I left his behaviour or whatever in their hands.⁷³⁴

From February 1986 to January 1987, Father Barnett was a priest in the Diocese of Parramatta, while on loan to the diocese.⁷³⁵

From February 1987 to April 1989, he was a manager at a Catholic institution in New South Wales and a part-time chaplain in the Australian Army.⁷³⁶

One person made a claim to the Vincentian Fathers in 2001 that he was sexually abused by Father Barnett at this Catholic institution in New South Wales, between 1989 and 1993.⁷³⁷

From May 1989 to October 1990, Father Barnett was a chaplain in the Australian Army.⁷³⁸

From January 1991 to November 1992, Father Barnett undertook supply work at a parish in Queensland. Father Barnett was not on the parish staff.⁷³⁹ He was then appointed as a parish priest in Queensland from January 1993 to April 1994.⁷⁴⁰

GHN made a claim to the Vincentian Fathers in 2010 that he was sexually abused by Father Barnett in 1993 and 1994.⁷⁴¹

Barnett was convicted in 2010 after pleading guilty to five offences relating to the sexual abuse of four victims between 1977 and 1994. The offences included one count of unlawful sexual intercourse, which occurred in 1994. Barnett was sentenced to six-and-a-half years' imprisonment (reduced from seven-and-a-half years to take into account his time in custody in Indonesia) with a four-year non-parole period.⁷⁴²

In April 1994, Father Anthony Mannix, the Provincial of the Vincentian Fathers at the time, wrote:

Notification was received today of allegations made to an assistant priest by three young men of the parish ... against the subject of this case 3 [Father Barnett] concerning sexual talk and comments accompanying such behaviour as intruding on privacy, exposing one of the victims, touching another, and reportedly appearing exposed before ... These incidents began about eight years ago and finished about four years ago when the priest was transferred.⁷⁴³

Later, Father Mannix wrote: 'in line with the Protocol, the priest [Father Barnett] resigned from his office of parish priest, formally requesting leave from the Congregation and the ministry'.⁷⁴⁴

In 1995, Father Barnett undertook counselling at Centacare at Father Mannix's request. A Centacare counsellor informed Father Mannix that Father Barnett had admitted 'to sexual abuse of boys in the past by suggestions to actual sexual activity on maybe fifty occasions'.⁷⁴⁵

From October 1995, Father Barnett was in Indonesia.⁷⁴⁶ In 2002, Father Maurice Sullivan, the Provincial of the Vincentian Fathers at the time, told Father Jim Monaghan, then the Port Pirie Diocesan Representative on the Professional Standards Resource Group, that in Indonesia, Father Barnett was involved in a centre where English was taught to adults.⁷⁴⁷

In 1997, a canonical application was made for Father Barnett's dismissal. In 2001, this application was granted.⁷⁴⁸

In 2006, an arrest warrant was issued for Barnett and following a successful extradition request he was returned to Australia in 2009.⁷⁴⁹

As noted above, Barnett was convicted in 2010 after pleading guilty to five offences relating to the sexual abuse of four victims between 1977 and 1994. The offences included three counts of indecent assault and two counts of unlawful sexual intercourse. Barnett was sentenced to six-and-a-half years' imprisonment (reduced from seven-and-a-half years to take into account his time in custody in Indonesia) with a four-year non-parole period.⁷⁵⁰

Eight people, including GEF and GEH, made claims between 1999 and 2014 to the Diocese of Port Pirie, relating to allegations of sexual abuse by Father Barnett between approximately 1978 and 1985. The Diocese of Port Pirie has received two additional claims since 2014.⁷⁵¹ Of the eight claims, one progressed through Towards Healing, five through civil proceedings and two through other redress processes. The Diocese of Port Pirie paid a total amount of approximately \$379,000 in relation to five of these claims, with payments ranging between \$2,000 and \$140,000, and an average payment of approximately \$76,000. One claim was closed with no payment recorded and two claims were ongoing.⁷⁵²

GHN and another person made claims to the Vincentian Fathers in 2001 and 2010 respectively relating to allegations of sexual abuse by Father Barnett between 1989 and 1994. Both of these claims progressed through Towards Healing, with one claim ongoing and one claim resulting in a payment.⁷⁵³

CCI Case 17: Father Robert Flaherty – Archdiocese of Sydney

Robert Francis Flaherty was born in 1943.⁷⁵⁴

He attended St Columba's Junior Seminary in Springwood, and then St Patrick's Seminary, Manly, New South Wales, before being ordained to the Archdiocese of Sydney on 16 July 1966.⁷⁵⁵

Father Flaherty was appointed assistant priest to Guildford Parish from December 1966 until January 1970, and then to St Felix de Valois Parish, Bankstown, New South Wales.⁷⁵⁶

Between March 1971 and December 1972, Father Flaherty was an assistant priest at a parish in Sydney, New South Wales.⁷⁵⁷

On 27 November 1972, GJM wrote to Archbishop Freeman: 'My 15-year-old son [GJP] has made serious allegations to me concerning the conduct of Father R. Flaherty of [the parish in Sydney]. [GJP] has stated that he has been sexually assaulted on three occasions by this priest'.⁷⁵⁸

GJM wrote: 'Several days after the last two events, [GJP] informed one of his schoolteachers at [his school], [GJQ] ... of what had happened. This information was given in confidence. [GJQ] obtained [GJP]'s permission to report the matter to His Lordship, Bishop Kelly, which he did on November 5th'.⁷⁵⁹ Bishop Edward Kelly was an auxiliary bishop of Sydney between 1969 and 1975.

GJM also wrote: 'After a confrontation with [GJP] on Wednesday 22nd, he told me that something was troubling him and that he wished me to speak to [GJQ]. At our invitation, [GJQ] was present at my home on the following evening when [GJP] told me what had happened concerning Father Flaherty'.⁷⁶⁰

GJM told Archbishop Freeman that he and GJQ met with Bishop Kelly. He wrote:

As nearly three weeks had elapsed since [GJQ]'s interview with Bishop Kelly, and since he had previously arranged a follow-up meeting for November 25th, it was decided that I would accompany him. His Lordship informed us that immediately upon receipt of [GJQ]'s information, he had discussed the matter with His Grace, Archbishop Carroll who had subsequently interviewed Father Flaherty. We understood from Bishop Kelly that Father had denied any misconduct.⁷⁶¹

Archbishop James Carroll was an auxiliary bishop of Sydney from 1954. He was appointed Titular Archbishop of Amasea in 1965, and retired in 1984.

GJM also told Archbishop Freeman: '[GJP] has informed me recently that Father Flaherty questioned him as to whether he had discussed with anybody what had taken place between them. Understandably, [GJP] denied that he had'.⁷⁶² GJM also wrote:

I wish to emphasise that I believe most strongly that my son has told the truth ... Naturally, Your Grace will agree that children should be protected from experiences such as these, especially when authority and trust are abused. I am sure that prompt investigative action will follow your receipt of this letter, and that appropriate steps will be taken to eliminate the chance of similar incidents recurring. For my part, I assure Your Grace that had the person concerned not been a priest, I would have placed the whole matter without delay into the hands of the police.⁷⁶³

On 19 December 1972, Archbishop Freeman wrote to GJM: 'I wish to acknowledge the receipt of your letter of the 27th November, and to advise that the matter is being examined'.⁷⁶⁴

On 19 December 1972, Archbishop Freeman wrote to Father Flaherty and said:

I would be grateful if you would take up duty of Assistant Priest at [another location in Sydney]. This appointment will take effect on FRIDAY, 29th December, 1972. While wishing you every Blessing in your new Apostolate, I thank you for the work already performed by you in your present assignment.⁷⁶⁵

CCI determined in 2015 that the Archdiocese of Sydney had knowledge of Father Flaherty's propensity to offend by 29 November 1972, based on the correspondence between Archbishop Freeman and GJM, and Archbishop Freeman's transfer of Father Flaherty to another parish on 29 December 1972.⁷⁶⁶

Following this, from January 1974 to August 1977, Father Flaherty was appointed Assistant Priest, Guildford Parish, New South Wales.⁷⁶⁷ He was then appointed assistant priest to another parish in Sydney, New South Wales, in August 1977.⁷⁶⁸

GJN made a claim in 2015 that he was sexually abused by Father Flaherty in New South Wales in 1977.⁷⁶⁹

Between November 1978 and March 1982, Father Flaherty was appointed as an assistant priest at five different parishes in New South Wales.⁷⁷⁰

GJO made a claim in 1996 that he was sexually abused by Father Flaherty in New South Wales, in approximately 1980 or 1981.⁷⁷¹

Between March and September 1982, Father Flaherty was appointed Administrator, Parish of St Therese, Sadleir-Miller, New South Wales. In September 1982, Father Flaherty was appointed Assistant Priest, Parish of St Mary, Concord, New South Wales, where he remained until March 1983.⁷⁷²

Between March and May 1983, Father Flaherty was appointed Administrator, St John of God Parish, Auburn, New South Wales. In May 1983, he was appointed parish priest at this location until at least October 1994.⁷⁷³ He resigned from this position in March 1997.⁷⁷⁴

In October 1994, Father Flaherty was appointed as a member of the Council of Priests.⁷⁷⁵

Following allegations made by GJO in 1996, NSW Police interviewed Father Flaherty, who denied the allegations. The Archdiocese of Sydney told CCI in 2015:

Notwithstanding this, the Archdiocese considered it appropriate in terms of risk management to remove Flaherty from any full time parish ministry. He was appointed to a role ministering to a number of nursing homes (where he did not have direct unsupervised contact with children) until he retired in September 2010.⁷⁷⁶

In May 1997, Father Flaherty went on study leave to undertake a clinical pastoral education course at St Vincent's Hospital.⁷⁷⁷

Father Flaherty was placed on restricted ministry in 1997.⁷⁷⁸

Between October 1997 and June 2001, Father Flaherty was a chaplain at Catholic Health Care, Strathfield and District.⁷⁷⁹

Between June 2001 and October 2002, he was appointed administrator at St Margaret Mary Parish, Randwick North, before again being appointed chaplain at Catholic Health Care, Strathfield and District, from October 2002 to September 2010.⁷⁸⁰

Father Flaherty retired on 30 September 2010.⁷⁸¹ The Archdiocese of Sydney said:

Following his retirement, Fr Flaherty provided supply services in the lower Blue Mountains in the Diocese of Parramatta. It seems that one of the priests in the area was aware of a matter dating back to 1972 involving Flaherty and he wrote to the Vicar General of Parramatta (on 4 October 2011) who then passed the allegations on to the Archdiocese. Investigations were undertaken.⁷⁸²

Father Flaherty's faculties were withdrawn by Cardinal George Pell on 15 December 2011.⁷⁸³

Father Flaherty was referred to the Congregation for the Doctrine of the Faith in 2012.⁷⁸⁴

In a 2015 email to the Archdiocese of Sydney, CCI wrote: 'Fr. Flaherty was recently convicted in relation to offences relating to [GJN]'.⁷⁸⁵

GJO and GJN made claims to the Archdiocese of Sydney in 1996 and in 2015 respectively, relating to allegations of sexual abuse by Father Flaherty between 1977 and 1981.⁷⁸⁶ The total amount paid by the Archdiocese of Sydney in relation to these claims was \$775,000.⁷⁸⁷

CCI Case 18: GKI – Diocese of Maitland-Newcastle

GKI was born in 1930.⁷⁸⁸

Between 1948 and 1949, GKI completed his teaching certificate at Armidale Teachers College in New South Wales.⁷⁸⁹

From 1950 to 1962, GKI was employed as a primary school teacher in the public school system. He was appointed to schools in Queensland, New South Wales and the United Kingdom, as part of an exchange.⁷⁹⁰

In 1962, GKI was employed as a teacher and deputy principal in the public school system at a school in regional New South Wales.⁷⁹¹

In 1962, GKI was convicted for sexual assaults on boys while a teacher in the public school system in New South Wales. As a result of this conviction, he was dismissed from the Education Department.⁷⁹²

Between 1963 and 1974, GKI was employed at a bookstore in education sales management positions.⁷⁹³

In March 1974, GKI applied for a teaching position in the Diocese of Maitland.⁷⁹⁴

GKI stated in 2005 that during an interview in 1974 with the Director of Catholic Education in Newcastle at the time, Monsignor Vincent Dilley:

I said words to the following effect: ‘I have a previous conviction for sexual assaults on boys whilst I was a teacher in the Public Education system at the [school in regional New South Wales]. That was in about 1962. I was dismissed because of that’. Monsignor Dilley said: ‘Yes I am aware of that’.⁷⁹⁵

GKI also stated that ‘Some days later’ he had an interview with Father Frank Coolahan who ‘was preparing to take over from Monsignor Dilley’ as Director of Catholic Education.⁷⁹⁶ GKI stated: ‘During that interview I said to Father Coolahan words to the following effect: “I have a previous conviction for sexual assault in about 1962. As a result of that I have been dismissed from the Education Department. You are aware of that”. He said: “Yes”’.⁷⁹⁷

In support of his application for employment in 1974, GKI provided a reference from his solicitor that said: ‘[GKI] will have given you some information as to his personal history, and I have his permission to say that I acted as his legal adviser in the particular matter to which he has referred’.⁷⁹⁸

A former priest within the diocese provided a reference for GKI that said:

At a time of difficulty in his life I was able to be of some assistance to him and know the details intimately. For this reason I have particular admiration for the courage and determination he showed in readjusting to a new life. Over the years I have watched his progress and stability with equal admiration. It is with the utmost confidence that I recommend [GKI] to anyone to whom this reference may be presented.⁷⁹⁹

A third reference was written by a former staff inspector and assistant director of the Education Department.⁸⁰⁰

A note on GKI's 1974 application for employment recorded: 'Mgr Dilley's approval obtained. Will be remedial teacher'.⁸⁰¹

CCI determined in 2005 that the Diocese of Maitland-Newcastle had knowledge of GKI's propensity to offend in 1974 based on GKI's 2005 affidavit, which said that at the time of his employment by the diocese, he told Monsignor Dilley and Father Coolahan about his previous conviction for child sexual abuse.⁸⁰²

Between April 1974 and 1979, GKI taught at three primary schools in the Diocese of Maitland, New South Wales, and was also appointed acting deputy principal at two of these schools.⁸⁰³ Two people made claims in 2013 and 2012 respectively that they were sexually abused by GKI at one of these schools, between 1976 and 1979.⁸⁰⁴

Between 1980 and 1984, GKI was a senior primary teacher and deputy principal at a fourth primary school in the Diocese of Maitland, New South Wales.⁸⁰⁵ Four people made claims between 1994 and 2012 that they were sexually abused by GKI between 1980 and 1984. Three of these people said that the abuse occurred at this fourth primary school and one said that the abuse occurred in another location in New South Wales.⁸⁰⁶

Between 1985 and 1988, GKI was appointed to a fifth primary school in the Diocese of Maitland, New South Wales, as a senior primary teacher.⁸⁰⁷ Four people made claims between 1986 and 2012 that they were sexually abused by GKI between 1986 and 1988. Three of these people said that the abuse occurred at this fifth primary school, and one said that the abuse occurred in another location in New South Wales.⁸⁰⁸

In September 1988, GKI was charged and later convicted of two counts of indecent assaults on two boys at this fifth primary school in 1988.⁸⁰⁹

The principal of this fifth primary school from 1980 to late 1986, GKH, said in 2004 that: 'The first incident that alerted me to [GKI]'s behaviour was in about 1986 when a parent, [GKJ] telephoned ... I did meet [GKJ] ... he expressed concerns that children were found in the classrooms at lunch time and that children were sitting on [GKI]'s knee whilst he was marking homework'.⁸¹⁰ GKH said she reported the complaint to Monsignor Coolahan, the Director of Catholic Education at the time, and was then contacted by GMX, the Director of Schools at the time, with whom she met.⁸¹¹

Following this meeting, GKH wrote to GMX that ‘According to [the parent, GKJ], [GKI] has touched some of the boys’, and that GKH had spoken to GKI. She noted that ‘The matter is closed now’.⁸¹² GKH said in 2004: ‘I do not recall whether [GMX] or anybody from the Catholic Education Office spoke to [GKI] about the matter. I do not recall any further action taken by the Catholic Education Office about the incident’.⁸¹³ GKH also told CCI’s investigators in 2003 that she did not mention the allegations against GKI to the subsequent principal, GKD, when he ‘took over’ from her in late 1986.⁸¹⁴

GMX said in 2004: ‘To the best of my recollection, I forwarded [GKH’s] letter to Mons Coolahan. I do not recall whether I had any further dealings with that matter or whether I undertook any investigations in relation to that matter’.⁸¹⁵

GKA, a parent whose children were taught by GKI, said that in 1987 she told the principal, GKD, about allegations of GKI ‘sitting children on his lap and “touching them”’.⁸¹⁶ She said that a week later she had a meeting with GKD and GKI, during which GKI denied the behaviour.⁸¹⁷

Another parent, GKB, said:

Sometime during 1987 I was telephoned by [GKC] ... [GKC] informed me that her daughter ... had just informed her that she had witnessed a sexual assault committed by her ... teacher in 1986, [GKI] ... As I had no confidence in the then Principal of the School, [GKD], I telephoned [GKH] who had been the immediate former Principal of the School. [GKH] provided us with a contact number for a man at the Catholic Education Office who we subsequently spoke to. He informed us that an investigation would take place into the allegation and that he would report back to us.⁸¹⁸

GKC said that she:

personally spoke to a gentleman at the Catholic Education Office by telephone ... However, I rang him again as I had thought about the situation and felt that I could not go through another drama ... It was my belief, however, that as someone had made the complaint that it would be acted upon and properly investigated. However, I heard nothing further from the Catholic Education Office and was never notified of any outcome regarding an enquiry.⁸¹⁹

The two parents, GKB and GKC, met with the principal, GKD, and GKI.⁸²⁰ GKB said that at this meeting: ‘[GKD] became very defensive and assured us that we were mistaken. He told us that what we were alleging was wrong and that he could personally vouch for [GKI]’s conduct in the classroom ... and that we should be very careful as we could be sued’.⁸²¹

GKD said in 2004 he recalled this meeting in November 1987:

I do not recall the exact details of the complaint made. I only recall that the complaint related to [GKI] engaging in some form of inappropriate conduct with students at the School ... There may have been mention of [GKI] placing his arm around a student in a friendly manner or something along these lines but nothing more serious or specific than this ... [GKI] immediately and strongly denied any wrong doing or engaging in any form of inappropriate behavior. The mothers seemed to accept what ever explanation was given by [GKI] and the matter appeared resolved. I am certain that [GKC] and [GKB] never actually revealed the names of any student(s) allegedly involved. If names had been mentioned I would have immediately followed this up with my own internal enquiries.⁸²²

In a letter dated 20 November 1987, GKD told the Director of Schools, GMX, about the meeting with GKB and GKC.⁸²³ He wrote:

I affirmed my complete confidence in the integrity of [GKI], who is, in fact, one who maintains a healthy aloofness from the children, both in the classroom and in the playground. I felt [GKI] was outstanding in his display of patience and calmness under great duress. Trusting that this situation has been laid to rest.⁸²⁴

On 28 October 1988, Monsignor Coolahan wrote to the Vicar General at the time, Monsignor Philip Wilson, and referred to the allegations made against GKI in November 1987. He wrote: 'These allegations were investigated thoroughly but discreetly by [GMX]. No substance could be found to the allegations and, in the event, the parents withdrew them'.⁸²⁵

In the same letter, Monsignor Coolahan also told Monsignor Wilson that on 16 November 1988, the principal GKD had reported to GMX 'that two parents had alleged to him that [GKI] had sexually assaulted two male pupils in a classroom on Wednesday, 14/9/88'.⁸²⁶ Monsignor Coolahan wrote:

[GMX] referred the matter to me that day. After consultation with [GMX], I considered that [GKD] was under a statutory obligation to notify the Department of Family and Community Services of the allegations against [GKI] and asked [GMX] to convey this to [GKD] by telephone. This was done and the mandatory notification was made by the Principal on the afternoon of 16/9/88 ... On Monday, 19/9/88, [GKD] telephoned [GMX] to advise that two police officers had arrived at the school ... They had subsequently escorted [GKI] from the school and charged him with two counts of indecent assault on two individual boys.⁸²⁷

On 21 September 1988, Monsignor Coolahan wrote to GKI 'to confirm the advice given to you by [GMX] ... [on] Monday, 19th September, 1988 ... that you are suspended from duty with pay until further notice; [and] that you may not have any contact with the pupils at [the primary school] under the terms of this suspension'.⁸²⁸ On 23 September 1988, GKI met with representatives of the CEO at their request.⁸²⁹ According to minutes of this meeting, GKI said that 'My solicitor has advised me to say nothing at this stage'.⁸³⁰

On 27 September 1988, Monsignor Coolahan told GKI that he had decided to terminate his employment with immediate effect.⁸³¹ In October 1988, Monsignor Coolahan wrote to Monsignor Wilson that GKI's employment was terminated because of his refusal to discuss the allegations and 'in no way depends on the determination of the charges laid against him'.⁸³²

In late 1988, a group of parents raised concerns about the principal, GKD, including in relation to GKI, with Monsignor Coolahan and the (then) Vicar General, Monsignor Wilson.⁸³³ In a letter dated 17 November 1988, Monsignor Wilson told one of the parents, GKB:

I believe that the actions of Monsignor Coolahan and the officers of the Catholic Education Office were correct and thorough in regard to the situation reported on 16 September 1988. I am also assured to my satisfaction that, if any allegations of a serious nature against a teacher is [sic] made, those allegations would always be investigated thoroughly and discreetly by the Catholic Education Office.⁸³⁴

GKD resigned from his position as principal of the school at the end of the 1988 school year.⁸³⁵

As noted above, in September 1988, GKI was charged and later convicted of two counts of indecent assaults on two boys at this fifth primary school in 1988.⁸³⁶

On 17 August 1990, the Committee Investigating the Handling of Reported Sexual Abuse in Maitland Diocese, comprising Monsignor Wilson and two other committee members, completed its report addressed to Bishop Leo Clarke.⁸³⁷ The report made findings in relation to the handling of allegations in relation to GKI, including:

It would seem that two successive principal's [sic] had been approached by parents regarding the behaviour of this teacher. On both occasions the C.E.O. was contacted and the principal spoke to the teacher and warned him that his behaviour was inappropriate. On neither occasion did the C.E.O. have contact with the teacher. On neither occasion was the parish priest informed.⁸³⁸

The report also made recommendations for structural change in the diocese in order to improve the handling of reports of sexual abuse.⁸³⁹

In 2006, GKI died, aged 75.⁸⁴⁰

Ten people made claims between 1988 and 2013 to the Diocese of Maitland-Newcastle, relating to allegations of sexual abuse by GKI between 1976 and 1988. Two claims were initially progressed through Towards Healing, with one claim then proceeding to a civil claim and the other then proceeding through another redress process. Four claims initially progressed through civil proceedings and then progressed through other redress processes. Four claims only progressed through other redress processes. The Diocese of Maitland-Newcastle paid a total amount of approximately \$2,250,000 in relation to these 10 claims, with payments ranging between \$115,000 and \$425,000, and an average payment of approximately \$225,000.⁸⁴¹

CCI Case 19: Brother Edward Joseph Michael Mamo – Missionaries of the Sacred Heart

Edward Mamo was born in 1944.⁸⁴²

He undertook his postulancy in 1965. He entered the novitiate in 1966 and professed his initial vows as a member of the Missionaries of the Sacred Heart (MSC) in 1967.⁸⁴³

In 1969, Brother Mamo took a leave of absence for one year.⁸⁴⁴

In 1970, Brother Mamo renewed his vows and was appointed to Canberra Monastery, Australian Capital Territory, undertaking house duties.⁸⁴⁵

Between 1971 and 1973, Brother Mamo was a boarding housemaster and driver at an MSC school in New South Wales.⁸⁴⁶

Five people, including GHR, made claims between 1994 and the 2000s that they were sexually abused by Brother Mamo at this MSC school in New South Wales in the early 1970s.⁸⁴⁷

Brother Mamo professed his final vows in 1974.⁸⁴⁸

Brother Mamo was a boarding housemaster, driver, assigned to laundry and a sports coach at an MSC school in Victoria, between 1974 and 1980.⁸⁴⁹

Thirteen people, including GHW, made claims to the MSC, between 2003 and 2014, that they were sexually abused by Brother Mamo at this MSC school in Victoria.⁸⁵⁰

Brother Mamo was convicted in 2013 after pleading guilty to indecent assault of seven victims at the MSC school in Victoria, which occurred between 1976 and 1980. He was sentenced to imprisonment for two years and three months, with a minimum of 18 months before being eligible for parole.⁸⁵¹

A file note of a 2014 telephone conversation between CCI's lawyers and Father GLN, the principal of the MSC school in Victoria from 1969 to 1977, said that Father GLN recalled he was approached by staff members 'in September/ October 1977, his last year as Principal', who told him that Brother Mamo:

had taken junior students down to the basement and had administered discipline to them by having them take down their pants and strapping them on their bare buttocks. The staff members objected to this behaviour and wanted [Father GLN] to take action. [Father GLN] thought it was weird behaviour, greatly exceeding any authority Mamo had with regard to discipline, but this being something of a 'final straw' in Mamo's generally unsatisfactory behaviour, he decided to send Mamo away forthwith. He thought the behaviour could have had sexual overtones.⁸⁵²

The file note said: 'Following the staff complaint, [Father GLN] spoke to Mamo'.⁸⁵³ In 2014, CCI's lawyers wrote to CCI that in further discussions with Father GLN, he told them: 'he can't recall what he said to Mamo, but he believes he told Mamo that his conduct was totally unacceptable, his behaviour was unsatisfactory and he was sending him away from the school and he should go and pack his bags'.⁸⁵⁴

The file note also said:

[Father GLN] got rid of him the same evening. [Father GLN] rang Croydon which in those days was a monastery and a training centre for priests, not a school. He spoke to the Superior of Croydon Monastery ... and told him he was sending Mamo over to him. He got one of the brothers to drive Mamo to Croydon.⁸⁵⁵

Father GLN said he then rang Father Dennis Murphy, the provincial superior at the time, and told him he sent Brother Mamo to Croydon and:

about the nature of the complaint by staff – that Mamo had taken junior boys down to the basement and had got them to drop their pants and had strapped them on their bare buttocks and that he considered this behaviour so intolerable, with possible sexual overtones that he had got rid of him.⁸⁵⁶

Father Murphy said in a memorandum from approximately 2013:

[Father GLN], when Superior and Headmaster at [the MSC school in Victoria] asked me to speak to Eddie Mamo on two issues: 1) he did not fit into the school especially in his independent way of acting at times and also his antipathy towards authority. 2) He had misbehaved sexually with some students. I have no memory of [Father GLN] giving any details about this latter, obviously he felt the statement itself was sufficient ... When I questioned Eddie about the sex abuse, he replied that the matter had been exaggerated. If I remember rightly, I did not ask details from him, but told him whatever he was doing would definitely have to stop. At that stage I knew nothing about the recidivist nature of sex abuse with minors nor about the trauma it could cause. However, I also knew that if there was no improvement, [Father GLN] would definitely take action. I had a lot of trust in him.⁸⁵⁷

CCI determined in 2014 that the MSC had knowledge of Brother Mamo's propensity to offend by at least 31 October 1977. This was based on the complaints about Brother Mamo that were reported to GLN in approximately September or October 1977, following which Father GLN sent Brother Mamo to Croydon Monastery and informed the provincial superior at the time, Father Murphy.⁸⁵⁸

CCI said:

There were subsequently a number of incidents of indecent assaults inflicted on students by Br. Mamo at [the MSC school in Victoria] since 1978, which involved the same inappropriate disciplinary behaviour and sexual abuse that had initially been complained of by [Father GLN] to Fr. Murphy during his tenure as Rector of [the school] in September/October 1977.⁸⁵⁹

Father GNB took over from Father GLN as principal of the MSC school in Victoria in 1978. According to a 2014 memorandum of a telephone conversation between CCI's lawyers and Father GNB, Father GNB said that when he arrived at this school in about mid-January 1978, Brother Mamo was at the school. The memorandum said: 'He [Father GNB] had no reason to question and did not question him being there ... Mamo's work was domestic work. He does not know exactly what Mamo was doing at that time but he does recall he also was involved with some sporting activities'.⁸⁶⁰ The 2014 file note said that Father GLN told CCI's lawyers he was surprised 'when he learned relatively recently that Mamo had got back to the [school] in 1978 and 1979'.⁸⁶¹

A summary of provincial council minutes prepared by CCI's lawyers recorded a report to the provincial council dated 29 June 1978 of the provincial Father Murphy's visit to the MSC school in Victoria:

Eddie is quite happy at [the school] especially over the past couple of years. He manages the buses and also looks after hockey. He tends to be a lone operator ... finds it difficult at times to be told what to do. He can have authority problems ... At the same time he is a confident [sic] of many of the boys who talk to him freely as more or less a non-staff member.⁸⁶²

Brother GLM, a staff member at the MSC school in Victoria between 1973 and 1985, said he received complaints from boys at the school that:

they had to visit the laundry to be disciplined by E Mamo in a way that was embarrassing and humiliating. They had to remove their underpants and bend over the tea chest to receive the strap. They asked if he had the right to exercise this form of discipline ... I said no, and I would have it stopped. I had to find a way to do this as it was a delicate situation, so I asked them if I recorded what they said and they were happy to do so.⁸⁶³

Brother GLM told CCI's lawyers that four boys complained to him, and that 'in those days the usual form of discipline would be to strap a boy on the hand but not on the buttocks and bare buttocks'.⁸⁶⁴

[Brother GLM] believes it was about the next day that he went to see the senior discipline master ... and told him what the boys had told him and that he had made a recording of it. He asked what he should do with it – should he send it to the Head House. [The discipline master] informed him that that was a good idea ... [Brother GLM] believes [the discipline

master] told him to send the tape to Fr Edmiston who was the Secretary to the Provincial or the Deputy Provincial at the time. [Brother GLM] says he is 'pretty certain' that he sent it. He put it in the mail box at [the school]. He addressed it to the Provincial House and probably to the Provincial or Fr Edmiston ... He does not recall but he thinks he probably also sent a note with the tape explaining what it was, but he didn't hear anything more about it.⁸⁶⁵

Brother GLM also said he did not believe he reported the allegations to the principal at the time, Father GNB, 'because the proper channel was for him to direct such matters to [the discipline master]'.⁸⁶⁶

In 2014, Father GNB told CCI's lawyers:

He [Father GNB] does not recall when but he did find out that Mamo was strapping students and he recalls speaking to the Discipline Master ... As far as he can recall he said words to [the discipline master] to the effect that Mamo had his private disciplinary system and that had to be stopped. As far as he can recall he did not check with [the discipline master] to see if it had ceased.⁸⁶⁷

An undated report on Brother Mamo by Father Dennis Murphy, who was provincial from 1975 until 1980, said:

At the end of my time as Provincial in Australia, Brother Mamo had to be moved from a college run by the Province. The reason for this was not conflicts he was having with staff members, but his conduct with the boys. This was not a matter of blatant immorality, but of actions and words that definitely gave scandal to some of the boys and which did not help either the image of a religious in particular or of a Catholic college in general.⁸⁶⁸

The summary of provincial council minutes by CCI's lawyers recorded a September 1980 entry as follows:

It would seem to me that Eddie Mamo would need to be changed from [the MSC school in Victoria]. He was due to be removed last year. I think too that there are clear indications that Eddie should get some counselling help. He can contribute a lot and in a very generous way to a [school], but a deep seated inferiority complex or something make him support the things he is interested in, in an aggressive way or in a way that makes him negative towards other enterprises ... Dennis is happy enough to have him remain on at [the school]. Certainly if he was changed he would want some sort of replacement.⁸⁶⁹

Between 1981 and 1982, Brother Mamo undertook farm work at St Mary's Towers, Douglas Park, New South Wales.⁸⁷⁰ Father Murphy said in his confidential report:

Since it was accepted by those in authority, who had had experience of Brother Mamo in the education apostolate, that he should not remain in that apostolate, he was given the choice of two of our major houses. He chose Douglas Park where there is a large farm.⁸⁷¹

In 2014, Father John Mulrooney, the (then) provincial superior, told the Victorian Professional Standards Office that Brother Mamo 'removed himself from the Missionaries of the Sacred Heart in 1983 and later applied for "Leave of Absence"'.⁸⁷²

In 1983, Brother Mamo said that he had 'found a job as a youth worker with Saint Vincent De-Paul at their youth lodge ... It caters for fifteen to twenty year olds who are on low income, state wards or for one reason or other have left home'.⁸⁷³ Brother Mamo also referred to 'three [young people] who will be living with me in my flat by Wednesday, making a new life for themselves ... Youth and community [Youth and Community Services] think the boys can manage from their assessment of them. A district officer will see them as [often] as needed'.⁸⁷⁴

On 28 April 1983, Father Harvey Edmiston, the deputy provincial at the time, visited Brother Mamo.⁸⁷⁵ Father Edmiston said that during his visit he spoke with the 'young men... whom [Brother Mamo] invited to stay with him three weeks ago', and that Brother Mamo had told him: 'he was now ready to apply for qualified exclaustation. He will write to the Provincial soon'.⁸⁷⁶

In 1984, Brother Mamo was granted two years leave of absence from the MSC.⁸⁷⁷ In February 1984, Father Francis Quirk, the provincial superior at the time, told Brother Mamo: 'Leave of absence means that you can live outside an MSC house; you remain an MSC ... Regarding your work (job, plus care of [young people]) these would not be regarded as apostolates exercised in the name of the Society, but your own personal responsibility'.⁸⁷⁸

Father Murphy (who was assistant general in Rome between 1981 and 1993, after his term as provincial superior ended) said:

his [Brother Mamo's] Superiors could hardly accept on an official basis a work undertaken by one on leave of absence, and furthermore his past history in colleges made them wary of being identified with Brother's work just in case something went wrong and there was some scandal. However Brother feels that he is being treated unjustly because the Province is not backing him officially in the work.⁸⁷⁹

In 1985, Brother Mamo was asked to apply for further leave of absence or to leave the Society, and he refused.⁸⁸⁰

In 1986, Brother Mamo requested and was granted a further leave of absence for one year.⁸⁸¹ Brother Mamo wrote: 'I have to extend my leave of absence as I cannot betray the respons[i]bility I have freely given to the unattached children now youths, I have taken charge of'.⁸⁸²

In 1987, Brother Mamo was 'Asked to return to community or seek exlaustration or dispensation'.⁸⁸³ The following year, Father James Littleton, the provincial superior at the time, wrote to Brother Mamo to advise that: 'your active and passive voice in our congregation has been suspended by a decision in council on February 19, 1988'.⁸⁸⁴

Brother Mamo founded a home for students, which operated in New South Wales from 1988. According to an undated brochure, the organisation first opened in 1983, and provided accommodation 'to youth in need'.⁸⁸⁵ The MSC has informed the Royal Commission that the home was not a ministry of the MSC, and was 'a personal initiative founded by Br Mamo and any involvement that he had with the organisation occurred during times Br Mamo ... had left the MSC'.⁸⁸⁶

In a memorandum from approximately 2013, Father Murphy referred to Brother Mamo setting up the hostel for students:

Later when he did get things established somehow or other, the late Jim Fallon MSC visited him ... He gave, (I think, wrote) a brief report to the Council saying that Eddie seemed to be doing well and he also mentioned that he found no evidence of sexual misconduct. I presume he had spoken with the ... students in the hostel.⁸⁸⁷

On 17 November 1989, Father Cornelius Braun, the superior general at the time, told Brother Mamo:

The relationship between you and the Provincial Administration remains exactly the same as it was several years ago. Clearly this irregular situation cannot continue and concrete steps should now be taken to bring it to an end ... Should you want to continue living with the same attitude as at present, it would seem to us preferable that you do so as a lay person and leave the Society. In this way you could continue your present work in the way you want without being accountable to the Provincial authorities ... Should you not want to do this, it seems to us that the Provincial in Council would have grounds to take the initiative to begin the process of severing your legal ties with the Society ...⁸⁸⁸

In 1991, Brother Mamo 'applied for exlaustration or dispensation. Secretary General and Provincial Superior urged him to apply for dispensation'.⁸⁸⁹

In 1992, Brother Mamo was 'urged to seek a dispensation from vows' by Father Murphy and again in 1993 by the newly appointed provincial superior, Father Brian Gallagher.⁸⁹⁰

On 29 November 1993, the provincial council 'decided unanimously to proceed with the dismissal of Bro Edward Mamo from the Society. It was decided to issue a first canonical warning to Br Edward'.⁸⁹¹ In January 1994, the provincial council decided to proceed with a second canonical warning.⁸⁹²

A record of a decision of the provincial council dated 5 March 1994 said:

After two canonical warnings to return to community life and live under a superior, after 10 years of absence from religious life and several efforts to help Ed Mamo return from unlawful absence from his religious community, the Provincial Council of the Australian Province of the Missionaries of the Sacred Heart has decided unanimously to ask for Ed Mamo to be dismissed from the Society.⁸⁹³

In 1999, Father Bob Irwin, the provincial superior at the time, told Father Raymond Dossmann, the secretary general, that in 1994, Brother Mamo had been investigated by police for 'sexual abuse of young men'.⁸⁹⁴ The MSC has informed the Royal Commission that the 1994 allegations and criminal charges related to incidents which occurred after Brother Mamo had left the MSC and did not relate to incidents which occurred when Brother Mamo was working in any MSC Ministry.⁸⁹⁵

On 9 May 1994, Brother Mamo wrote to the provincial superior, Father Gallagher, and said:

As you are aware I have a matter before the local court and am naturally under a lot of pressure at the moment. I will have the opportunity to be able to defend myself at the first hearing set for July 4 and hopefully that will be the end of the matter ... [I] will be at Douglas Park on Friday May 27 ... I hope you will allow me this time to reassess my position both past and present and to also test the waters in regard to community response to my presence.⁸⁹⁶

On 24 May 1994, Father Gallagher wrote to Brother Mamo about his return to the MSC community at Douglas Park and told Brother Mamo this meant: 'you must finish your involvement with [the home] and with any employment that you have currently: these are not compatible with living in the community'.⁸⁹⁷

On 14 June 1994, Father Gallagher wrote to the superior general at the time, Father Michael Curran, about Brother Mamo's visit to Douglas Park:

[Brother Mamo] said he needed a break from pressures he was under in his work. [H]e says he would like to 'come back' in the sense of being called MSC, but he had and has no intention of coming back to live in community or to accept any mission from community or superiors ... We consider that his two-week break at Douglas Park in no way meets the demand of the first canonical warning. We intend now to give him a second warning.⁸⁹⁸

Father Irwin told Father Dossmann that Brother Mamo's case 'went to Court where he was found not guilty'.⁸⁹⁹

In May 1994, GHR wrote to the headmaster of the MSC school in New South Wales and said that he was abused by Brother Mamo in 1972.⁹⁰⁰ Father Gallagher told GHR:

Ed Mamo left our society about 12 years ago; we have been working for the past six months to formalise his leaving; but that is not yet completed. I am probably still in a position to call him to account for his behaviour – after talking with you – and get him to carry his burden of responsibility for his behaviour, if that is what you want.⁹⁰¹

In another letter dated 7 September 1994, Father Gallagher told GHR:

I've talked with Ed Mamo ... He regrets very much the belting he gave you that evening: he knows it was excessive and an extreme over-reaction. He would like to be able to apologise to you for that. But he has no memory of abusing you sexually; in fact he denies that he did (or has ever abused anyone sexually).⁹⁰²

On 11 October 1994, the superior general and MSC General Council issued a decree dismissing Mamo from the Congregation.⁹⁰³ This was confirmed by formal decree of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life in March 1995.⁹⁰⁴

On 28 October 1999, Father Jesus Torres, the Undersecretary of the Vatican Congregation for Religious, told the superior general, Father Curran, that Mamo had sent a letter appealing against his 1994 dismissal and asked for information about the case.⁹⁰⁵

On 13 November 1999, Father Bob Irwin, the provincial superior at the time, told Father Raymond Dossmann, the secretary general:

We would be most unwilling to accept Ed Mamo back into the Congregation. He has already caused us much trouble and financial hardship in a case of sexual abuse when he was a dormitory supervisor at [the MSC school in New South Wales] in 1972 ... there are too many suspicions about him and his activities with young ... men for us to be at all interested in his return to the Congregation. This case was in the local newspapers and caused us much concern at the time. I believe that Ed Mamo is a 'timebomb', waiting to go off. It would be seen as a great scandal if he was to return, and he may cost us a lot of grief and money at some time in the future.⁹⁰⁶

In 2003, Mamo told Towards Healing assessors that he did punish boys by strapping them on their bare buttocks. The 2003 assessment report said:

When put to Mamo that this was not an appropriate punishment, even in the 1970's, he stated that he was not given any training on how to dispense discipline ... He agreed that in today's climate he would not use this punishment. He stated that this was the standard practice he employed and never got any backlash.

The report also said that Mamo denied the sexual abuse alleged by the claimant, GHW.⁹⁰⁷

Between 2005 and 2007, Mamo worked on a farm. He then retired.⁹⁰⁸

Mamo was convicted in 2013 after pleading guilty to indecent assault of seven victims at the MSC school in Victoria which occurred between 1976 and 1980. He was sentenced in the Victorian County Court to imprisonment for two years and three months, with a minimum of 18 months before being eligible for parole.⁹⁰⁹

Eighteen people, including GHR and GHW, made claims between 1994 and 2014 to the MSC relating to allegations of sexual abuse by Brother Mamo from the 1970s up to the early 1980s.⁹¹⁰ Of the 14 claims recorded in the data survey produced by the MSC, four claims progressed through Towards Healing and 10 claims progressed through other redress processes. The total amount paid by the MSC in relation to these claims was approximately \$1,200,000, with individual payments ranging from approximately \$17,500 to \$155,000, and an average payment of approximately \$86,000.⁹¹¹

CCI Case 20: GKG – Archdiocese of Sydney / Diocese of Broken Bay and Marist Brothers

GKG was born in 1952.⁹¹²

Between January 1978 and December 1983, GKG was a teacher at a school in Sydney, New South Wales, that was operated by the Marist Brothers and a systemic school within the Archdiocese of Sydney at the time.⁹¹³

Three people made claims to the Marist Brothers in 2014 that they were sexually abused by GKG at this school, between 1980 and 1982.⁹¹⁴ GKG was tried in 1999 in relation to a number of charges, including indecent assault of GFA during 1980 and 1981. All charges were dismissed.⁹¹⁵

From January 1984 to June 1985, GKG was a teacher at a second school in Sydney, New South Wales, that was also operated by the Marist Brothers and a systemic school in the Archdiocese of Sydney at the time.⁹¹⁶

He then taught at a primary school in Sydney, from June to November 1985, that was a systemic school in the Archdiocese of Sydney at the time.⁹¹⁷

GEM made a claim to the Diocese of Broken Bay in 2000 that he was sexually abused by GKG at this primary school in 1985.⁹¹⁸

In 1996, a priest of the parish where the primary school was located wrote:

[GKG's] employment was terminated on 25 November 1985 after the Principal and Parish Priest [of the primary school at the time] became aware of sexual misconduct at his previous school. [GKG] was charged with various offences and appears to have been convicted and sentenced to either periodic detention or community service.

[GKG]'s sexual misconduct appears to have occurred at school camps and occurred with at least three students at [the second school, where GKG taught between 1984 and 1985]. It is the recollection of the then Principal at [the second school] that CEO [Catholic Education Office Sydney] were informed of the misconduct and arranged the transfer with a teacher at [the primary school] who was considered poor in classroom technique and management.

It is also clear that neither [GFF], Principal at [the primary school] nor [the] Parish Priest, were informed as to the background of [GKG] and were certainly not informed as to any instances of sexual misconduct.⁹¹⁹

GFF, the principal of the primary school in 1985, told CCI's lawyers in 2001 that after GKG was appointed to the primary school:

Within a very short period of time, I became suspicious of this [GKG] on staff and in fact some friends of mine ... asked to meet me one day ... They were warning me of their knowledge of him in that sort of area ... being sexually involved with children, mainly boys ... One of them actually had children in another school at which he was well known.

GFF said GKG had taught at this other school before commencing at the second school in 1984. She said: 'The evidence they were able to give me ... It was just, well the way boys spoke about him in one of his previous schools'.⁹²⁰ GFF said she did not speak to GFB, an officer of the CEO, about her concerns at the time because her friends had 'received a warning from her [GFB] that they weren't allowed to open their mouths'.⁹²¹

GFF said that GKG was arrested 'towards the end' of 1985.⁹²² GFF said:

the day that [GKG] was arrested [GFB] phoned me and she explained the reason they couldn't do anything before that was that they were waiting for the parents of the boys at [the second school where GKG taught between 1984 and 1985] to decide whether to go ahead with their allegations and they have to sit on it as tightly as they could until then.⁹²³

CCI's lawyers asked GFF: 'Does this mean that at the time that [GKG] moved from [the second school] to your school the Catholic Education Office was aware of other complaints about him concerning sexual behaviour?', and GFF responded: 'Certainly'.⁹²⁴

GFF said that GKG's arrest related to the three boys at the second school where GKG taught between 1984 and 1985:

Apparently there had been a camp at some stage and these boys had made allegations and that's what [GFB] was saying, they needed to wait until the parents decided yes, we are going to sort of, you know, make this public.⁹²⁵

CCI's lawyers asked GFF whether GKG was 'sacked by the CEO and never had anything to do with Catholic school teaching again?', and GFF responded: 'as far as I know'.⁹²⁶

CCI determined in 2001 that the Archdiocese of Sydney had knowledge of complaints of child sexual abuse against GKG before he was transferred to the primary school in 1985, from the second school where he had commenced in 1984, based on the knowledge of CEO Sydney 'beforehand of a number of other complaints ... concerning sexual misbehaviour with young children'.⁹²⁷

GFF, and the priest of the parish in which the primary school was located in 1996, both told CCI that GKG was charged and convicted following his arrest.⁹²⁸

GEL made a complaint in 1998 that he was sexually abused by GKG in 1987, at a time when GKG was no longer employed by a school within the Archdiocese of Sydney, the Diocese of Parramatta or the Diocese of Broken Bay.⁹²⁹

GKG was tried in 1999 in relation to six charges of indecent assault of GEL in 1986 and five charges of indecent assault of GFA, which occurred during 1980 and 1981. All charges were dismissed.⁹³⁰

Four people, including GEL, made claims to the Marist Brothers between 1998 and 2014, and GEM made a claim to the Diocese of Broken Bay in 2000, relating to allegations of sexual abuse by GKG between 1980 and 1987. The claim made to the Diocese of Broken Bay progressed through civil proceedings and then through Towards Healing, and resulted in payments of treatment and legal costs. Of the four claims made to the Marist Brothers, three claims progressed through other redress processes and were ongoing, and one claim did not involve a claim for redress.⁹³¹

CCI Case 21: Brother John Joseph Donnellan (Brother Bede) – Hospitaller Order of St John of God (St John of God Brothers)

John Joseph Donnellan was born in 1936.⁹³²

Brother Donnellan was a member of the religious community at a St John of God Brothers school in New South Wales, between January 1958 and June 1959.⁹³³ He professed his initial vows as a member of the St John of God Brothers in 1959.⁹³⁴

Between June 1959 and 1960, Brother Donnellan was a member of the religious community at St John of God Hospital, Richmond, New South Wales.⁹³⁵

Between 1960 and 1963, Brother Donnellan was a member of the religious community at a St John of God Brothers institution that included a residential facility and school, in Victoria.⁹³⁶ During this period, Brother Donnellan supervised the children living at the residential facility, and from 1961 he also taught at the school.⁹³⁷

GKP, GKO, GLA and one other person made claims, between approximately 1993 and 2002, that they were sexually abused by Brother Donnellan (and other St John of God Brothers) at the St John of God Brothers institution in Victoria.⁹³⁸ Brother Donnellan denied that he sexually abused residents at this institution.⁹³⁹

Between 1963 and June 1965, Brother Donnellan returned to the St John of God Brothers school in New South Wales, as a member of the religious community.⁹⁴⁰

He professed his final vows in 1965.⁹⁴¹

Between June 1965 and July 1967, Brother Donnellan was a member of the religious community at St John of God Brothers International College, Rome, Italy.⁹⁴²

Brother Donnellan returned to Australia and was a member of the religious community at St John of God Hospital, Burwood, New South Wales, between July 1967 and January 1968.⁹⁴³ He again returned to the St John of God Brothers school in New South Wales in January 1968 and remained there until September 1974.⁹⁴⁴

One person made a claim in 2010 that he was sexually abused by Brother Donnellan and two other alleged perpetrators at this St John of God Brothers school in New South Wales, in the 1970s.⁹⁴⁵

Between September 1974 and January 1977, Brother Donnellan was a member of the religious community at a St John of God Brothers school in New Zealand.⁹⁴⁶

One person made a claim in 2009 relating to an incident involving Brother Donnellan at the St John of God Brothers school in New Zealand, in 1974.⁹⁴⁷

In January 1977, Brother Donnellan returned to the St John of God Brothers school in New South Wales and remained there until September 1977. From September 1977 until July 1979, he was a member of the religious community at St John of God Hospital, Richmond, New South Wales.⁹⁴⁸

Brother Donnellan was appointed to a senior position in the community at a St John of God Brothers institution in Queensland in July 1979.⁹⁴⁹

One person made a claim in 2007 that he was sexually abused by Brother Donnellan at this St John of God Brothers institution in Queensland, in 1979.⁹⁵⁰

In 1981 a report was prepared for Bishop John Gerry, the Auxiliary Bishop and Vicar for Social Welfare for the Archdiocese of Brisbane at the time, by the Archdiocese's Social Welfare Secretariat (the 1981 report). The 1981 report set out information regarding an allegation of sexual abuse made against Brother Donnellan in 1981 by GMY, an adult resident of the institution in Queensland with a mental age 'of about ten years' as a result of intellectual disability.⁹⁵¹

The 1981 report said that in May 1981, two residents of the institution in Queensland, GMY and GMZ:

reported at the ... Police Station that a sexual offence had been performed on [GMY], that it had taken place about an hour previously at [the institution in Queensland] and that the offending person was Bro. Bede Donnellan. Detective Sgt. ... of the C.I.B. contacted [GMY]'s parents to come to... Police Station. [GMY's parents], after hearing the allegations, signed a statement not to press charges as they considered undue investigation, subsequent court case, etc., was not in [GMY]'s best interests.⁹⁵²

The police told GMY's parents that 'because of the serious nature of the allegation, the Police would continue investigations even though no charges were being pressed'.⁹⁵³

The 1981 report stated that GMY's employer said he phoned another St John of God Brother at the institution and told him of the abuse: '[The other Brother] was shocked and not certain what to do. [The other Brother] then approached Bro. Bede who denied the accusation and said [GMY] and [GMZ] were making it up'.⁹⁵⁴ GMY's employer said that he then called GMY's mother, who told him 'the matter had been handed over to the Juvenile Aid Bureau'. He said that the 'Juvenile Aid Bureau arrived to question Bros. Bede and [the other Brother at the institution] at 7.30 p.m. Tuesday, 26th May, 1981', and that 'Bro. Bede departed for holidays 10.00 a.m. Wednesday, 27th May, 1981'.⁹⁵⁵

GMY's employer said he was contacted by a sergeant from the Juvenile Aid Bureau on 28 May 1981, who told him that 'Police advised that the parents were not pressing charges', and that: 'After investigation, the police had insufficient evidence for charges to be laid. However, because of the seriousness of the allegations they felt Church authorities should be aware of the investigation'.⁹⁵⁶ GMY's employer also said that GMY returned to the institution on 27 May 1981, and that GMY's employer 'phoned ... [the] Archdiocesan Secretary [for the Archdiocese of Brisbane], and told him police were investigating an accusation of a homosexual nature at [the institution in Queensland]'.⁹⁵⁷

On 28 May 1981, the Social Welfare Secretariat was requested to 'undertake documentation' of GMY's allegation for information of Bishop Gerry, the Auxiliary Bishop and Vicar for Social Welfare of the Archdiocese of Brisbane at the time.⁹⁵⁸

The 1981 report stated that the sergeant from the Juvenile Aid Bureau said:

while there were a number of 'grey' areas and certainly insufficient evidence for any charges, he was firmly convinced of three things: – (1) Because of [GMY]'s intellectual handicap the police felt he was incapable of making up a story of this magnitude. (2) [GMY] first gave an account of the incident at around ... May, 1981 ... [S]ome thirty-six hours later, he recalled accurately the same story. This again convinced Juvenile Aid Bureau that he was speaking from fact rather than fiction. (3) [GMY] was not found to be vindictive and was very embarrassed by the whole episode. As against that, Bro. Bede emphatically denies all accusations.⁹⁵⁹

Brother Donnellan told the St John of God Brothers' investigators in 1994 that when the police became involved following GMY's allegation at the institution in Queensland, Brother Donnellan was interviewed but did not have to give a signed statement.⁹⁶⁰ He said that the police:

felt there was no substance to the allegations ... [I]t was hard to know what exactly what the allegations were ... I got the impression he just didn't like being there, and whether he made the allegations because he had been caught out doing something else and this was his way of getting back, or he had to say something, I don't know.⁹⁶¹

Brother Donnellan denied that he had abused residents at the institution in Queensland.⁹⁶² He said that allegations were made against him by residents at the institution, but that 'it wasn't specific, it was just that the kids didn't like the supervision there, they felt they lacked privacy, and they wanted to have their showers on their own'.⁹⁶³

The 1981 report also stated that the other Brother appointed to the institution in Queensland said on 1 June 1981:

None of the boys had made any remarks to him about what had gone on, or what they had heard said. He had witnessed nothing at all to support [GMY]'s story and could not believe it was true. He had contacted the Provincial, Bro. Brian O'Donnell, and requested an instruction as to what further action he should take.⁹⁶⁴

The 1981 report recommended to Bishop Gerry that Brother Donnellan be transferred from the institution in Queensland. The 1981 report said:

It is difficult to see how this whole situation can be ignored. On the one hand there is no hard evidence to prove or disprove the allegations. However, accusations have been made to the police.

It would seem inappropriate for Bro. Bede and [GMY] to both remain at [the institution in Queensland]. [GMY]'s removal would be construed as a punishment. Bro. Bede's removal could be construed as suspicion of guilt. There does not appear to be a 'WIN' situation if whatever party removed is innocent.

However, in the best interests of all concerned, it would be my recommendation that Bro. Bede Donnellan be transferred immediately from [the institution in Queensland]. His vulnerability now to further accusations must undermine his authority and ability to give care and attention to the boys in residence at [the institution in Queensland].

It may be that this project will continue to have complaints of a homosexual nature, given the background of the boys in care and the fact of the total male orientation. Such anticipation should not influence a definite line of action in this instance.⁹⁶⁵

Brother Donnellan told the St John of God Brothers' investigators in 1994 that he was spoken to by the provincial about allegations made against him by residents at the institution in Queensland, and that the outcome of this was: 'I just moved'.⁹⁶⁶

The 1981 report said that the Department of Children's Services were aware of the matter and had spoken to the other Brother at the institution on 11 June 1981, and that another officer of the Department of Children's Services 'will be visiting [the institution] week of 16th June, 1981 to further follow-up the allegation'.⁹⁶⁷

CCI determined in 2001 that the St John of God Brothers had knowledge of allegations against Brother Donnellan in approximately June 1981.⁹⁶⁸ In 2001, CCI's lawyers told CCI:

We note that in the statement made by Br Bede Donnellan he confirms that he was spoken to by Br Matthew following allegations made in relation to his behaviour at [the institution in Queensland] between 1979 and 1981. Apparently allegations were made which required a visit by the police and an investigation although apparently no charges were laid. The Provincial at the time knew of the allegations and moved Br Bede following completion of the police investigation.⁹⁶⁹

CCI told the St John of God Brothers' lawyers in 2013 that:

On review of our historical records the St John of God Brothers were aware of Br Donnellan when they responded to a complaint of officers of the Archdiocese of Brisbane regarding his activity at [the institution in Queensland] in May 1981. In responding to this complaint the Provincial of the Brothers was advised. As a result of this complaint it is apparent that Br Donnellan was transferred.⁹⁷⁰

Brother Donnellan was moved to the St John of God Brothers school in New South Wales in June 1981, and then to another St John of God Brothers school in Victoria, between September 1981 and July 1989.⁹⁷¹

GKX made a claim in the 1990s that he was sexually abused by Brother Donnellan at various locations in Victoria and New South Wales, between 1986 and the early 1990s.⁹⁷²

Between July 1989 and December 1993, Brother Donnellan was a member of the religious community at a St John of God Brothers institution in New South Wales.⁹⁷³ Brother Donnellan said he was on sabbatical at this institution and 'shortly after that [he] took sick'.⁹⁷⁴

Between December 1993 and 1995, Brother Donnellan was a member of the religious community at St John of God Hospital, Richmond, New South Wales.⁹⁷⁵

Brother Donnellan died on 26 May 1995, aged 58.⁹⁷⁶

Eight people made claims between 1993 and 2010 to the St John of God Brothers, relating to allegations of sexual abuse by Brother Donnellan between 1954 and the early 1990s.⁹⁷⁷ Five of these claims also included allegations of abuse by other St John of God Brothers. At least one of these claims related to alleged sexual abuse after 1981. Of the claims recorded in the data survey produced by the St John of God Brothers, two claims progressed through Towards Healing, two claims progressed through direct legal negotiation, and one claim progressed through civil proceedings and direct advocate negotiation. Five claims resulted in payments ranging between approximately \$26,000 and \$197,000, with an average payment of \$97,000. The total amount paid by the St John of God Brothers in relation to these claims was approximately \$487,000.⁹⁷⁸

CCI Case 22: Father Kevin Howarth – Diocese of Sandhurst

Kevin Howarth was born in 1937.⁹⁷⁹

After attending the Corpus Christi Seminary in Victoria, he was ordained to the Diocese of Sandhurst on 27 July 1963.⁹⁸⁰

Between February 1964 and March 1974, Father Howarth was an assistant priest in various parishes in the Diocese of Sandhurst, including Numurkah, Nathalia, Wangaratta, Euroa, Cohuna and Rushworth in Victoria.⁹⁸¹

Between April 1974 and March 1979, Father Howarth was on loan to the Diocese of Darwin.⁹⁸²

In a 2002 claim summary, CCI said that Father Howarth had ‘admitted ... to having abused many others whilst posted to the Northern Territory but no claims have been received in regard to those’.⁹⁸³

Father Howarth was appointed a locum assistant priest to a parish in the Diocese of Sandhurst in April 1979, before being appointed parish priest to that same parish from June 1979 until January 1982.⁹⁸⁴

Monsignor Frank Hickey, another priest of the Diocese of Sandhurst, said Father Howarth approached him after returning from Darwin in 1979:

[Father Howarth] used to come and see me when he come [sic] home from Darwin. I was never associated, haven’t delved into my memory there, but when he got into trouble up in Darwin, I don’t know what the trouble was, but he came down to me ... He was terribly upset and he said ... the [Darwin] Diocese didn’t seem to want him.⁹⁸⁵

Between January 1982 and January 1984, Father Howarth was appointed parish priest of another parish in the Diocese of Sandhurst.⁹⁸⁶

GJS and GJT made claims to the Diocese of Sandhurst that they were sexually abused by Father Howarth at this parish in the early to mid-1980s.⁹⁸⁷ In October 1996, Father Howarth was convicted after pleading guilty to offences relating to the sexual abuse of GJS and GJT.⁹⁸⁸

Between January 1984 and January 1989, Father Howarth was appointed as an assistant priest in a different parish in the Diocese of Sandhurst.⁹⁸⁹

In approximately 1984, the parents of GJS and GJT told the Bishop of the Diocese of Sandhurst at the time, Bishop Noel Daly, that their daughter had been sexually abused by Father Howarth.⁹⁹⁰

According to a record of discussion in 1996 between the parents of GJS and GJT, a Counselling and Support Services officer and Father Gerry Gallagher, the (then) Chairman of the Diocesan Professional Standards Committee:

[Father Howarth] transferred to [the parish where he was appointed assistant priest] in 1984. Some time later he came back to the district [of the parish where he had been parish priest from 1982 to 1984] ... [The mother] learnt of the abuse for the first time ... The parents spoke to a local policeman, who questioned GJS about the matter.⁹⁹¹

Monsignor Hickey told CCI's investigators in 2005 that the parents complained to Bishop Daly in early 1984. He said: 'probably around about April of that year [1984] ... was when the Bishop came because of the parents had gone to him ... They'd gone to the Bishop and the whole thing had blown up and the Police had been called in'.⁹⁹²

Bishop Daly completed a Special Issues Liability Insurance Questionnaire in 1991, which referred to an allegation

of cleric fondling body of ... girl ... Family deeply disturbed and resentful. Police at local level informed (senior one a fine parishioner.) I was able to interview the cleric ... No further association occurs between the cleric and the family. He was changed to another parish. No further report or allegation regarding him has been brought to my notice. I think he suffered much from the ordeal and is now quite settled.⁹⁹³

Monsignor Hickey also said that Bishop Daly confronted Father Howarth after he was made aware of the allegations: '[Bishop Daly] came and saw Kevin of course. Then he came to me too ... we didn't hear any more about it. Kevin stayed on there, Kevin didn't know that I knew all about this, we never ever talked about it'.⁹⁹⁴

In 2004, Mr Laurie Rolls, of CCI's Professional Standards Risk Management Service, said he had spoken to Father Gallagher (the Chairman of the Diocesan Professional Standards Committee at the time of Father Howarth's criminal proceedings in 1996) about notes Father Gallagher had written in 1996 that said: 'Bishop Daly believes now that he did not realise the extent and nature of the sexual contact at the time [of the 1984 complaint]. He believed it to have been unnecessary and excessive showing of physical affection, too much and inappropriate touching'.⁹⁹⁵ Mr Rolls said that Father Gallagher told him the notes were:

an aide memoire for his report to the meeting of the Professional Standards Committee at the time of the public exposure of Fr Howarth occurred. If required to do so Father Gallagher would make a statement confirming he was in communication with Bishop Daly at the time and his comment regarding Bishop Daly's belief that the offending was of a minor nature and was unlikely to re-occur accurately reflects the opinion held by the Bishop.⁹⁹⁶

After receiving the complaint, Bishop Daly referred Father Howarth for counselling with Father Augustine Watson in Melbourne. Father Howarth received treatment for 15 months, concluding in mid-1985.⁹⁹⁷

Mr Rolls told CCI in 2004 that Father Gallagher said he 'knows of no written report from Father Augustine but is aware of correspondence from Father Howard [sic] reporting that the therapy had been effective'.⁹⁹⁸

Monsignor Hickey said that after the parents' complaint to Bishop Daly: 'the father ... came on two occasions at least saying how come he could still be a Priest there'.⁹⁹⁹ Monsignor Hickey said he told the father: 'I said that wasn't my responsibility. I said that for them to see the Bishop ... Bishop Daley'.¹⁰⁰⁰

Bishop Daly wrote to the family's doctor in October 1984 about Father Howarth's continued ministry in the area. Bishop Daly wrote:

Father Howarth has visited [the family's parish] only in his capacity as a priest from [the parish where he was appointed assistant priest in 1984] for Mass ... He has not visited the [family] ... He has engaged in frequent visitation to the Priest Psychologist to whom I recommended him in Melbourne. He is progressing quite favourably and any indication of danger that is mentioned in your letter would not seem to be able to be verified in fact.¹⁰⁰¹

Bishop Daly also wrote:

I have every confidence that Father Howarth is doing his best in this situation and that his occasional presence in [the family's parish] is for no other reason than the fulfillment of Priestly duties. [The parents of GJS and GJT] gave me the assurance, in my conversation with them ... some weeks ago, that no legal action would be undertaken. I believe what they said to me on that occasion and do not consider that there is any evidence to indicate that what I said to them at that time has in any way been weakened or changed by Father Howarth's behaviour.¹⁰⁰²

In a December 1984 letter to Father Howarth, Bishop Daly wrote:

I will certainly keep in mind the remarks you have made there and will keep these in mind when we are getting down to the question of clerical appointments.

I think it would be best for you to stay where you are for the time being, although if you feel by the beginning of January you would like to re-consider this I will happily take heed of what you may wish to offer. In the meantime, I am delighted that all is going well and your continued association with Father Watson is proving very valuable.

I am also very pleased that you are so strongly involved in these programmes which contribute so much to the strong life of the parish. I hope that the sense of serenity which you presently have will stay with you in your work and life.

There will, of course, always be the possibility of chance meetings, but I think it very important that you do not visit anywhere in the vicinity of that particular family or Doctor.¹⁰⁰³

CCI determined in 2004 that the Diocese of Sandhurst had knowledge of Father Howarth's propensity to offend in early 1984, based on the complaint made to Bishop Daly by the parents of GJS and GJT, and Bishop Daly's decision to send Father Howarth to a counsellor.¹⁰⁰⁴

Monsignor Hickey said that he was concerned that while Father Howarth was seeing the counsellor in Melbourne, he continued to show an interest in families with young girls, 'So I on at least 2 occasions, talked to the Bishop about it and said I was concerned'.¹⁰⁰⁵

Between January 1989 and January 1990, Father Howarth was appointed as an administrator of two parishes in the Diocese of Sandhurst.¹⁰⁰⁶

One person made a claim to the Diocese of Sandhurst in 2003 that she was sexually abused by Father Howarth at one of these locations between 1989 and 1991.¹⁰⁰⁷

Between January 1990 and January 1996, Father Howarth was parish priest of another parish in the Diocese of Sandhurst.¹⁰⁰⁸

He was then appointed parish priest at Chiltern, Victoria, between January and April 1996.¹⁰⁰⁹

Father Howarth was placed on administrative leave from April 1996.¹⁰¹⁰

In October 1996, Father Howarth was convicted after pleading guilty to offences relating to the sexual abuse of GJS and GJT. He was 'sentenced to 3 months imprisonment for this offence and which was also served concurrently by way of an Intensive Corrections Order, he was also fined a total of \$3,000 with respect to these offences'.¹⁰¹¹

Father Howarth was referred for non-residential treatment in 1996.¹⁰¹²

Father Howarth was placed on restricted ministry in 1999. He died on 23 June 2000, aged 63.¹⁰¹³

Four people made claims between 1984 and 2011 to the Diocese of Sandhurst, relating to allegations of sexual abuse by Father Howarth between 1981 and 1991. Three claims were progressed through civil proceedings, and the remaining claim was not substantiated. The total amount paid by the Diocese of Sandhurst in relation to these claims was approximately \$224,000. One of these claims was also made in 2003 to the Institute of Sisters of Mercy – Australia and PNG, relating to allegations of sexual abuse by Father Howarth between 1989 and 1991. This claim progressed through civil proceedings and also resulted in a compensation payment.¹⁰¹⁴

Endnotes

- 1 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0121, 0076.
- 2 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0121.
- 3 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0121.
- 4 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0121.
- 5 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0121, 0122.
- 6 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0122.
- 7 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0122.
- 8 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 4: The experiences of four survivors with the Towards Healing process*, Sydney, 2015, p 63; Transcript of EM Fenby, Case Study 4, 13 December 2013 at 2942:28–37, 2951:28–31.
- 9 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0123; see, for example, Exhibit 4-0029, 'CCI Public Liability Policy Specimen A', 30 November 1981, Case Study 4, CCI.0500.00001.0115; Exhibit 4-0029, 'Document Entitled 'Catholic Church Insurances Limited' Conditions', Case Study 4, CCI.0500.00001.0117; Exhibit 4-0029, 'Document Entitled 'Catholic Church Insurances Limited' Schedule', Case Study 4, CCI.0500.00001.0118.
- 10 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0123.
- 11 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0122–0124.
- 12 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0124.
- 13 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0124.
- 14 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0124–0125.
- 15 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0125.
- 16 Exhibit 4-0002, 'Catholic Church Insurances Limited Special Issues Liability Insurance Policy', Case Study 4, STAT.0091.001.0010_E at 0011_E; see further Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0125–0126.
- 17 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0125; Exhibit 4-0002, 'Catholic Church Insurances Limited Special Issues Liability Insurance Policy', Case Study 4, STAT.0091.001.0010_E at 0011_E.
- 18 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0125.
- 19 Exhibit 4-0002, 'Catholic Church Insurances Limited Special Issues Liability Insurance Policy', Case Study 4, STAT.0091.001.0010_E at 0010_E.
- 20 Exhibit 4-0002, 'Catholic Church Insurances Limited Special Issues Liability Insurance Policy', Case Study 4, STAT.0091.001.0010_E at 0012_E.
- 21 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0125.
- 22 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0125–0126; Exhibit 4-0002, 'Catholic Church Insurances Limited Ethical Standards Liability Insurance Policy', Case Study 4, STAT.0091.001.0030_E.
- 23 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0126.
- 24 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0126.
- 25 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0126.
- 26 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0126.
- 27 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0130–0131.
- 28 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0128.
- 29 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2', 30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0128.

30 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2',
30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0126.

31 Exhibit 4-0001, 'Submission of the Truth, Justice and Healing Council to the Royal Commission, Issues Paper No. 2',
30 September 2013, Case Study 4, CTJH.0001.002.0001 at 0128.

32 Transcript of EM Fenby, Case Study 4, 13 December 2013 at 2945:40–42.

33 Transcript of EM Fenby, Case Study 4, 13 December 2013 at 2944:45–47; 2945:1–7.

34 See, for example, Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 16: The Melbourne Response*, Sydney, 2015, p 103; see also Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 13: The response of the Marist Brothers to allegations of child sexual abuse against Brothers Kostka Chute and Gregory Sutton*, Sydney, 2015, pp 27–8.

35 Exhibit 4-0027, 'Statement of Emma Fenby', 13 December 2013, Case Study 4, STAT.0089.001.0001 at 0004;
Exhibit 4-0002, 'Catholic Church Insurances Limited Special Issues Liability Insurance Policy', Case Study 4,
STAT.0091.001.0010_E at 0010_E.

36 Exhibit 4-0027, 'Statement of Emma Fenby', 13 December 2013, Case Study 4, STAT.0089.001.0001 at 0004.

37 Royal Commission into Institutional Responses to Child Sexual Abuse, *Analysis of claims of child sexual abuse made with respect to Catholic Church institutions in Australia*, Sydney, June 2017.

38 Exhibit 50-0012, 'Appointment history', 16 May 2013, Case Study 50, CTJH.056.91001.0017_R.

39 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.018.0001_R;
'Transcript of interview with GLX', 1 October 2004, Case Study 50, CCI.0060.00008.0062_R.

40 Exhibit 50-0012, 'Appointment history', 16 May 2013, Case Study 50, CTJH.056.91001.0017_R.

41 Exhibit 50-0012, 'Appointment history', 16 May 2013, Case Study 50, CTJH.056.91001.0017_R.

42 Exhibit 50-0012, 'Appointment history', 16 May 2013, Case Study 50, CTJH.056.91001.0017_R.

43 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.018.0001_R.

44 Exhibit 50-0012, 'Transcript of interview with GLX', 1 October 2004, Case Study 50, CCI.0060.00008.0062_R;
'Appointment history', 16 May 2013, Case Study 50, CTJH.056.91001.0017_R.

45 Exhibit 50-0012, 'Transcript of interview with GLX', 1 October 2004, Case Study 50, CCI.0060.00008.0062_R;
'Psychological Evaluation', 20 April 2000, Case Study 50, CCI.0018.00008.0079_R at 0084_R.

46 Exhibit 50-0012, 'Statement by Brother McGlade', 8 July 2005, Case Study 50, CCI.0602.00007.0165_R at 0169_R;
'Transcript of interview with Brother McGlade', 9 November 2004, Case Study 50,
CCI.0060.00008.0053_R at 0056–0057_R.

47 Exhibit 50-0012, 'Statement by Brother McGlade', 8 July 2005, Case Study 50, CCI.0602.00007.0165_R at 0170_R.

48 Exhibit 50-0012, 'CCI Filenote', 24 February 2003, Case Study 50, CCI.0018.00008.0007_R; 'Draft letter from CCI
to Christian Brothers' lawyers', 26 February 2003, Case Study 50, CCI.0018.00008.0071_R; 'Letter from Christian
Brothers' lawyers to CCI', 10 July 2003, Case Study 50, CCI.0602.00007.0174_R; 'Draft letter from CCI's lawyers
to Christian Brothers' lawyers', December 2005, Case Study 50, CCI.0602.00007.0099_R.

49 Exhibit 50-0012, 'Transcript of interview with GLX', 1 October 2004, Case Study 50, CCI.0060.00008.0062_R;
'File note by Brother McDonald', 2000, Case Study 50, CCI.0014.00012.0024_R; 'Appointment history', 16 May 2013,
Case Study 50, CTJH.056.91001.0017_R.

50 Exhibit 50-0012, 'Transcript of interview with Brother McGlade', 9 November 2004, Case Study 50,
CCI.0060.00008.0053_R at 0057_R.

51 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.018.0001_R;
'Statement by contact person for GBM', 2002, Case Study 50, CCI.0018.00008.0056_R.

52 Exhibit 50-0012, 'Statement by contact person for GBM', 2002, Case Study 50, CCI.0018.00008.0056_R;
'Statement by Towards Healing Assessors', 2002, Case Study 50, CCI.0018.00008.0092_R.

53 Exhibit 50-0012, 'Draft letter from CCI to Christian Brothers' lawyers', 26 February 2003, Case Study 50,
CCI.0018.00008.0071_R.

54 Exhibit 50-0012, 'File note by Brother McDonald', 2000, Case Study 50, CCI.0014.00012.0024_R.

55 Exhibit 50-0012, 'Appointment history', 16 May 2013, Case Study 50, CTJH.056.91001.0017_R; Exhibit 50-0012,
'Transcript of interview with GLX', 1 October 2004, Case Study 50, CCI.0060.00008.0062_R.

56 Exhibit 50-0012, 'Transcript of interview with GLX', 1 October 2004, Case Study 50, CCI.0060.00008.0062_R;
'File note by Brother McDonald', 2000, Case Study 50, CCI.0014.00012.0024_R; 'Appointment history', 16 May 2013,
Case Study 50, CTJH.056.91001.0017_R.

57 Exhibit 50-0012, 'Transcript of interview with GLX', 1 October 2004, Case Study 50, CCI.0060.00008.0062_R;
'Appointment history', 16 May 2013, Case Study 50, CTJH.056.91001.0017_R.

58 Exhibit 50-0012, 'Transcript of interview with GLX', 1 October 2004, Case Study 50, CCI.0060.00008.0062_R;
'Appointment history', 16 May 2013, Case Study 50, CTJH.056.91001.0017_R.

59 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.018.0001_R.

60 Exhibit 50-0012, 'Appointment history', 16 May 2013, Case Study 50, CTJH.056.91001.0017_R.

61 Exhibit 50-0012, 'Appointment history', 16 May 2013, Case Study 50, CTJH.056.91001.0017_R;
'Psychological Evaluation', 20 April 2000, Case Study 50, CCI.0018.00008.0079_R at 0083_R.

62 Exhibit 50-0012, 'File note by Brother McDonald', 2000, Case Study 50, CCI.0014.00012.0024_R;
'Psychological Evaluation', 20 April 2000, Case Study 50, CCI.0018.00008.0079_R.

63 'Psychological Evaluation', 20 April 2000, Case Study 50, CCI.0018.00008.0079_R at 0087_R, 0091_R.

64 Exhibit 50-0012, 'Statement by Towards Healing Assessors', 2002, Case Study 50, CCI.0018.00008.0092_R.

65 Exhibit 50-0012, 'Letter from GLX to GBM', 2002, Case Study 50, CCI.0018.00008.0100_R;
 'Statement by Towards Healing Assessors', 2002, Case Study 50, CCI.0018.00008.0092_R.

66 Exhibit 50-0012, 'Memorandum to Christian Brothers' lawyers', 2002, Case Study 50, CCI.0018.00008.0066_R.

67 Exhibit 50-0012, 'Statement by Towards Healing Assessors', 2002, Case Study 50, CCI.0018.00008.0092_R.

68 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.018.0001_R.

69 Exhibit 50-0012, 'Investigation of Statement of Complaint by GBL', 2004, Case Study 50, CCI.0060.00008.0067_R
 at 0070-0071_R, 0083-0084_R, 0086_R.

70 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.018.0001_R.

71 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.018.0001_R.

72 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.012.0001_R.

73 Exhibit 50-0012, 'Christian Brothers Personal Information Report on Roberts', 16 May 2013, Case Study 50,
 CCI.0097.00002.0441_R at 0443_R.

74 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.012.0001_R.

75 Exhibit 50-0012, 'Christian Brothers Personal Information Report on Roberts', 16 May 2013, Case Study 50,
 CCI.0097.00002.0441_R at 0444_R.

76 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.012.0001_R.

77 Exhibit 50-0012, 'Transcript of interview between Towards Healing assessor and Roberts', 2005, Case Study
 50, CCI.0059.00015.0092_R at 0095_R; 'Letter from Towards Healing assessor titled "Report Conclusions and
 Recommendations" to Brother Needham', 11 September 2005, Case Study 50, CCI.0059.00015.0072_R at 0074_R.

78 Exhibit 50-0012, 'Christian Brothers Personal Information Report on Roberts', 16 May 2013, Case Study 50,
 CCI.0097.00002.0441_R at 0444_R.

79 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.012.0001_R.

80 Exhibit 50-0012, 'Christian Brothers Personal Information Report on Roberts', 16 May 2013, Case Study 50,
 CCI.0097.00002.0441_R at 0444_R; 'Christian Brothers Visitation Report', September 2008, Case Study 50,
 CCI.0097.00002.0366_R.

81 Exhibit 50-0012, 'Christian Brothers Personal Information Report on Roberts', 16 May 2013, Case Study 50,
 CCI.0097.00002.0441_R at 0444_R.

82 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.012.0001_R; 'Christian Brothers
 Personal Information Report on Roberts', 16 May 2013, Case Study 50, CCI.0097.00002.0441_R at 0444_R.

83 Exhibit 50-0012, 'Addendum to "Brother L" [Roberts] report', Case Study 50, CCI.0097.00002.0501_R; 'Letter from
 Brother McDonald to CCI', 2 February 1994, Case Study 50, CCI.0047.00005.0207_R; 'Special Issues Incident Report
 re GDN and Attachment', 11 May 1994, Case Study 50, CCI.0097.00002.0458_R, CCI.0097.00002.0459_R.

84 Exhibit 50-0012, 'Christian Brothers Personal Information Report on Roberts', 16 May 2013, Case Study 50,
 CCI.0097.00002.0441_R at 0444_R.

85 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.012.0001_R.

86 Exhibit 50-0012, 'Special Issues Incident Report re GDN and Attachment', 11 May 1994, Case Study 50,
 CCI.0097.00002.0458_R, CCI.0097.00002.0459_R; 'Police statement', 14 March 1994, Case Study 50,
 CCI.0097.00002.0545_R at 0545-0546_R.

87 Exhibit 50-0012, 'Police statement of GDO', 18 January 1994, Case Study 50, CCI.0097.00002.0539_R at 0541_R.

88 Exhibit 50-0012, 'Letter from GDP to Brother McDonald', 4 November 1993, Case Study 50, CCI.0097.00002.0496_R;
 see further Exhibit 50-0012, 'Special Issues Incident Report re GDN and Attachment', 11 May 1994, Case Study 50,
 CCI.0097.00002.0458_R, CCI.0097.00002.0459_R.

89 Exhibit 50-0012, 'Letter from CCI's lawyers to Christian Brothers' lawyers', 7 September 2005, Case Study 50,
 CCI.0097.00002.0028_R; 'Correspondence on behalf of CCI to the Royal Commission', 17 June 2016, Case Study
 50, CCI.9999.044.0001_R; 'Special Issues Incident Report re GDN and Attachment', 11 May 1994, Case Study 50,
 CCI.0097.00002.0458_R, CCI.0097.00002.0459_R; 'Letter from GDP to Brother McDonald', 4 November 1993,
 Case Study 50, CCI.0097.00002.0496_R.

90 Exhibit 50-0012, 'Christian Brothers Personal Information Report on Roberts', 16 May 2013, Case Study 50,
 CCI.0097.00002.0441_R at 0444_R, 0446_R; 'Profile and Resume of Roberts', 2 December 1997, Case Study 50,
 CCI.0097.00002.0504_R at 0510_R.

91 Exhibit 50-0012, 'Christian Brothers Personal Information Report on Roberts', 16 May 2013, Case Study 50,
 CCI.0097.00002.0441_R at 0444_R; 'Christian Brothers case summary relating to "Brother L" [Roberts]', Case Study 50,
 CCI.0631.00002.0292_R; 'Christian Brothers Visitation Report', 1988, Case Study 50, CCI.0097.00002.0247_R at 0250_R.

92 Exhibit 50-0012, 'Christian Brothers Visitation Report', 1988, Case Study 50, CCI.0097.00002.0247_R at 0250_R.

93 Exhibit 50-0012, 'Christian Brothers Personal Information Report on Roberts', 16 May 2013, Case Study 50,
 CCI.0097.00002.0441_R at 0444_R; 'Letter from psychiatrist to Christian Brothers' lawyers', 23 March 1994,
 Case Study 50, CCI.0097.00002.0551_R at 0554_R; 'Christian Brothers case summary relating to "Brother L" [Roberts]',
 Case Study 50, CCI.0631.00002.0292_R.

94 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.012.0001_R.

95 Exhibit 50-0012, 'Transcript of interview between Towards Healing assessor and Roberts', 2005, Case Study 50,
 CCI.0059.00015.0092_R at 0094_R; 'Letter from Towards Healing assessor titled "Report Conclusions
 and Recommendations" to Brother Needham', 11 September 2005, Case Study 50, CCI.0059.00015.0072_R.

96 Exhibit 50-0012, 'Christian Brothers Personal Information Report on Roberts', 16 May 2013, Case Study 50,
 CCI.0097.00002.0441_R at 0444_R; 'Christian Brothers case summary relating to "Brother L" [Roberts]', Case Study 50,
 CCI.0631.00002.0292_R.

- 97 Exhibit 50-0012, 'Christian Brothers case summary relating to "Brother L" [Roberts]', Case Study 50, CCI.0631.00002.0292_R; 'Letter from psychiatrist to Christian Brothers' lawyers', 23 March 1994, Case Study 50, CCI.0097.00002.0551_R at 0552_R; 'Letter to Brother McDonald', 1 August 1992, Case Study 50, CCI.0097.00002.0484_R; 'Letter from Brother McDonald to Roberts', 25 August 1992, Case Study 50, CCI.0097.00002.0498_R.
- 98 Exhibit 50-0012, 'Christian Brothers case summary relating to "Brother L" [Roberts]', Case Study 50, CCI.0631.00002.0292_R; 'Letter to Brother McDonald', 1 August 1992, Case Study 50, CCI.0097.00002.0484_R; 'Letter from psychiatrist to Christian Brothers' lawyers', 23 March 1994, Case Study 50, CCI.0097.00002.0551_R at 0552_R.
- 99 Exhibit 50-0012, 'Christian Brothers case summary relating to "Brother L" [Roberts]', Case Study 50, CCI.0631.00002.0292_R.
- 100 Exhibit 50-0012, 'Christian Brothers case summary relating to "Brother L" [Roberts]', Case Study 50, CCI.0631.00002.0292_R; 'Special Issues Incident Report re GDN and Attachment', 11 May 1994, Case Study 50, CCI.0097.00002.0458_R, CCI.0097.00002.0459_R.
- 101 Exhibit 50-0012, 'Letter from psychiatrist to Christian Brothers' lawyers', 23 March 1994, Case Study 50, CCI.0097.00002.0551_R at 0552-0553_R; 'Christian Brothers case summary relating to "Brother L" [Roberts]', Case Study 50, CCI.0631.00002.0292_R; 'Letter to Brother McDonald', 1 August 1992, Case Study 50, CCI.0097.00002.0484_R.
- 102 Exhibit 50-0012, 'Christian Brothers case summary relating to "Brother L" [Roberts]', Case Study 50, CCI.0631.00002.0292_R.
- 103 Exhibit 50-0012, 'Christian Brothers case summary relating to "Brother L" [Roberts]', Case Study 50, CCI.0631.00002.0292_R.
- 104 Exhibit 50-0012, 'Christian Brothers Personal Information Report on Roberts', 16 May 2013, Case Study 50, CCI.0097.00002.0441_R at 0444_R; 'Profile and Resume of Roberts', 2 December 1997, Case Study 50, CCI.0097.00002.0504_R at 0508_R, 0511-0512_R.
- 105 Exhibit 50-0012, 'Addendum to "Brother L" [Roberts] report', Case Study 50, CCI.0097.00002.0501_R; 'Letter from Brother McDonald to CCI', 2 February 1994, Case Study 50, CCI.0047.00005.0207_R; 'Special Issues Incident Report re GDN and Attachment', 11 May 1994, Case Study 50, CCI.0097.00002.0458_R, CCI.0097.00002.0459_R.
- 106 Exhibit 50-0012, 'Christian Brothers Personal Information Report on Roberts', 16 May 2013, Case Study 50, CCI.0097.00002.0441_R at 0444_R; 'Profile and Resume of Roberts', 2 December 1997, Case Study 50, CCI.0097.00002.0504_R at 0508_R, 0511_R; 'Letter from Roberts to Brother McDonald', 28 November 1996, Case Study 50, CCI.0097.00002.0448_R.
- 107 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.012.0001_R.
- 108 Exhibit 50-0012, 'Profile and Resume of Roberts', 2 December 1997, Case Study 50, CCI.0097.00002.0504_R at 0508_R, 0511_R.
- 109 Exhibit 50-0012, 'Christian Brothers Visitation Report', September 2008, Case Study 50, CCI.0097.00002.0366_R.
- 110 Exhibit 50-0012, 'Christian Brothers Personal Information Report on Roberts', 16 May 2013, Case Study 50, CCI.0097.00002.0441_R at 0445_R.
- 111 Exhibit 50-0012, 'Letter from Encompass Australia to Brother McDonald', 20 December 2000, Case Study 50, CCI.0097.00002.0486_R at 0486_R, 0490_R.
- 112 Exhibit 50-0012, 'Letter from Encompass Australia to Brother McDonald', 20 December 2000, Case Study 50, CCI.0097.00002.0486_R at 0490_R.
- 113 Exhibit 50-0012, 'Christian Brothers Personal Information Report on Roberts', 16 May 2013, Case Study 50, CCI.0097.00002.0441_R at 0445_R.
- 114 Exhibit 50-0012, 'Christian Brothers Visitation Report', September 2008, Case Study 50, CCI.0097.00002.0366_R.
- 115 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.012.0001_R.
- 116 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.005.0001_R at 0001_R.
- 117 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.005.0001_R at 0001_R; 'Extract from Johnson's personnel documents', Case Study 50, CCI.0056.00001.0123_R.
- 118 Exhibit 50-0012, 'Extract from Johnson's personnel documents', Case Study 50, CCI.0056.00001.0123_R; 'Transcript of interview between CCI's investigators and Brother Garvan', Case Study 50, CCI.0056.00001.0168_R at 0168_R; 'Statement by Brother McGlade', 8 July 2005, Case Study 50, CCI.0268.00010.0033_R at 0039_R; 'Statement of GDJ', 21 June 2004, Case Study 50, CCI.0018.00010.0039_R.
- 119 Exhibit 50-0012, 'Statement of GDJ', 21 June 2004, Case Study 50, CCI.0018.00010.0039_R.
- 120 Exhibit 50-0012, 'Statement of GDJ', 21 June 2004, Case Study 50, CCI.0018.00010.0039_R.
- 121 Exhibit 50-0012, 'Statement of GDJ', 21 June 2004, Case Study 50, CCI.0018.00010.0039_R.
- 122 Exhibit 50-0012, 'Transcript of interview between CCI's investigators and Brother McGlade', Case Study 50, CCI.0500.00008.0040_R at 0040_R; CCI accepts the transcript of interview was in approximately early 2004: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 7 June 2016, Case Study 50, CORR.0283.001.0001_R at 0003_R; 'Transcript of interview with Brother McGlade', 9 November 2004, Case Study 50, CCI.0060.00008.0053_R at 0055_R; 'Statement by Brother McGlade', 8 July 2005, Case Study 50, CCI.0268.00010.0033_R at 0039_R.
- 123 Exhibit 50-0012, 'Statement by Brother McGlade', 8 July 2005, Case Study 50, CCI.0268.00010.0033_R at 0039_R.
- 124 Exhibit 50-0012, 'Transcript of interview with Brother McGlade', 9 November 2004, Case Study 50, CCI.0060.00008.0053_R at 0055_R.

125 Exhibit 50-0012, 'Statement by Brother McGlade', 8 July 2005, Case Study 50, CCI.0268.00010.0033_R at 0039–0040_R; see further Exhibit 50-0012, 'Transcript of interview between CCI's investigators and Brother McGlade', Case Study 50, CCI.0500.00008.0040_R at 0041_R; CCI accepts the transcript of interview was in approximately early 2004: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 7 June 2016, Case Study 50, CORR.0283.001.0001_R.

126 Exhibit 50-0012, 'Minutes of Provincial Council Meeting', 7 March 1975, Case Study 50, CCI.0056.00001.0332_R.

127 Exhibit 50-0012, 'Letter from CCI to Christian Brothers', 28 July 2004, Case Study 50, CCI.0018.00010.0032_R; see further Exhibit 50-0012, 'Letter from CCI to Christian Brothers', 24 March 2004, Case Study 50, CCI.0056.00001.0005_R.

128 Exhibit 50-0012, 'Extract from Johnson's personnel documents', Case Study 50, CCI.0056.00001.0123_R.

129 Exhibit 50-0012, 'Email from GMV to CCI's investigators', 14 February 2004, Case Study 50, CCI.0056.00001.0179_R.

130 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.005.0001_R at 0002–0003_R.

131 Exhibit 50-0012, 'Media release by Diocese of Wollongong', 12 June 1998, Case Study 50, CTJH.001.01011.0007_R.

132 Exhibit 50-0012, 'Newspaper articles', 13 June 1998, Case Study 50, CCI.0087.00004.0063_R, CCI.0087.00004.0064_R.

133 Exhibit 50-0012, 'Form of List of Other Offences Charged – Johnson', 11 June 1998, Case Study 50, CCI.0087.00006.0143_R; 'Letter from Johnson's former lawyers to Christian Brothers' lawyers enclosing copy of Form 1', 30 July 1998, Case Study 50, CCI.0087.00006.0142_R; see further Exhibit 50-0012, 'Newspaper articles', 13 June 1998, Case Study 50, CCI.0087.00004.0063_R, CCI.0087.00004.0064_R.

134 Exhibit 50-0012, 'Special Issues Claim Form', 12 December 1996, Case Study 50, CCI.0087.00004.0395_R; 'File note by Christian Brothers' lawyers', 10 December 1997, Case Study 50, CCI.0087.00004.0364_R at 0364_R; 'Email from GMV to CCI's investigators', 14 February 2004, Case Study 50, CCI.0056.00001.0179_R.

135 Exhibit 50-0012, 'Email from GMV to CCI's investigators', 14 February 2004, Case Study 50, CCI.0056.00001.0179_R.

136 Exhibit 50-0012, 'Transcript of interview between CCI's investigators and Brother Garvan', Case Study 50, CCI.0056.00001.0168_R at 0169_R; CCI accepts the transcript of interview was in approximately late 2003 or early 2004: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 7 June 2016, Case Study 50, CORR.0283.001.0001_R.

137 Exhibit 50-0012, 'Statement by Brother McGlade', 8 July 2005, Case Study 50, CCI.0268.00010.0033_R at 0040_R; see further Exhibit 50-0012, 'Transcript of interview between CCI's investigators and Brother McGlade', Case Study 50, CCI.0500.00008.0040_R; CCI accepts the transcript of interview was in approximately early 2004: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 7 June 2016, Case Study 50, CORR.0283.001.0001_R.

138 Exhibit 50-0012, 'Extract from Johnson's personnel documents', Case Study 50, CCI.0056.00001.0123_R; 'Letter to CCI's lawyers from CCI's investigators', 27 February 2004, Case Study 50, CCI.0056.00001.0161_R at 0162_R.

139 Exhibit 50-0012, 'Email from GMV to CCI's investigators', 14 February 2004, Case Study 50, CCI.0056.00001.0179_R.

140 Exhibit 50-0012, 'Extract from Johnson's personnel documents', Case Study 50, CCI.0056.00001.0123_R; 'Special Issues Claim Form', 12 December 1996, Case Study 50, CCI.0087.00004.0395_R.

141 Exhibit 50-0012, 'Transcript of interview between CCI's investigators and Brother Garvan', Case Study 50, CCI.0056.00001.0168_R at 0169_R; CCI accepts the transcript of interview was in approximately late 2003 or early 2004: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 7 June 2016, Case Study 50, CORR.0283.001.0001_R.

142 Exhibit 50-0012, 'Wollongong Catholic Education Office Teacher History Card', Case Study 50, CTJH.001.91001.0001_R; 'File note by Christian Brothers' lawyers', 10 December 1997, Case Study 50, CCI.0087.00004.0364_R at 0364_R.

143 Exhibit 50-0012, 'Wollongong Catholic Education Office Teacher History Card', Case Study 50, CTJH.001.91001.0001_R.

144 Exhibit 50-0012, 'Wollongong Catholic Education Office Teacher History Card', Case Study 50, CTJH.001.91001.0001_R.

145 Exhibit 50-0012, 'Wollongong Catholic Education Office Teacher History Card', Case Study 50, CTJH.001.91001.0001_R.

146 Exhibit 50-0012, 'Chronology entitled 'Review of case of DJ in accordance with Towards Healing'', Case Study 50, CTJH.001.01011.0003_R at 0003_R.

147 Exhibit 50-0012, 'Chronology entitled 'Review of case of DJ in accordance with Towards Healing'', Case Study 50, CTJH.001.01011.0003_R at 0004_R.

148 Exhibit 50-0012, 'Chronology entitled 'Review of case of DJ in accordance with Towards Healing'', Case Study 50, CTJH.001.01011.0003_R at 0006_R; 'Media release by Diocese of Wollongong', 12 June 1998, Case Study 50, CTJH.001.01011.0007_R.

149 Exhibit 50-0012, 'Letter from Diocese of Wollongong Catholic Education Office', 7 January 1997, Case Study 50, CTJH.001.01011.0132_R; 'Wollongong Catholic Education Office Teacher History Card', Case Study 50, CTJH.001.91001.0001_R.

150 Exhibit 50-0012, 'File note by Christian Brothers' lawyers', 10 December 1997, Case Study 50, CCI.0087.00004.0364_R at 0364–0365_R.

151 Exhibit 50-0012, 'File note from Diocese of Wollongong Catholic Education Office', 5 March 1997, Case Study 50, CTJH.001.01011.0095_R.

152 Exhibit 50-0012, 'Media release by Diocese of Wollongong', 12 June 1998, Case Study 50, CTJH.001.01011.0007_R.

153 Exhibit 50-0012, 'Newspaper articles', 13 June 1998, Case Study 50, CCI.0087.00004.0063_R, CCI.0087.00004.0064_R.

154 Exhibit 50-0012, 'Form of List of Other Offences Charged – Johnson', 11 June 1998, Case Study 50, CCI.0087.00006.0143_R; 'Letter from Johnson's former lawyers to Christian Brothers' lawyers enclosing copy of Form 1', 30 July 1998, Case Study 50, CCI.0087.00006.0142; see further Exhibit 50-0012, 'Newspaper articles', 13 June 1998, Case Study 50, CCI.0087.00004.0063_R, CCI.0087.00004.0064_R.

155 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.005.0001_R at 0002–0003_R; see further Exhibit 50-0012, 'Extract from Johnson's personnel documents', Case Study 50, CCI.0056.00001.0123_R.

156 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.005.0001_R at 0002-0003_R.
 157 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.005.0001_R at 0002-0003_R.
 158 Exhibit 50-0012, 'Appointment history for Brother Farrell', Case Study 50, CTJH.056.91001.0004_R;
 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.019.0001_R.
 159 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.019.0001_R.
 160 Exhibit 50-0012, 'Appointment history for Brother Farrell', Case Study 50, CTJH.056.91001.0004_R.
 161 Exhibit 50-0012, 'Appointment history for Brother Farrell', Case Study 50, CTJH.056.91001.0004_R;
 'Christian Brothers Visitation Report', August 1957, Case Study 50, CCI.0001.00572.0022_R.
 162 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.019.0001_R.
 163 Exhibit 50-0012, 'Christian Brothers Visitation Report', August 1957, Case Study 50, CCI.0001.00572.0022_R.
 164 Exhibit 50-0012, 'Draft letter from CCI to the Christian Brothers', 6 May 2008, Case Study 50, CCI.0001.00544.0012_R;
 see further Exhibit 50-0012, 'Letter from the Christian Brothers to CCI', 4 June 2008, Case Study 50,
 CCI.0001.00544.0010_R.
 165 Exhibit 50-0012, 'Appointment history for Brother Farrell', Case Study 50, CTJH.056.91001.0004_R.
 166 Exhibit 50-0012, 'Appointment history for Brother Farrell', Case Study 50, CTJH.056.91001.0004_R.
 167 Exhibit 50-0012, 'Appointment history for Brother Farrell', Case Study 50, CTJH.056.91001.0004_R.
 168 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.019.0001_R.
 169 Exhibit 50-0012, 'Appointment history for Brother Farrell', Case Study 50, CTJH.056.91001.0004_R.
 170 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.019.0001_R.
 171 Exhibit 50-0012, 'Appointment history for Brother Farrell', Case Study 50, CTJH.056.91001.0004_R.
 172 Exhibit 50-0012, 'Visitation Report', June 1979, Case Study 50, CCI.0097.00002.0290_R; 'Visitation Report', 1980,
 Case Study 50, CCI.0097.00002.0285_R; 'Visitation Report', March/April 1981, Case Study 50, CCI.0097.00002.0279_R;
 'Visitation Report', June 1982, Case Study 50, CCI.0097.00002.0271_R; 'Visitation Report', October 1983, Case Study 50,
 CCI.0097.00002.0266_R.
 173 Exhibit 50-0012, 'Visitation Report', March/April 1981, Case Study 50, CCI.0097.00002.0279_R at 0280_R.
 174 Exhibit 50-0012, 'Visitation Report', June 1982, Case Study 50, CCI.0097.00002.0271_R at 0273_R.
 175 Exhibit 50-0012, 'Visitation Report', October 1983, Case Study 50, CCI.0097.00002.0266_R at 0269_R.
 176 Exhibit 50-0012, 'Appointment history for Brother Farrell', Case Study 50, CTJH.056.91001.0004_R.
 177 Exhibit 50-0012, 'Appointment history for Brother Farrell', Case Study 50, CTJH.056.91001.0004_R.
 178 Exhibit 50-0012, 'Statement of Complaint', 2005, Case Study 50, CCI.0001.00524.0142_R.
 179 Exhibit 50-0012, 'Statement of Complaint', 2005, Case Study 50, CCI.0001.00524.0142_R.
 180 Exhibit 50-0012, 'Appointment history for Brother Farrell', Case Study 50, CTJH.056.91001.0004_R;
 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.019.0001_R.
 181 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.019.0001_R.
 182 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.020.0001_R at 0001_R.
 183 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.020.0001_R at 0001_R;
 'Christian Brothers Missions Report for Elmer', Case Study 50, CCI.0097.00157.0156_R; 'Document titled
 'Summary of Offences RE Defendant Rex Francis ELMER', Case Study 50, CCI.0031.00006.0155_R at 0155_R.
 184 Exhibit 50-0012, 'Christian Brothers Missions Report for Elmer', Case Study 50, CCI.0097.00157.0156_R.
 185 Exhibit 50-0012, 'Christian Brothers Missions Report for Elmer', Case Study 50, CCI.0097.00157.0156_R;
 'Document titled 'Summary of Offences RE Defendant Rex Francis ELMER', Case Study 50, CCI.0031.00006.0155_R
 at 0155_R; 'Christian Brothers Visitation Report', 13 June 1976, Case Study 50, CCI.0097.00157.0197_R at 0200_R.
 186 Exhibit 50-0012, 'Transcript of sentencing proceedings', 1998, Case Study 50, CCI.0031.00006.0129_R at 0131_R;
 'Christian Brothers Visitation Report', 13 June 1976, Case Study 50, CCI.0097.00157.0197_R at 0197_R, 0200_R.
 187 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.020.0001_R; 'Correspondence
 on behalf of CCI to the Royal Commission', 7 June 2016, Case Study 50, CORR.0283.001.0001_R at 0003_R;
 'Letter from CCI to Christian Brothers', 1 June 2015, CCI.0097.00100.0009_R.
 188 Exhibit 50-0012, 'Transcript of sentencing proceedings', 1998, Case Study 50, CCI.0031.00006.0129_R at 0142-0145_R.
 189 Exhibit 50-0012, 'Christian Brothers Visitation Report', 13 June 1976, Case Study 50, CCI.0097.00157.0197_R at 0200_R.
 190 Exhibit 50-0012, 'Letter from Brother Naughtin to GMS', 20 June 1976, Case Study 50, CCI.0097.00157.0201_R.
 191 Exhibit 50-0012, 'Internal CCI memo', 22 May 2015, Case Study 50, CCI.0097.00100.0016_R; 'Letter from CCI to
 Christian Brothers', 1 June 2015, CCI.0097.00100.0009_R at 0010_R; 'Christian Brothers Visitation Report', 13 June 1976,
 Case Study 50, CCI.0097.00157.0197_R at 0200_R; 'Letter from Brother Naughtin to GMS', 20 June 1976, Case Study 50,
 CCI.0097.00157.0201_R.
 192 Exhibit 50-0012, 'Christian Brothers Missions Report for Elmer', Case Study 50, CCI.0097.00157.0156_R.
 193 Exhibit 50-0012, 'Christian Brothers Missions Report for Elmer', Case Study 50, CCI.0097.00157.0156_R;
 'Document titled 'Summary of Offences RE Defendant Rex Francis ELMER', Case Study 50, CCI.0031.00006.0155_R.
 194 Exhibit 50-0012, 'Christian Brothers Missions Report for Elmer', Case Study 50, CCI.0097.00157.0156_R.
 195 Exhibit 50-0012, 'Christian Brothers Visitation Report', 13 July 1985, Case Study 50, CCI.0097.00174.0191_R at 0191-
 0192_R; 'Christian Brothers Missions Report for Elmer', Case Study 50, CCI.0097.00157.0156_R.
 196 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.020.0001_R at 0003_R.
 197 Exhibit 50-0012, 'Christian Brothers Visitation Report', 13 July 1985, Case Study 50, CCI.0097.00174.0191_R at 0191-
 0192_R; 'Christian Brothers Missions Report for Elmer', Case Study 50, CCI.0097.00157.0156_R; 'Document titled
 'Summary of Offences RE Defendant Rex Francis ELMER', Case Study 50, CCI.0031.00006.0155_R at 0155_R.
 198 Exhibit 50-0012, 'Christian Brothers Missions Report for Elmer', Case Study 50, CCI.0097.00157.0156_R.

199 Exhibit 50-0012, 'Christian Brothers Missions Report for Elmer', Case Study 50, CCI.0097.00157.0156_R;
 'Transcript of sentencing proceedings', 1998, Case Study 50, CCI.0031.00006.0129_R at 0130_R, 0140_R.

200 Exhibit 50-0012, 'Transcript of sentencing proceedings', 1998, Case Study 50, CCI.0031.00006.0129_R at 0140_R.

201 Exhibit 50-0012, 'Christian Brothers Missions Report for Elmer', Case Study 50, CCI.0097.00157.0156_R; 'Document
 titled 'Summary of Offences RE Defendant Rex Francis ELMER'', Case Study 50, CCI.0031.00006.0155_R at 0155_R.

202 Exhibit 50-0012, 'CCI Special Issues Incident Report', 22 April 1994, Case Study 50, CCI.0001.00349.0002_R.

203 Exhibit 50-0012, 'Transcript of sentencing proceedings', 1998, Case Study 50, CCI.0031.00006.0129_R at 0140_R.

204 Exhibit 50-0012, 'Transcript of sentencing proceedings', 1998, Case Study 50, CCI.0031.00006.0129_R at 0140-0141_R.

205 Exhibit 50-0012, 'Victorian Police 'Summary of Charges'', 31 July 1997, Case Study 50, CCI.0031.00006.0148_R;
 'Document titled 'Summary of Offences RE Defendant Rex Francis ELMER'', Case Study 50, CCI.0031.00006.0155_R.

206 Exhibit 50-0012, 'Transcript of sentencing proceedings', 1998, Case Study 50, CCI.0031.00006.0129_R at 0142-0145_R.

207 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.020.0001_R at 0001_R.

208 Exhibit 50-0012, 'Christian Brothers Missions Report for Elmer', Case Study 50, CCI.0097.00157.0156_R.

209 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.020.0001_R; 'Correspondence
 on behalf of CCI to the Royal Commission', 7 June 2016, Case Study 50, CORR.0283.001.0001_R at 0003_R;
 'Letter from CCI to Christian Brothers', 1 June 2015, Case Study 50, CCI.0097.00100.0009_R.

210 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.020.0001_R.

211 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.024.0001_R.

212 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.024.0001_R.

213 Exhibit 50-0012, 'Appointment history for Obbens', Case Study 50, CTJH.056.91001.0003_R; 'Obbens' CCI interview',
 20 October 2003, Case Study 50, CCI.0037.00011.0060_R at 0060_R.

214 Exhibit 50-0012, 'Letter from Provincial McDonnell to Magistrate', 16 June 1989, Case Study 50, CCI.0059.00006.0208_R;
 'Obbens' Missions Report', 10 July 1998, Case Study 50, CCI.0059.00006.0122_R.

215 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.024.0001_R.

216 Exhibit 50-0012, 'Obbens' CCI interview', 20 October 2003, Case Study 50, CCI.0037.00011.0060_R at 0061_R.

217 Exhibit 50-0012, 'Letter from Provincial McDonnell to Magistrate', 16 June 1989, Case Study 50, CCI.0059.00006.0208_R;
 'Obbens' Missions Report', 10 July 1998, Case Study 50, CCI.0059.00006.0122_R.

218 Exhibit 50-0012, 'Obbens' CCI interview', 20 October 2003, Case Study 50, CCI.0037.00011.0060_R at 0061_R.

219 Exhibit 50-0012, 'Letter from Provincial McDonnell to Magistrate', 16 June 1989, Case Study 50, CCI.0059.00006.0208_R;
 'Obbens' Missions Report', 10 July 1998, Case Study 50, CCI.0059.00006.0122_R.

220 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.024.0001_R.

221 Exhibit 50-0012, 'Obbens' CCI interview', 20 October 2003, Case Study 50, CCI.0037.00011.0060_R at 0062_R.

222 Exhibit 50-0012, 'Obbens' CCI interview', 20 October 2003, Case Study 50, CCI.0037.00011.0060_R at 0063_R.

223 Exhibit 50-0012, 'Obbens' CCI interview', 20 October 2003, Case Study 50, CCI.0037.00011.0060_R at 0063_R.

224 Exhibit 50-0012, 'Obbens' CCI interview', 20 October 2003, Case Study 50, CCI.0037.00011.0060_R at 0063_R.

225 Exhibit 50-0012, 'Statement of GMD', 2 December 2003, Case Study 50, CCI.0037.00011.0166_R; see further Exhibit
 50-0012, 'GMD's CCI interview', Case Study 50, CCI.0059.00006.0106_R at 0106_R.

226 Exhibit 50-0012, 'Statement of GMD', 2 December 2003, Case Study 50, CCI.0037.00011.0166_R; see further Exhibit
 50-0012, 'GMD's CCI interview', Case Study 50, CCI.0059.00006.0106_R at 0106_R.

227 Exhibit 50-0012, 'GMD's CCI interview', Case Study 50, CCI.0059.00006.0106_R at 0107_R.

228 Exhibit 50-0012, 'Statement of GMD', 2 December 2003, Case Study 50, CCI.0037.00011.0166_R; see further Exhibit
 50-0012, 'GMD's CCI interview', Case Study 50, CCI.0059.00006.0106_R at 0107_R.

229 Exhibit 50-0012, 'Minutes of Council Meeting', 28 July 1976, Case Study 50, CCI.0059.00006.0140_R;
 'Minutes of Council Meeting', 12 August 1976, Case Study 50, CCI.0059.00006.0141_R.

230 Exhibit 50-0012, 'Letter to Brother McGlade', 17 September 1976, Case Study 50, CCI.0059.00006.0138_R.

231 Exhibit 50-0012, 'Statement of counsellor', 20 December 2003, Case Study 50, CCI.0059.00006.0083_R.

232 Exhibit 50-0012, 'GMB's CCI interview', Case Study 50, CCI.0037.00011.0051_R.

233 Exhibit 50-0012, 'Brother McGlade's CCI interview', Case Study 50, CCI.0059.00006.0102_E_R at 0102-0103_E_R.

234 Exhibit 50-0012, 'Draft letter from CCI to the Christian Brothers' lawyers', 10 February 2004, Case Study 50,
 CCI.0037.00011.0137_R.

235 Exhibit 50-0012, 'Letter from Provincial McDonnell to Magistrate', 16 June 1989, Case Study 50, CCI.0059.00006.0208_R;
 'Obbens' Missions Report', 10 July 1998, Case Study 50, CCI.0059.00006.0122_R; 'Obbens' CCI interview',
 20 October 2003, Case Study 50, CCI.0037.00011.0060_R at 0063_R.

236 Exhibit 50-0012, 'Obbens' CCI interview', 20 October 2003, Case Study 50, CCI.0037.00011.0060_R at 0063_R.

237 Exhibit 50-0012, 'Letter from Provincial McDonnell to Magistrate', 16 June 1989, Case Study 50, CCI.0059.00006.0208_R;
 'Obbens' Missions Report', 10 July 1998, Case Study 50, CCI.0059.00006.0122_R; 'Obbens' CCI interview',
 20 October 2003, Case Study 50, CCI.0037.00011.0060_R at 0064_R.

238 Exhibit 50-0012, 'Obbens' CCI interview', 20 October 2003, Case Study 50, CCI.0037.00011.0060_R at 0064_R.

239 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.024.0001_R.

240 Exhibit 50-0012, 'Obbens' CCI interview', 20 October 2003, Case Study 50, CCI.0037.00011.0060_R at 0065_R.

241 Exhibit 50-0012, 'Statement of GMC', 5 May 1989, Case Study 50, CCI.0037.00011.0245_R.

242 Exhibit 50-0012, 'Statement of GMC', 5 May 1989, Case Study 50, CCI.0037.00011.0245_R; 'Obbens' CCI interview',
 20 October 2003, Case Study 50, CCI.0037.00011.0060_R at 0065_R; see further Exhibit 50-0012, 'Interview with GMC',
 Case Study 50, CCI.0037.00011.0082_R at 0083_R.

243 Exhibit 50-0012, 'Statement of GMC', 5 May 1989, Case Study 50, CCI.0037.00011.0245_R.

244 Exhibit 50-0012, 'CCI Special Issues Incident Report and attachment', 11 May 1994, Case Study 50, CCI.0345.00008.0018_R, CCI.0345.00008.0019_R; see further Exhibit 50-0012, 'Christian Brothers case summary relating to "Brother C" [Obbens]', Case Study 50, CCI.0345.00008.0020_R; 'Interview with GMC', Case Study 50, CCI.0037.00011.0082_R at 0083–0085_R.

245 Exhibit 50-0012, 'Letter from Provincial McDonnell to Magistrate', 16 June 1989, Case Study 50, CCI.0059.00006.0210_R; 'Obbens' Missions Report', 10 July 1998, Case Study 50, CCI.0059.00006.0122_R.

246 Exhibit 50-0012, 'Letter from Provincial McDonnell to Magistrate', 16 June 1989, Case Study 50, CCI.0059.00006.0210_R.

247 Exhibit 50-0012, 'Letter from Provincial McDonald to US Consulate, Visa Services', 8 November 1994, Case Study 50, CCI.0059.00006.0183_R; 'Letter to Provincial McDonnell', 14 July 1989, Case Study 50, CCI.0059.00006.0187_R; 'Obbens' CCI interview', 20 October 2003, Case Study 50, CCI.0037.00011.0060_R at 0065_R; 'Christian Brothers case summary relating to "Brother C" [Obbens]', Case Study 50, CCI.0345.00008.0020_R; see further Exhibit 50-0012, 'CCI Special Issues Incident Report and attachment', 11 May 1994, Case Study 50, CCI.0345.00008.0018_R, CCI.0345.00008.0019_R.

248 Exhibit 50-0012, 'Obbens' Missions Report', 10 July 1998, Case Study 50, CCI.0059.00006.0122_R; 'Obbens' CCI interview', 20 October 2003, Case Study 50, CCI.0037.00011.0060_R at 0065_R.

249 Exhibit 50-0012, 'Christian Brothers case summary relating to "Brother C" [Obbens]', Case Study 50, CCI.0345.00008.0020_R.

250 Exhibit 50-0012, 'Obbens' CCI interview', 20 October 2003, Case Study 50, CCI.0037.00011.0060_R at 0065_R.

251 Exhibit 50-0012, 'Appointment history for Obbens', Case Study 50, CTJH.056.91001.0003_R; 'Obbens' Missions Report', 10 July 1998, Case Study 50, CCI.0059.00006.0122_R.

252 Exhibit 50-0012, 'Letter from Provincial McDonald to US Consulate, Visa Services', 8 November 1994, Case Study 50, CCI.0059.00006.0183_R; 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.024.0001_R.

253 Exhibit 50-0012, 'Obbens' Missions Report', 10 July 1998, Case Study 50, CCI.0059.00006.0122_R; 'Appointment history for Obbens', Case Study 50, CTJH.056.91001.0003_R.

254 Exhibit 50-0012, 'Obbens' Missions Report', 10 July 1998, Case Study 50, CCI.0059.00006.0122_R.

255 Exhibit 50-0012, 'Appointment history for Obbens', Case Study 50, CTJH.056.91001.0003_R.

256 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.024.0001_R.

257 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.024.0001_R.

258 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.002.0001_R at 0001_R.

259 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.002.0001_R at 0001_R.

260 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.002.0001_R; 'Letter from CCI's lawyers to CCI', 22 March 2011, Case Study 50, CCI.0001.00747.0071_R at 0074_R.

261 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.002.0001_R at 0001_R, 0003_R.

262 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.002.0001_R at 0001–0002_R.

263 Exhibit 50-0012, 'Letter from claimant's lawyers', 16 May 2007, Case Study 50, CCI.0001.00747.0007_R.

264 Exhibit 50-0012, 'Letter from CCI's lawyers to CCI', 22 March 2011, Case Study 50, CCI.0001.00747.0071_R at 0072–0074_R.

265 Exhibit 50-0012, 'Letter from CCI's lawyers to CCI', 22 March 2011, Case Study 50, CCI.0001.00747.0071_R at 0072_R.

266 Exhibit 50-0012, 'Special Issues Incident Report', 26 April 1994, Case Study 50, CCI.0320.00006.0003_R.

267 Exhibit 50-0012, 'Letter from CCI's lawyers to CCI', 22 March 2011, Case Study 50, CCI.0001.00747.0071_R at 0071–0072_R.

268 Exhibit 50-0012, 'Letter from CCI's lawyers to CCI', 22 March 2011, Case Study 50, CCI.0001.00747.0071_R at 0072_R; 'Further information provided by the Dominican Friars to the Royal Commission', 21 February 2017, Case Study 50, CORR.0647.001.0004_R.

269 Exhibit 50-0012, 'Letter from CCI's lawyers to CCI', 22 March 2011, Case Study 50, CCI.0001.00747.0071_R at 0074_R; 'Special Issues Incident Report', 26 April 1994, Case Study 50, CCI.0320.00006.0003_R.

270 Exhibit 50-0012, 'Letter from CCI's lawyers to CCI', 22 March 2011, Case Study 50, CCI.0001.00747.0071_R at 0074_R.

271 Exhibit 50-0012, 'Letter from CCI's lawyers to CCI', 22 March 2011, Case Study 50, CCI.0001.00747.0071_R at 0075_R.

272 Exhibit 50-0012, 'Letter from CCI's lawyers to CCI', 22 March 2011, Case Study 50, CCI.0001.00747.0071_R at 0075_R.

273 Exhibit 50-0012, 'Letter from CCI's lawyers to CCI', 22 March 2011, Case Study 50, CCI.0001.00747.0071_R at 0075_R.

274 Exhibit 50-0012, 'Letter from CCI's lawyers to the Dominican Friars', 23 December 2011, Case Study 50, CCI.0001.00747.0083_R; 'Letter from CCI's lawyers to CCI', 22 March 2011, Case Study 50, CCI.0001.00747.0071_R.

275 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.063.91001.0001.

276 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.063.91001.0001; 'Letter from Dominican Friars' lawyers to CCI', 6 December 2010, CCI.0001.00747.0033_R.

277 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.063.91001.0001; 'Letter from Dominican Friars' lawyers to CCI', 6 December 2010, CCI.0001.00747.0033_R.

278 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.063.91001.0001; 'Letter from Dominican Friars' lawyers to CCI', 6 December 2010, CCI.0001.00747.0033_R.

279 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.002.0001_R at 0003_R.

280 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.063.91001.0001; 'Letter from Dominican Friars' lawyers to CCI', 6 December 2010, CCI.0001.00747.0033_R.

281 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.063.91001.0001; 'Further information provided by the Dominican Friars to the Royal Commission', 21 February 2017, Case Study 50, CORR.0647.001.0004_R.

282 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.063.91001.0001.

283 Exhibit 50-0012, 'Further information provided by the Dominican Friars to the Royal Commission', 21 February 2017, Case Study 50, CORR.0647.001.0004_R.

284 Exhibit 50-0012, 'Further information provided by the Dominican Friars to the Royal Commission', 21 February 2017, Case Study 50, CORR.0647.001.0004_R.

285 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.063.91001.0001.

286 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.063.91001.0001.

287 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.002.0001_R at 0001; 'Further information provided by the Dominican Friars to the Royal Commission', 21 February 2017, Case Study 50, CORR.0647.001.0004_R.

288 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.063.91001.0001.

289 Exhibit 50-0012, 'Letter from claimant's lawyers', 16 May 2007, Case Study 50, CCI.0001.00747.0007_R.

290 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.002.0001_R; 'Appointment history', Case Study 50, CTJH.063.91001.0001.

291 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.002.0001_R.

292 Exhibit 50-0012, 'Marist Fathers Appointment history - Kevin Glover', Case Study 50, CTJH.064.91001.0003_R; 'Diocese of Bunbury Appointment history - Kevin Glover', Case Study 50, CTJH.270.91001.0001_R; 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.023.0001_R.

293 Exhibit 50-0012, 'Marist Fathers Appointment history - Kevin Glover', Case Study 50, CTJH.064.91001.0003_R.

294 Exhibit 50-0012, 'Marist Fathers Appointment history - Kevin Glover', Case Study 50, CTJH.064.91001.0003_R.

295 Exhibit 50-0012, 'Marist Fathers Appointment history - Kevin Glover', Case Study 50, CTJH.064.91001.0003_R.

296 Exhibit 50-0012, 'Marist Fathers Appointment history - Kevin Glover', Case Study 50, CTJH.064.91001.0003_R.

297 Exhibit 50-0012, 'Marist Fathers Appointment history - Kevin Glover', Case Study 50, CTJH.064.91001.0003_R; 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.023.0001_R; 'Email to CCI attaching chronology relating to Kevin Glover', 17 November 2008, Case Study 50, CCI.0072.00006.0050_R, CCI.0072.00006.0051_R.

298 Exhibit 50-0012, 'Marist Fathers Appointment history - Kevin Glover', Case Study 50, CTJH.064.91001.0003_R.

299 Exhibit 50-0012, 'Marist Fathers Appointment history - Kevin Glover', Case Study 50, CTJH.064.91001.0003_R.

300 Exhibit 50-0012, 'Marist Fathers Appointment history - Kevin Glover', Case Study 50, CTJH.064.91001.0003_R; 'Email to CCI attaching chronology relating to Kevin Glover', 17 November 2008, Case Study 50, CCI.0072.00006.0050_R, CCI.0072.00006.0051_R.

301 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.023.0001_R.

302 Exhibit 50-0012, 'Special Issues Incident Report related to 1962 allegations', 22 April 1994, Case Study 50, CCI.0322.00004.0003_R.

303 Exhibit 50-0012, 'Special Issues Incident Report related to 1958 allegations', 22 April 1994, Case Study 50, CCI.0318.00003.0007_R; 'Email to CCI attaching chronology relating to Kevin Glover', 17 November 2008, Case Study 50, CCI.0072.00006.0050_R, CCI.0072.00006.0051_R.

304 Exhibit 50-0012, 'Email to CCI attaching chronology relating to Kevin Glover', 17 November 2008, Case Study 50, CCI.0072.00006.0050_R, CCI.0072.00006.0051_R.

305 Exhibit 50-0012, 'Marist Fathers Appointment history - Kevin Glover', Case Study 50, CTJH.064.91001.0003_R.

306 Exhibit 50-0012, 'Email to CCI attaching chronology relating to Kevin Glover', 17 November 2008, Case Study 50, CCI.0072.00006.0050_R, CCI.0072.00006.0051_R.

307 Exhibit 50-0012, 'Email to CCI attaching chronology relating to Kevin Glover', 17 November 2008, Case Study 50, CCI.0072.00006.0050_R, CCI.0072.00006.0051_R.

308 Exhibit 50-0012, 'Letter from Father Harcombe to Father Cyr', September 1959, Case Study 50, CCI.0072.00006.0052_R.

309 Exhibit 50-0012, 'Letter from Father Harcombe to Father Cyr', September 1959, Case Study 50, CCI.0072.00006.0052_R.

310 Exhibit 50-0012, 'Letter from Father Harcombe to Father Cyr', September 1959, Case Study 50, CCI.0072.00006.0052_R.

311 Exhibit 50-0012, 'Letter from Bishop Goody to Father Harcombe', 15 September 1959, Case Study 50, CCI.0072.00006.0055_R.

312 Exhibit 50-0012, 'Letter from Bishop Goody to Father Harcombe', 15 September 1959, Case Study 50, CCI.0072.00006.0055_R.

313 Exhibit 50-0012, 'Letter from Father Harcombe to Father Cyr', September 1959, Case Study 50, CCI.0072.00006.0052_R.

314 Exhibit 50-0012, 'Letter from Father Harcombe to Father Cyr', September 1959, Case Study 50, CCI.0072.00006.0052_R.

315 Exhibit 50-0012, 'Letter from CCI to Diocese of Bunbury', 9 December 2008, Case Study 50, CCI.0500.00004.0034_R; 'Email to CCI attaching chronology relating to Kevin Glover', 17 November 2008, Case Study 50, CCI.0072.00006.0050_R, CCI.0072.00006.0051_R.

316 Exhibit 50-0012, 'Letter from CCI to Diocese of Bunbury', 9 December 2008, Case Study 50, CCI.0500.00004.0034_R.

317 Exhibit 50-0012, 'Diocese of Bunbury Appointment history - Kevin Glover', Case Study 50, CTJH.270.91001.0001_R.

318 Exhibit 50-0012, 'Diocese of Bunbury Appointment history - Kevin Glover', Case Study 50, CTJH.270.91001.0001_R.

319 Exhibit 50-0012, 'Diocese of Bunbury Appointment history - Kevin Glover', Case Study 50, CTJH.270.91001.0001_R.

320 Exhibit 50-0012, 'Diocese of Bunbury Appointment history - Kevin Glover', Case Study 50, CTJH.270.91001.0001_R.

321 Exhibit 50-0012, 'Special Issues Incident Report related to 1962 allegations', 22 April 1994, Case Study 50, CCI.0322.00004.0003_R.

322 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.023.0001_R.

323 Exhibit 50-0012, 'Diocese of Bunbury Appointment history - Kevin Glover', Case Study 50, CTJH.270.91001.0001_R.

324 Exhibit 50-0012, 'Diocese of Bunbury Appointment history - Kevin Glover', Case Study 50, CTJH.270.91001.0001_R.

325 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.023.0001_R.

326 Exhibit 50-0012, 'Diocese of Bunbury Appointment history - Kevin Glover', Case Study 50, CTJH.270.91001.0001_R; 'Marist Fathers Appointment history - Kevin Glover', Case Study 50, CTJH.064.91001.0003_R.

327 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.023.0001_R; 'Diocese of Bunbury Appointment history - Kevin Glover', Case Study 50, CTJH.270.91001.0001_R; 'Marist Fathers Appointment history - Kevin Glover', Case Study 50, CTJH.064.91001.0003_R.

328 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.023.0001_R.

329 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.010.0001_R.

330 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.064.91001.0001_R.

331 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.064.91001.0001_R.

332 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.010.0001_R; 'Appointment history', Case Study 50, CTJH.064.91001.0001_R.

333 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.064.91001.0001_R; 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0372_R.

334 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.064.91001.0001_R; 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0372_R; 'Summary of GMG's record', Case Study 50, CCI.0202.00005.0364_R.

335 Exhibit 50-0012, 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0372_R; 'Letter from CCI to Marist Fathers' lawyers', 2 June 2014, Case Study 50, CCI.0202.00005.0336_R at 0337_R.

336 Exhibit 50-0012, 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0372_R; 'Letter from CCI to Marist Fathers' lawyers', 2 June 2014, Case Study 50, CCI.0202.00005.0336_R at 0337_R.

337 Exhibit 50-0012, 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0372_R; 'Summary of GMG's record', Case Study 50, CCI.0202.00005.0364_R.

338 Exhibit 50-0012, 'Special Issues Incident Report relating to 1967 incident', 22 April 1994, Case Study 50, CCI.0202.00005.0413_R; 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0372_R.

339 Exhibit 50-0012, 'Letter from GMH to Father Glynn', 21 November 1967, Case Study 50, CCI.0202.00005.0376_R at 0378_R; 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0372_R; see further Exhibit 50-0012, 'Special Issues Incident Report relating to 1967 incident', 22 April 1994, Case Study 50, CCI.0202.00005.0413_R.

340 Exhibit 50-0012, 'Letter from GMH to Father Glynn', 21 November 1967, Case Study 50, CCI.0202.00005.0376_R at 0377-0378_R; 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0372_R; 'Letter from CCI to Marist Fathers' lawyers', 2 June 2014, Case Study 50, CCI.0202.00005.0336_R at 0337_R.

341 Exhibit 50-0012, 'Letter from Father Glynn to GMH', 27 November 1967, CCI.0202.00005.0379_R; 'Letter from CCI to Marist Fathers' lawyers', 2 June 2014, Case Study 50, CCI.0202.00005.0336_R at 0338_R.

342 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.064.91001.0001_R; 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0372-0373_R.

343 Exhibit 50-0012, 'Letter to priest', 28 December 1967, Case Study 50, CCI.0202.00005.0412_R.

344 Exhibit 50-0012, 'Letter from CCI to Marist Fathers' lawyers', 2 June 2014, Case Study 50, CCI.0202.00005.0336_R.

345 Exhibit 50-0012, 'Letter regarding GMG', 6 May 1968, CCI.0202.00005.0380_R; 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0372_R.

346 Exhibit 50-0012, 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0373_R.

347 Exhibit 50-0012, 'Letter regarding GMG', 6 May 1968, CCI.0202.00005.0380_R.

348 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.064.91001.0001_R; 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0373_R.

349 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.010.0001_R; 'Letter from CCI to Marist Fathers' lawyers', 2 June 2014, Case Study 50, CCI.0202.00005.0336_R at 0336_R.

350 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.064.91001.0001_R.

351 Exhibit 50-0012, 'Confidential Report Re: GMG', 7 December 1993, Case Study 50, CCI.0202.00005.0397_R at 0397-0398_R; 'Special Issues Incident Report', 22 April 1994, Case Study 50, CCI.0202.00005.0414_R.

352 Exhibit 50-0012, 'Special Issues Incident Report', 22 April 1994, Case Study 50, CCI.0202.00005.0414_R.

353 Exhibit 50-0012, 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0373_R.

354 Exhibit 50-0012, 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0373-0374_R.

355 Exhibit 50-0012, 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0374_R.

356 Exhibit 50-0012, 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0374_R.

357 Exhibit 50-0012, 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0374_R.

358 Exhibit 50-0012, 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0374_R.

359 Exhibit 50-0012, 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0374_R; 'Appointment history', Case Study 50, CTJH.064.91001.0001_R.

360 Exhibit 50-0012, 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0374_R.

361 Exhibit 50-0012, 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0374_R.

362 Exhibit 50-0012, 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0374_R.

363 Exhibit 50-0012, 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0374_R; 'Appointment history', Case Study 50, CTJH.064.91001.0001_R.

364 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.064.91001.0001_R; 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0374_R.

365 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.064.91001.0001_R; 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0375_R.

366 Exhibit 50-0012, 'GMG Chronology', Case Study 50, CCI.0202.00005.0372_R at 0375_R.

367 Exhibit 50-0012, 'Confidential Report Re: GMG', 7 December 1993, Case Study 50, CCI.0202.00005.0397_R
at 0397_R; 'Summary of GMG's record', Case Study 50, CCI.0202.00005.0364_R.

368 Exhibit 50-0012, 'Confidential Report Re: GMG', 7 December 1993, Case Study 50, CCI.0202.00005.0397_R at 0397_R.

369 Exhibit 50-0012, 'Confidential Report Re: GMG', 7 December 1993, Case Study 50, CCI.0202.00005.0397_R
at 0397-0398_R.

370 Exhibit 50-0012, 'Handwritten file note dated 17.12.93', 17 December 1993, Case Study 50, CCI.0202.00005.0403_R;
'Handwritten file note dated 14.01.94', 14 January 1994, Case Study 50, CCI.0202.00005.0407_R; 'Handwritten file note
dated 14.12.93', 14 December 1993, Case Study 50, CCI.0202.00005.0400_R; 'Handwritten file note dated 3.01.94',
3 January 1994, Case Study 50, CCI.0202.00005.0405_R.

371 Exhibit 50-0012, 'Handwritten file note dated 17.12.93', 17 December 1993, Case Study 50, CCI.0202.00005.0403_R.

372 Exhibit 50-0012, 'Handwritten file note dated 17.12.93', 17 December 1993, Case Study 50, CCI.0202.00005.0403_R.

373 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.010.0001_R.

374 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.064.91001.0001_R.

375 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.064.91001.0001_R.

376 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.064.91001.0001_R.

377 Exhibit 50-0012, 'Email from Father McMurrich to Professional Standards Office', March 2014, Case Study 50,
CCI.0202.00005.0361_R; attaching 'Summary of GMG's record', Case Study 50, CCI.0202.00005.0364_R.

378 Exhibit 50-0012, 'Email from Father McMurrich to Marist Fathers' lawyers', March 2014, Case Study 50,
CCI.0202.00005.0368_R.

379 Exhibit 50-0012, 'Email from Father McMurrich to Marist Fathers' lawyers', March 2014, Case Study 50,
CCI.0202.00005.0370_R.

380 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.010.0001_R.

381 Exhibit 50-0012, 'Salesians appointment history for Klep', Case Study 50, CTJH.057.91001.0003_R.

382 Exhibit 50-0012, 'Salesians appointment history for Klep', Case Study 50, CTJH.057.91001.0003_R.

383 Exhibit 50-0012, 'Salesians appointment history for Klep', Case Study 50, CTJH.057.91001.0003_R.

384 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.008.0001_R at 0003_R.

385 Exhibit 50-0012, 'Encompass report', Case Study 50, CCI.0001.00845.0083_R at 0088_R;
'Salesians appointment history for Klep', Case Study 50, CTJH.057.91001.0003_R.

386 Exhibit 50-0012, 'Salesians appointment history for Klep', Case Study 50, CTJH.057.91001.0003_R.

387 Exhibit 50-0012, 'Salesians appointment history for Klep', Case Study 50, CTJH.057.91001.0003_R.

388 Exhibit 50-0012, 'Salesians appointment history for Klep', Case Study 50, CTJH.057.91001.0003_R;
'Police vs Klep Summary', Case Study 50, CCI.0001.00840.0065_R; 'Summary of information held on Klep',
11 August 2006, Case Study 50, CCI.0092.00019.0123_R at 0123_R.

389 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.008.0001_R at 0002-0004_R.

390 Exhibit 50-0012, 'Summary of information held on Klep', 11 August 2006, Case Study 50, CCI.0092.00019.0123_R
at 0124-0126_R; 'Letter from CCI's lawyers to CCI', 7 October 2014, Case Study 50, CCI.0096.00079.0093_R at 0097_R.

391 Exhibit 50-0012, 'Salesians appointment history for Klep', Case Study 50, CTJH.057.91001.0003_R.

392 Exhibit 50-0012, 'Salesians appointment history for Klep', Case Study 50, CTJH.057.91001.0003_R;
'Summary of information held on Klep', 11 August 2006, Case Study 50, CCI.0092.00019.0123_R at 0129_R.

393 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.008.0001_R at 0002_R, 0004_R.

394 Exhibit 50-0012, 'File note from CCI's lawyers', 24 September 2014, Case Study 50, CCI.0092.00019.0117_R
at 0117-0118_R.

395 Exhibit 50-0012, 'Summary of information held on Klep', 11 August 2006, Case Study 50, CCI.0092.00019.0123_R
at 0131_R.

396 Exhibit 50-0012, 'Letter from Father Fox to CCI', 2 December 1992, Case Study 50, CCI.0001.00836.0185_R at 0186_R.

397 Exhibit 50-0012, 'File note from CCI's lawyers', 24 September 2014, Case Study 50, CCI.0092.00019.0117_R at 0121_R.

398 Exhibit 50-0012, 'Letter from CCI to Provincial Chambers', 18 November 2015, Case Study 50, CCI.0092.00019.0328_R
at 0330_R.

399 Exhibit 50-0012, 'Salesians appointment history for Klep', Case Study 50, CTJH.057.91001.0003_R;
'Letter from Provincial Moloney', 12 October 2007, Case Study 50, CCI.0001.00864.0020_R.

400 Exhibit 50-0012, 'Letter from Provincial Moloney', 12 October 2007, Case Study 50, CCI.0001.00864.0020_R.

401 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.008.0001_R at 0003_R.

402 Exhibit 50-0012, 'Summary of assessment of allegations by GHB', Case Study 50, CCI.0001.00864.0053_R
at 0054_R, 0059_R.

403 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.008.0001_R at 0003_R.

404 Exhibit 50-0012, 'Letter from Provincial Moloney', 12 October 2007, Case Study 50, CCI.0001.00864.0020_R;
'Salesians appointment history for Klep', Case Study 50, CTJH.057.91001.0003_R; 'Letter from CCI's lawyers to CCI',
7 October 2014, Case Study 50, CCI.0096.00079.0093_R at 0096_R.

405 Exhibit 50-0012, 'Letter to Father Fox', 11 September 1992, Case Study 50, CCI.0001.00836.0188_R; see further
Exhibit 50-0012, 'Letter to parents from Father Fox', 27 September 1992, Case Study 50, CCI.0001.00836.0189_R.

406 Exhibit 50-0012, 'Letter from Father Fox to CCI', 2 December 1992, Case Study 50, CCI.0001.00836.0185_R at 0186_R.

407 Exhibit 50-0012, 'Letter to parents from Father Fox', 27 September 1992, Case Study 50, CCI.0001.00836.0189_R.

408 Exhibit 50-0012, 'Letter from Father Fox to CCI', 2 December 1992, Case Study 50, CCI.0001.00836.0185_R at 0187_R.

409 Exhibit 50-0012, 'Notes from interview between CCI's lawyer and Father Murdoch', 27 November 2002, Case Study 50,
CCI.0001.00845.0076_R at 0076-0077_R; 'Encompass report', Case Study 50, CCI.0001.00845.0083_R at 0083-0084_R.

410 Exhibit 50-0012, 'Letter from CCI's lawyers to CCI', 7 October 2014, Case Study 50, CCI.0096.00079.0093_R at 0096_R;
 411 'Salesians appointment history for Klep', Case Study 50, CTJH.057.91001.0003_R.
 412 Exhibit 50-0012, 'Professional Standards Risk Management Service File Note', 20 March 1997, Case Study 50,
 CCI.0001.00840.0152_R.
 413 Exhibit 50-0012, 'Professional Standards Risk Management Service File Note', 16 October 1996, Case Study 50,
 CCI.0265.00004.0020_R; 'Encompass report', Case Study 50, CCI.0001.00845.0083_R at 0083_R, 0086_R; CCI has
 informed the Royal Commission that it confirms the Encompass report appears to be from 1997: see 'Correspondence
 on behalf of CCI to the Royal Commission', 10 October 2016, Case Study 50, CORR.0327.001.0001_A_R.
 414 Exhibit 50-0012, 'Encompass report', Case Study 50, CCI.0001.00845.0083_R at 0085_R.
 415 Exhibit 50-0012, 'Encompass report', Case Study 50, CCI.0001.00845.0083_R at 0090-0091_R.
 416 Exhibit 50-0012, 'Salesians appointment history for Klep', Case Study 50, CTJH.057.91001.0003_R.
 417 Exhibit 50-0012, 'Press release', 21 June 2004, Case Study 50, CCI.0001.00856.0053_R.
 418 Exhibit 50-0012, 'Letter from CCI's lawyers to CCI', 7 October 2014, Case Study 50, CCI.0096.00079.0093_R at 0097_R.
 419 Exhibit 50-0012, 'Letter from CCI's lawyers to CCI', 7 October 2014, Case Study 50, CCI.0096.00079.0093_R at 0097_R.
 Exhibit 50-0012, 'Summary of information held on Klep', 11 August 2006, Case Study 50, CCI.0092.00019.0123_R at
 0124-0126_R; 'Letter from CCI's lawyers to CCI', 7 October 2014, Case Study 50, CCI.0096.00079.0093_R at 0097_R.
 420 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.008.0001_R at 0001_R;
 'Letter from CCI's lawyers to CCI', 7 October 2014, Case Study 50, CCI.0096.00079.0093_R at 0096_R.
 421 Exhibit 50-0012, 'Letter from CCI's lawyers to CCI', 7 October 2014, Case Study 50, CCI.0096.00079.0093_R at 0097_R.
 422 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.008.0001_R at 0002-0004_R.
 423 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.006.0001_R at 0001_R.
 424 Exhibit 50-0012, 'Reasons for sentence: Rapson', 11 May 2015, Case Study 50, CCI.0005.00011.0337_R at 0346_R;
 'Salesians appointment history for Rapson', Case Study 50, CTJH.057.91001.0001_R.
 425 Exhibit 50-0012, 'Reasons for sentence: Rapson', 11 May 2015, Case Study 50, CCI.0005.00011.0337_R at 0341_R.
 426 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.006.0001_R at 0003_R.
 427 Exhibit 50-0012, 'CCI's investigators' interview with Rapson', 22 February 1993, Case Study 50, CCI.0001.00836.0151_R
 at 0151_R; 'Salesians appointment history for Rapson', Case Study 50, CTJH.057.91001.0001_R.
 428 Exhibit 50-0012, 'Wrongful Acts – Database Registration record', 7 February 1996, Case Study 50,
 CCI.0001.00838.0002_R.
 429 Exhibit 50-0012, 'Reasons for sentence: Rapson', 11 May 2015, Case Study 50, CCI.0005.00011.0337_R at 0342_R.
 430 Exhibit 50-0012, 'CCI's investigators' interview with Rapson', 22 February 1993, Case Study 50, CCI.0001.00836.0151_R
 at 0151_R; 'Salesians appointment history for Rapson', Case Study 50, CTJH.057.91001.0001_R.
 431 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.006.0001_R at 0003_R.
 432 Exhibit 50-0012, 'CCI's investigators' interview with Rapson', 22 February 1993, Case Study 50, CCI.0001.00836.0151_R
 at 0151_R; 'Salesians appointment history for Rapson', Case Study 50, CTJH.057.91001.0001_R.
 433 Exhibit 50-0012, 'Salesians appointment history for Rapson', Case Study 50, CTJH.057.91001.0001_R.
 434 Exhibit 50-0012, 'Salesians appointment history for Rapson', Case Study 50, CTJH.057.91001.0001_R.
 435 Exhibit 50-0012, 'Salesians appointment history for Rapson', Case Study 50, CTJH.057.91001.0001_R;
 'Letter from Father Moloney to CCI', 12 June 2008, Case Study 50, CCI.0034.00008.0170_R; 'CCI's investigators' interview
 with Rapson', 22 February 1993, Case Study 50, CCI.0001.00836.0151_R at 0151_R; 'Data survey summary',
 18 January 2017, Case Study 50, CARC.0050.006.0001_R at 0003_R.
 436 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.006.0001_R at 0004_R.
 437 Exhibit 50-0012, 'Letter from Father Moloney to CCI', 12 June 2008, Case Study 50, CCI.0034.00008.0170_R.
 438 Exhibit 50-0012, 'Salesians appointment history for Rapson', Case Study 50, CTJH.057.91001.0001_R.
 439 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.006.0001_R at 0002-0003_R;
 'Letter from CCI to Father Chambers', 18 February 2013, Case Study 50, CCI.0027.00006.0030_R.
 440 Exhibit 50-0012, 'Reasons for sentence: Rapson', 11 May 2015, Case Study 50, CCI.0005.00011.0337_R at 0341_R,
 0356_R.
 441 Exhibit 50-0012, 'Contact report of GHH', 2014, Case Study 50, CCI.0092.00019.0103_R at 0106_R.
 442 Exhibit 50-0012, 'Psychiatric report for GFE', 1993, Case Study 50, CCI.0083.00001.0048_R at 0048_R;
 'Transcript of telephone interview with Father Chambers by CCI's lawyers', 11 April 2012, Case Study 50,
 CCI.0001.00874.0041_R at 0051_R.
 443 Exhibit 50-0012, 'CCI's investigators' interview with Rapson', 22 February 1993, Case Study 50,
 CCI.0001.00836.0151_R at 0151_R.
 444 Exhibit 50-0012, 'Transcript of telephone interview with Father Chambers by CCI's lawyers', 11 April 2012,
 Case Study 50, CCI.0001.00874.0041_R at 0051_R.
 445 Exhibit 50-0012, 'Psychiatric report for GFE', 1993, Case Study 50, CCI.0083.00001.0048_R at 0048_R.
 446 Exhibit 50-0012, 'Letter from Father Fox to CCI', 2 December 1992, Case Study 50, CCI.0001.00836.0185_R at 0185_R.
 447 Exhibit 50-0012, 'Statement of Father Fox', Case Study 50, CCI.0083.00001.0182_R at 0182-0184_R; CCI has
 informed the Royal Commission that it confirms that the statement of Father Fox was obtained by CCI's investigators
 at an interview in 1992 or 1993: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission',
 10 October 2016, Case Study 50, CORR.0327.001.0001_A_R at 0003_A_R.
 448 Exhibit 50-0012, 'Statement of Father Fox', Case Study 50, CCI.0083.00001.0182_R at 0184_R; CCI has informed the
 Royal Commission that it confirms that the statement of Father Fox was obtained by CCI's investigators at an interview
 in 1992 or 1993; 'Correspondence on behalf of CCI to the Royal Commission', 10 October 2016, Case Study 50,
 CORR.0327.001.0001_A_R at 0003_A_R.

449 Exhibit 50-0012, 'Letter from CCI to Father Chambers', 5 April 2013, Case Study 50, CCI.0005.00011.0033_R at 0035_R.
 450 Exhibit 50-0012, 'Letter from CCI to Father Chambers', 5 April 2013, Case Study 50, CCI.0005.00011.0033_R at 0034_R, 0035_R.
 451 Exhibit 50-0012, 'Letter from Father Moloney to CCI', 12 June 2008, Case Study 50, CCI.0034.00008.0170_R; 'Salesians appointment history for Rapson', Case Study 50, CTJH.057.91001.0001_R.
 452 Exhibit 50-0012, 'Letter from Father Fox to CCI', 2 December 1992, Case Study 50, CCI.0001.00836.0185_R at 0185_R.
 453 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.006.0001_R.
 454 Exhibit 50-0012, 'CCI's investigators' interview with Rapson', 22 February 1993, Case Study 50, CCI.0001.00836.0151_R at 0152_R.
 455 Exhibit 50-0012, 'Reasons for sentence: Rapson', 11 May 2015, Case Study 50, CCI.0005.00011.0337_R at 0339-0341_R.
 456 Exhibit 50-0012, 'Statement of Father Fox', Case Study 50, CCI.0083.00001.0182_R at 0185_R, 0186_R; CCI has informed the Royal Commission that it confirms that the statement of Father Fox was obtained by CCI's investigators at an interview in 1992 or 1993: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 10 October 2016, Case Study 50, CORR.0327.001.0001_A_R at 0003_A_R.
 457 Exhibit 50-0012, 'Letter from Father Fox to CCI', 2 December 1992, Case Study 50, CCI.0001.00836.0185_R at 0186_R; 'Statement of Father Fox', Case Study 50, CCI.0083.00001.0182_R at 0186_R; CCI has informed the Royal Commission that it confirms that the statement of Father Fox was obtained by CCI's investigators at an interview in 1992 or 1993: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 10 October 2016, Case Study 50, CORR.0327.001.0001_A_R at 0003_A_R.
 458 Exhibit 50-0012, 'File note by Father Fox', 16 April 1992, Case Study 50, CCI.0034.00008.0158_R.
 459 Exhibit 50-0012, 'File notes by Father Fox', April 1992, Case Study 50, CCI.0034.00002.0222_R, CCI.0001.00866.0072_R at 0222_R; 'File note by Father Fox', 16 April 1992, Case Study 50, CCI.0034.00008.0158_R.
 460 Exhibit 50-0012, 'File note by Father Fox', 16 April 1992, Case Study 50, CCI.0034.00008.0158_R.
 461 Exhibit 50-0012, 'File note by Father Fox', 16 April 1992, Case Study 50, CCI.0034.00008.0158_R.
 462 Exhibit 50-0012, 'File notes by Father Fox', April 1992, Case Study 50, CCI.0034.00002.0222_R, CCI.0001.00866.0072_R at 0223_R.
 463 Exhibit 50-0012, 'File notes by Father Fox', April 1992, Case Study 50, CCI.0034.00002.0222_R, CCI.0001.00866.0072_R at 0223_R.
 464 Exhibit 50-0012, 'Letter from Father Fox to CCI', 2 December 1992, Case Study 50, CCI.0001.00836.0185_R at 0186_R; 'CCI Claim File Review', 6 October 1995, Case Study 50, CCI.0001.00836.0003_R; 'Reasons for sentence: Rapson', 11 May 2015, Case Study 50, CCI.0005.00011.0337_R at 0346_R.
 465 Exhibit 50-0012, 'Letter from Father Fox to CCI', 2 December 1992, Case Study 50, CCI.0001.00836.0185_R at 0186_R.
 466 Exhibit 50-0012, 'Reasons for sentence: Rapson', 11 May 2015, Case Study 50, CCI.0005.00011.0337_R at 0346_R.
 467 Exhibit 50-0012, 'Reasons for sentence: Rapson', 11 May 2015, Case Study 50, CCI.0005.00011.0337_R at 0346_R.
 468 Exhibit 50-0012, 'Reasons for sentence: Rapson', 11 May 2015, Case Study 50, CCI.0005.00011.0337_R at 0346_R.
 469 Exhibit 50-0012, 'Professional Standards Risk Management Service file note', 16 October 1996, Case Study 50, CCI.0265.00004.0021_R.
 470 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.006.0001_R at 0001_R.
 471 Exhibit 50-0012, 'Reasons for sentence: Rapson', 11 May 2015, Case Study 50, CCI.0005.00011.0337_R at 0339-0341_R.
 472 Exhibit 50-0012, 'Reasons for sentence: Rapson', 11 May 2015, Case Study 50, CCI.0005.00011.0337_R at 0339-0343_R, 0356-0358_R.
 473 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.006.0001_R at 0002-0004_R; 'Wrongful Acts – Database Registration record', 7 February 1996, Case Study 50, CCI.0001.00838.0002_R.
 474 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.006.0001_R at 0001_R; 'Letter from CCI to Father Chambers', 18 February 2013, Case Study 50, CCI.0027.00006.0030_R; 'File notes by Father Fox', April 1992, Case Study 50, CCI.0034.00002.0222_R, CCI.0001.00866.0072_R at 0222_R.
 475 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.006.0001_R at 0002-0004_R.
 476 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.297.91001.0001_R.
 477 Exhibit 50-0012, 'Letter from Daniel Hourigan to Bishop Fox', 3 July 1972, Case Study 50, CCI.0001.00697.0088_R at 0090_R.
 478 Exhibit 50-0012, 'Letter from Daniel Hourigan to Bishop Fox', 3 July 1972, Case Study 50, CCI.0001.00697.0088_R at 0088_R, 0090_R.
 479 Exhibit 50-0012, 'Letter from Daniel Hourigan to Bishop Fox', 3 July 1972, Case Study 50, CCI.0001.00697.0088_R at 0090_R.
 480 Exhibit 50-0012, 'Appointment history', Case Study 50, CCI.0001.00708.0225_R; 'Letter from Daniel Hourigan to Bishop Fox', 3 July 1972, Case Study 50, CCI.0001.00697.0088_R at 0088_R.
 481 Exhibit 50-0012, 'Appointment history', Case Study 50, CCI.0001.00708.0225_R at 0088_R.
 482 Exhibit 50-0012, 'Appointment history', Case Study 50, CCI.0001.00708.0225_R.
 483 Exhibit 50-0012, 'Letter from Daniel Hourigan to Bishop Fox', 3 July 1972, Case Study 50, CCI.0001.00697.0088_R at 0091_R.]
 484 Exhibit 50-0012, 'Letter from Daniel Hourigan to Bishop Fox', 3 July 1972, Case Study 50, CCI.0001.00697.0088_R at 0090_R.
 485 Exhibit 50-0012, 'Appointment history', Case Study 50, CCI.0001.00708.0225_R.
 486 Exhibit 50-0012, 'Letter from Daniel Hourigan to Bishop Fox', 3 July 1972, Case Study 50, CCI.0001.00697.0088_R at 0091_R.

487 Exhibit 50-0012, 'Letter from Daniel Hourigan to Bishop Fox', 3 July 1972, Case Study 50, CCI.0001.00697.0088_R at 0091_R.

488 Exhibit 50-0012, 'Appointment history', Case Study 50, CCI.0001.00708.0225_R 'Letter from Daniel Hourigan to Bishop Fox', 3 July 1972, Case Study 50, CCI.0001.00697.0088_R at 0089_R.

489 Exhibit 50-0012, 'Letter from Daniel Hourigan to Bishop Fox', 3 July 1972, Case Study 50, CCI.0001.00697.0088_R at 0089_R; 'Appointment history', Case Study 50, CCI.0001.00708.0225_R.

490 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.004.0001_R at 0004_R.

491 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.004.0001_R at 0004_R; 'Draft letter from CCI to Diocese of Sale', 10 December 2002, Case Study 50, CCI.0601.00023.0251_R.

492 Exhibit 50-0012, 'Appointment history', Case Study 50, CCI.0001.00708.0225_R; 'Statement of Father Hourigan', 10 July 1995, Case Study 50, CCI.0001.00697.0149_R at 0149_R.

493 Exhibit 50-0012, 'Letter from Daniel Hourigan to Bishop Fox', 3 July 1972, Case Study 50, CCI.0001.00697.0088_R at 0088_R, 0092_R.

494 Exhibit 50-0012, 'Letter from Daniel Hourigan to Bishop Fox', 3 July 1972, Case Study 50, CCI.0001.00697.0088_R at 0090–0092_R.

495 Exhibit 50-0012, 'Appointment history', Case Study 50, CCI.0001.00708.0225_R

496 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.297.91001.0001_R.

497 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.297.91001.0001_R.

498 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.004.0001_R at 0003–0004_R; 'Statement of Claim', 1995, Case Study 50, CCI.0001.00697.0203_R at 0205_R.

499 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.297.91001.0001_R.

500 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.004.0001_R at 0003_R; 'Letter from CCI to Bishop O'Regan', 9 June 2015, Case Study 50, CCI.0097.00110.0011_R.

501 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.297.91001.0001_R.

502 Exhibit 50-0012, 'Statement of Father Hourigan', 10 July 1995, Case Study 50, CCI.0001.00697.0149_R at 0149_R.

503 Exhibit 50-0012, 'Letter from CCI to the Diocesan Administrator', 16 September 2008, Case Study 50, CCI.0005.00009.0249_R; 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.004.0001_R at 0003_R.

504 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.297.91001.0001_R; 'Appointment history', 20 September 1996, Case Study 50, CCI.0001.00708.0283_R.

505 Exhibit 50-0012, 'Letter from Father Hourigan to Bishop D'Arcy', 10 August 1987, Case Study 50, CCI.0001.00697.0189_R; 'Transcript of interview with Bishop Coffey', 24 April 1995, Case Study 50, CCI.0001.00699.0100_R at 0100_R.

506 Exhibit 50-0012, 'Statement of GHY', 1995, Case Study 50, CCI.0001.00698.0013_R at 0015_R, 0016_R; see further Exhibit 50-0012, 'Transcript of Interview with GIA', Case Study 50, CCI.0001.00697.0153_R at 0154_R, 0155_R; CCI has informed the Royal Commission that it confirms that the interview with GIA occurred in 1995: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 10 October 2016, Case Study 50, CORR.0327.001.0001_B_R at 0003_B_R; 'Letter from CCI's investigators to CCI's lawyers', 14 January 1996, Case Study 50, CCI.0001.00697.0200_R.

507 Exhibit 50-0012, 'Statement of GHY', 1995, Case Study 50, CCI.0001.00698.0013_R at 0016_R; see further Exhibit 50-0012, 'Transcript of Interview with GIA', Case Study 50, CCI.0001.00697.0153_R at 0153_R, 0158_R; CCI has informed the Royal Commission that it confirms that the interview with GIA occurred in 1995: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 10 October 2016, Case Study 50, CORR.0327.001.0001_B_R at 0003_B_R; 'Letter from CCI's investigators to CCI's lawyers', 14 January 1996, Case Study 50, CCI.0001.00697.0200_R.

508 Exhibit 50-0012, 'Letter from CCI to Bishop Coffey', 3 July 1996, Case Study 50, CCI.0001.00698.0025_R; 'Letter from CCI's lawyers to CCI', 22 September 1995, Case Study 50, CCI.0001.00697.0053_R; 'Letter from GIB and GIA to Bishop D'Arcy', 1 May 1987, Case Study 50, CCI.0001.00697.0181_R at 0181_R; 'Special Issues Incident Report', 27 April 1992, Case Study 50, CCI.0001.00691.0002_R.

509 Exhibit 50-0012, 'Letter from Bishop O'Regan to the Royal Commission', 29 November 2016, Case Study 50, CORR.0359.001.0004_R.

510 Exhibit 50-0012, 'Letter from Father Waters to Bishop D'Arcy', 31 December 1986, Case Study 50, CCI.0001.00697.0170_R at 0171–0172_R.

511 Exhibit 50-0012, 'Letter from GIB and GIA to Bishop D'Arcy', 1 May 1987, Case Study 50, CCI.0001.00697.0181_R at 0181_R; see further Exhibit 50-0012, 'Statement of GHY', 1995, Case Study 50, CCI.0001.00698.0013_R at 0016_R.

512 Exhibit 50-0012, 'Appointment history', 20 September 1996, Case Study 50, CCI.0001.00708.0283_R; 'Transcript of interview with Bishop Coffey', 24 April 1995, Case Study 50, CCI.0001.00699.0100_R at 0100_R; 'Appointment history', Case Study 50, CCI.0001.00708.0225_R; 'Statement of Father Hourigan', 10 July 1995, Case Study 50, CCI.0001.00697.0149_R at 0150_R.

513 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.004.0001_R at 0003_R.

514 Exhibit 50-0012, 'Letter from Father Waters to Bishop D'Arcy', 31 December 1986, Case Study 50, CCI.0001.00697.0170_R at 0170, 0172_R; 'Statement of Father Hourigan', 10 July 1995, Case Study 50, CCI.0001.00697.0149_R at 0150_R.

515 Exhibit 50-0012, 'Letter from Father Waters to Bishop D'Arcy', 31 December 1986, Case Study 50, CCI.0001.00697.0170_R at 0170_R.

516 Exhibit 50-0012, 'Letter from Father Waters to Bishop D'Arcy', 31 December 1986, Case Study 50, CCI.0001.00697.0170_R at 0170, 0173_R.

517 Exhibit 50-0012, 'Letter from Father Waters to Bishop D'Arcy', 31 December 1986, Case Study 50, CCI.0001.00697.0170_R at 0170-0171_R.

518 Exhibit 50-0012, 'Letter from Father Waters to Bishop D'Arcy', 31 December 1986, Case Study 50, CCI.0001.00697.0170_R at 0172_R.

519 Exhibit 50-0012, 'Letter from Father Waters to Bishop D'Arcy', 31 December 1986, Case Study 50, CCI.0001.00697.0170_R at 0172_R.

520 Exhibit 50-0012, 'Letter from Father Waters to Father Hourigan', 31 December 1986, Case Study 50, CCI.0001.00697.0174_R; see further Exhibit 50-0012, 'Statement of Father Hourigan', 10 July 1995, Case Study 50, CCI.0001.00697.0149_R at 0150_R.

521 Exhibit 50-0012, 'Letter from Dr Seal to Bishop D'Arcy', 22 April 1987, Case Study 50, CCI.0001.00697.0185_R, CCI.0001.00697.0184_R.

522 Exhibit 50-0012, 'Letter from Ronald Conway to Dr Seal', 14 April 1987, Case Study 50, CCI.0001.00697.0176_R, CCI.0001.00697.0180_R at 0176-0177_R.

523 Exhibit 50-0012, 'Letter from Ronald Conway to Dr Seal', 14 April 1987, Case Study 50, CCI.0001.00697.0176_R, CCI.0001.00697.0180_R at 0176_R.

524 Exhibit 50-0012, 'Letter from Ronald Conway to Dr Seal', 14 April 1987, Case Study 50, CCI.0001.00697.0176_R, CCI.0001.00697.0180_R at 0177_R.

525 Exhibit 50-0012, 'Letter from Ronald Conway to Dr Seal', 14 April 1987, Case Study 50, CCI.0001.00697.0176_R, CCI.0001.00697.0180_R at 0179-0180_R.

526 Exhibit 50-0012, 'Letter from Dr Seal to Bishop D'Arcy', 22 April 1987, Case Study 50, CCI.0001.00697.0185_R, CCI.0001.00697.0184_R.

527 Exhibit 50-0012, 'Letter from Bishop D'Arcy to Dr Seal', 24 April 1987, Case Study 50, CCI.0001.00697.0188, CCI.0001.00697.0187.

528 Exhibit 50-0012, 'Statement of Father Hourigan', 10 July 1995, Case Study 50, CCI.0001.00697.0149_R at 0151_R.

529 Exhibit 50-0012, 'Letter from GIB and GIA to Bishop D'Arcy', 1 May 1987, Case Study 50, CCI.0001.00697.0181_R at 0181_R, 0183_R.

530 Exhibit 50-0012, 'Transcript of Interview with GIA', Case Study 50, CCI.0001.00697.0153_R at 0158_R; CCI has informed the Royal Commission that it confirms that the interview with GIA occurred in 1995: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 10 October 2016, Case Study 50, CORR.0327.001.0001_B_R at 0003_B_R.

531 Exhibit 50-0012, 'Letter from Father Hourigan to Bishop D'Arcy', 10 August 1987, Case Study 50, CCI.0001.00697.0189_R.

532 Exhibit 50-0012, 'Letter from Dr Seal to Bishop D'Arcy', 12 August 1987, Case Study 50, CCI.0001.00697.0191_R, CCI.0001.00697.0190_R.

533 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.297.91001.0001_R; 'Appointment history', 20 September 1996, Case Study 50, CCI.0001.00708.0283_R; 'Statement of Father Hourigan', 10 July 1995, Case Study 50, CCI.0001.00697.0149_R at 0150_R; 'Appointment history', Case Study 50, CCI.0001.00708.0225_R.

534 Exhibit 50-0012, 'Transcript of interview with Bishop Coffey', 2 May 1997, Case Study 50, CCI.0001.00701.0095_R at 0095_R.

535 Exhibit 50-0012, 'Report prepared for the Bishop of Sale following a request from the National Committee for Professional Standards', October 1996, Case Study 50, CCI.0001.00708.0285_R at 0287_R; 'Transcript of interview with Bishop Coffey', 24 April 1995, Case Study 50, CCI.0001.00699.0100_R at 0101_R.

536 Exhibit 50-0012, 'Transcript of interview with Bishop Coffey', 2 May 1997, Case Study 50, CCI.0001.00701.0095_R at 0095_R.

537 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.297.91001.0001_R.

538 Exhibit 50-0012, 'Appointment history', 20 September 1996, Case Study 50, CCI.0001.00708.0283_R; see further Exhibit 50-0012, 'Statement of Father Hourigan', 10 July 1995, Case Study 50, CCI.0001.00697.0149_R at 0150_R; 'Transcript of interview with Bishop Coffey', 2 May 1997, Case Study 50, CCI.0001.00701.0095_R at 0101_R.

539 Exhibit 50-0012, 'Transcript of interview with Bishop Coffey', 2 May 1997, Case Study 50, CCI.0001.00701.0095_R at 0103_R.

540 Exhibit 50-0012, 'Report prepared for the Bishop of Sale following a request from the National Committee for Professional Standards', October 1996, Case Study 50, CCI.0001.00708.0285_R at 0289_R; 'Transcript of interview with Bishop Coffey', 2 May 1997, Case Study 50, CCI.0001.00701.0095_R at 0101_R.

541 Exhibit 50-0012, 'Report prepared for the Bishop of Sale following a request from the National Committee for Professional Standards', October 1996, Case Study 50, CCI.0001.00708.0285_R at 0289_R.

542 Exhibit 50-0012, 'Transcript of interview with Bishop Coffey', 2 May 1997, Case Study 50, CCI.0001.00701.0095_R at 0101_R.

543 Exhibit 50-0012, 'Transcript of interview with Bishop Coffey', 24 April 1995, Case Study 50, CCI.0001.00699.0100_R at 0105_R.

544 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.004.0001_R at 0001_R.

545 Exhibit 50-0012, 'Appointment history', 20 September 1996, Case Study 50, CCI.0001.00708.0283_R; 'Appointment history', Case Study 50, CCI.0001.00708.0225_R.

546 Exhibit 50-0012, 'Report prepared for the Bishop of Sale following a request from the National Committee for Professional Standards', October 1996, Case Study 50, CCI.0001.00708.0285_R at 0289_R; 'Transcript of interview with Bishop Coffey', 2 May 1997, Case Study 50, CCI.0001.00701.0095_R at 0097_R, 0100-0104_R.

547 Exhibit 50-0012, 'Transcript of interview with Bishop Coffey', 2 May 1997, Case Study 50, CCI.0001.00701.0095_R at 0101_R.

548 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.004.0001_R at 0001_R.
 549 Exhibit 50-0012, 'Report prepared for the Bishop of Sale following a request from the National Committee for
 Professional Standards', October 1996, Case Study 50, CCI.0001.00708.0285_R at 0287_R; see further Exhibit 50-0012,
 'Transcript of interview with Bishop Coffey', 24 April 1995, Case Study 50, CCI.0001.00699.0100_R at 0101_R.
 550 Exhibit 50-0012, 'Report prepared for the Bishop of Sale following a request from the National Committee for
 Professional Standards', October 1996, Case Study 50, CCI.0001.00708.0285_R at 0287_R, 0290–0291_R.
 551 Exhibit 50-0012, 'Search Warrant', 12 September 1995, Case Study 50, CCI.0005.00009.0286_R; 'Report prepared
 for the Bishop of Sale following a request from the National Committee for Professional Standards', October 1996,
 Case Study 50, CCI.0001.00708.0285_R at 0287–0288_R, 0291_R.
 552 Exhibit 50-0012, 'Report prepared for the Bishop of Sale following a request from the National Committee for
 Professional Standards', October 1996, Case Study 50, CCI.0001.00708.0285_R at 0291_R.
 553 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.004.0001_R.
 554 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.004.0001_R;
 'Letter from CCI to Bishop O'Regan', 9 June 2015, Case Study 50, CCI.0097.00110.0011_R.
 555 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.004.0001_R.
 556 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.004.0001_R at 0002_R, 0004_R.
 557 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.053.91001.0001_R.
 558 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.053.91001.0001_R.
 559 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.053.91001.0001_R.
 560 Exhibit 50-0012, 'Letter from Brother Farrell', 24 June 1978, Case Study 50, CCI.0097.00025.0253_R at 0253_R.
 561 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.053.91001.0001_R; 'Data survey summary',
 12 February 2017, Case Study 50, CARC.0050.014.0003_R.
 562 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.053.91001.0001_R; 'Document titled
 'Brother Keith Boyd Farrell – Ministry'', 26 February 2008, Case Study 50, CCI.0600.00006.0423_R at 0423_R.
 563 Exhibit 50-0012, 'Data survey summary', 12 February 2017, Case Study 50, CARC.0050.014.0003_R;
 'Appointment history', Case Study 50, CTJH.053.91001.0001_R.
 564 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.053.91001.0001_R; 'Document titled 'Brother Keith Boyd
 Farrell – Ministry'', 26 February 2008, Case Study 50, CCI.0600.00006.0423_R at 0423_R; 'Letter from Brother Farrell',
 24 June 1978, Case Study 50, CCI.0097.00025.0253_R at 0253–0254_R.
 565 Exhibit 50-0012, 'Data survey summary', 12 February 2017, Case Study 50, CARC.0050.014.0003_R.
 566 Exhibit 50-0012, 'Data survey summary', 12 February 2017, Case Study 50, CARC.0050.014.0003_R.
 567 Exhibit 50-0012, 'Transcript of interview with Brother Turton', 30 March 2007, Case Study 50, CCI.0019.00006.0081_R
 at 0089–0091_R.
 568 Exhibit 50-0012, 'Statement of Brother Weldon', 24 February 1997, Case Study 50, CCI.0013.00015.0300_R.
 569 Exhibit 50-0012, 'Letter from Brother Farrell', 24 June 1978, Case Study 50, CCI.0097.00025.0253_R at 0254_R.
 570 Exhibit 50-0012, 'Statement of Brother Weldon', 24 February 1997, Case Study 50, CCI.0013.00015.0300_R.
 571 Exhibit 50-0012, 'Statement of Brother Weldon', 24 February 1997, Case Study 50, CCI.0013.00015.0300_R.
 572 Exhibit 50-0012, 'Transcript of interview with Brother Turton', 30 March 2007, Case Study 50, CCI.0019.00006.0081_R
 at 0088_R, 0091_R.
 573 Exhibit 50-0012, 'Transcript of interview with Brother Turton', 30 March 2007, Case Study 50, CCI.0019.00006.0081_R
 at 0089_R.
 574 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.053.91001.0001_R; 'Document titled
 'Brother Keith Boyd Farrell – Ministry'', 26 February 2008, Case Study 50, CCI.0600.00006.0423_R at 0423_R.
 575 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.053.91001.0001_R; 'Document titled
 'Brother Keith Boyd Farrell – Ministry'', 26 February 2008, Case Study 50, CCI.0600.00006.0423_R at 0423_R.
 576 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.053.91001.0001_R.
 577 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.053.91001.0001_R; 'Document titled
 'Brother Keith Boyd Farrell – Ministry'', 26 February 2008, Case Study 50, CCI.0600.00006.0423_R at 0423_R.
 578 Exhibit 50-0012, 'Data survey summary', 12 February 2017, Case Study 50, CARC.0050.014.0003_R.
 579 Exhibit 50-0012, 'Statement of Brother Weldon', 24 February 1997, Case Study 50, CCI.0013.00015.0300_R.
 580 Exhibit 50-0012, 'Document titled 'Brother Keith Boyd Farrell – Ministry'', 26 February 2008, Case Study 50,
 CCI.0600.00006.0423_R; 'Appointment history', Case Study 50, CTJH.053.91001.0001_R.
 581 Exhibit 50-0012, 'Transcript of interview with Brother Turton', 30 March 2007, Case Study 50, CCI.0019.00006.0081_R
 at 0088_R; 'Special Issues Allegation Report', 14 January 1993, Case Study 50, CCI.0046.00038.0026_R; see further
 Exhibit 50-0012, 'Letter from CCI to Marist Brothers' lawyers', 29 July 1996, Case Study 50, CCI.0046.00038.0033_R
 which states: 'We note that the alleged offender in this case is Brother Stephen Farrell code named AB-1 in our records'.
 582 Exhibit 50-0012, 'Transcript of interview with Brother Turton', 30 March 2007, Case Study 50, CCI.0019.00006.0081_R
 at 0088–0092_R, 0094_R.
 583 Exhibit 50-0012, 'Special Issues Allegation Report', 14 January 1993, Case Study 50, CCI.0046.00038.0026_R.
 584 Exhibit 50-0012, 'Transcript of interview with Brother Turton', 30 March 2007, Case Study 50, CCI.0019.00006.0081_R
 at 0092_R.
 585 Exhibit 50-0012, 'Letter from Brother Farrell', 24 June 1978, Case Study 50, CCI.0097.00025.0253_R at 0256_R.
 586 Exhibit 50-0012, 'Special Issues Allegation Report', 14 January 1993, Case Study 50, CCI.0046.00038.0026_R;
 'Letter from CCI to Marist Brothers' lawyers', 29 July 1996, Case Study 50, CCI.0046.00038.0033_R.

587 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.053.91001.0001_R; 'Document titled
 588 'Brother Keith Boyd Farrell – Ministry', 26 February 2008, Case Study 50, CCI.0600.00006.0423_R at 0424_R.
 589 Exhibit 50-0012, 'Letter from Brother Farrell', 24 June 1978, Case Study 50, CCI.0097.00025.0253_R at 0256_R.
 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.053.91001.0001_R; 'Document titled
 'Brother Keith Boyd Farrell – Ministry', 26 February 2008, Case Study 50, CCI.0600.00006.0423_R at 0424_R;
 'Letter from Brother Farrell', 24 June 1978, Case Study 50, CCI.0097.00025.0253_R at 0257_R.
 590 Exhibit 50-0012, 'Data survey summary', 12 February 2017, Case Study 50, CARC.0050.014.0003_R.
 591 Exhibit 50-0012, 'Letter from Brother Farrell', 24 June 1978, Case Study 50, CCI.0097.00025.0253_R at 0255_R.
 592 Exhibit 50-0012, 'Data survey summary', 12 February 2017, Case Study 50, CARC.0050.014.0003_R.
 593 Exhibit 50-0012, 'Statement of GLJ', 9 October 2008, Case Study 50, CCI.0600.00003.0260_R at 0261_R.
 594 Exhibit 50-0012, 'Statement of GLJ', 9 October 2008, Case Study 50, CCI.0600.00003.0260_R at 0264_R.
 595 Exhibit 50-0012, 'Statement of GLJ', 9 October 2008, Case Study 50, CCI.0600.00003.0260_R at 0262_R.
 596 Exhibit 50-0012, 'Letter from CCI's investigators to CCI's lawyers', 12 May 2008, Case Study 50, CCI.0600.00001.0379_R
 at 0385–0386_R.
 597 Exhibit 50-0012, 'Statement of GLJ', 9 October 2008, Case Study 50, CCI.0600.00003.0260_R at 0263_R.
 598 Exhibit 50-0012, 'Letter from Brother Farrell', 23 May 1978, Case Study 50, CCI.0070.00015.0085_R.
 599 Exhibit 50-0012, 'Letter from Brother Farrell', 23 May 1978, Case Study 50, CCI.0070.00015.0085_R.
 600 Exhibit 50-0012, 'Letter from Brother Farrell', Case Study 50, CCI.0070.00015.0098_R; see further reference to
 'Br Kieran' as 'Ned': Exhibit 50-0012, 'Letter from Brother Farrell', 24 June 1978, Case Study 50, CCI.0097.00025.0253_R
 at 0253_R.
 601 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.053.91001.0001_R; 'Document titled
 'Brother Keith Boyd Farrell – Ministry', 26 February 2008, Case Study 50, CCI.0600.00006.0423_R at 0424_R.
 602 Exhibit 50-0012, 'Document titled 'Brother Keith Boyd Farrell – Ministry', 26 February 2008, Case Study 50,
 CCI.0600.00006.0423_R at 0424_R.
 603 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.053.91001.0001_R; 'Document titled
 'Brother Keith Boyd Farrell – Ministry', 26 February 2008, Case Study 50, CCI.0600.00006.0423_R at 0424_R.
 604 Exhibit 50-0012, 'Statement of GLJ', 9 October 2008, Case Study 50, CCI.0600.00003.0260_R at 0264_R.
 605 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.053.91001.0001_R; 'Document titled
 'Brother Keith Boyd Farrell – Ministry', 26 February 2008, Case Study 50, CCI.0600.00006.0423_R 0424–0425_R.
 606 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.053.91001.0001_R; 'Document titled
 'Brother Keith Boyd Farrell – Ministry', 26 February 2008, Case Study 50, CCI.0600.00006.0423_R at 0425_R.
 607 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.053.91001.0001_R; 'Document titled
 'Brother Keith Boyd Farrell – Ministry', 26 February 2008, Case Study 50, CCI.0600.00006.0423_R at 0425_R.
 608 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.053.91001.0001_R; 'Document titled
 'Brother Keith Boyd Farrell – Ministry', 26 February 2008, Case Study 50, CCI.0600.00006.0423_R at 0425_R.
 609 Exhibit 50-0012, 'Document titled 'Brother Keith Boyd Farrell – Ministry', 26 February 2008, Case Study 50,
 CCI.0600.00006.0423_R at 0425_R.
 610 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.053.91001.0001_R; 'Document titled
 'Brother Keith Boyd Farrell – Ministry', 26 February 2008, Case Study 50, CCI.0600.00006.0423_R at 0426_R.
 611 Exhibit 50-0012, 'Document titled 'Brother Keith Boyd Farrell – Ministry', 26 February 2008, Case Study 50,
 CCI.0600.00006.0423_R at 0426_R; 'Data survey summary', 12 February 2017, Case Study 50, CARC.0050.014.0003_R.
 612 Exhibit 50-0012, 'Data survey summary', 12 February 2017, Case Study 50, CARC.0050.014.0003_R.
 613 Exhibit 50-0012, 'GLW Appointment History', Case Study 50, CTJH.053.91001.0003_R; 'Data survey summary', 18
 January 2017, Case Study 50, CARC.0050.016.0001_R.
 614 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.016.0001_R.
 615 Exhibit 50-0012, 'GLW Appointment History', Case Study 50, CTJH.053.91001.0003_R.
 616 Exhibit 50-0012, 'GLW Appointment History', Case Study 50, CTJH.053.91001.0003_R; 'Summary of GLW's Ministry',
 5 February 2013, Case Study 50, CCI.0027.00013.0054_R at 0056_R.
 617 Exhibit 50-0012, 'Letter to the Provincial', 27 August 2007, Case Study 50, CCI.0064.00011.0010_R.
 618 Exhibit 50-0012, 'GLW Appointment History', Case Study 50, CTJH.053.91001.0003_R; 'Data survey summary',
 18 January 2017, Case Study 50, CARC.0050.016.0001_R.
 619 Exhibit 50-0012, 'GLW Appointment History', Case Study 50, CTJH.053.91001.0003_R.
 620 Exhibit 50-0012, 'GLW Appointment History', Case Study 50, CTJH.053.91001.0003_R; 'Summary of GLW's Ministry',
 5 February 2013, Case Study 50, CCI.0027.00013.0054_R at 0056_R.
 621 Exhibit 50-0012, 'Marist Brothers' response to Royal Commission Letter of Request dated 20 December 2013',
 2014, Case Study 50, CTJH.053.23001.0004_E_R; 'Data survey summary', 18 January 2017, Case Study 50,
 CARC.0050.016.0001_R; 'GLW Appointment History', Case Study 50, CTJH.053.91001.0003_R;
 'Summary of GLW's Ministry', 5 February 2013, Case Study 50, CCI.0027.00013.0054_R at 0056_R.
 622 Exhibit 50-0012, 'Special Issues Allegation Report', 14 January 1994, Case Study 50, CCI.0043.00035.0099_R.
 623 Exhibit 50-0012, 'Special Issues Allegation Report', 14 January 1994, Case Study 50, CCI.0043.00035.0099_R;
 'Marist Brothers' response to Royal Commission Letter of Request dated 20 December 2013', 2014, Case Study 50,
 CTJH.053.23001.0004_E_R; 'GLW Appointment History', Case Study 50, CTJH.053.91001.0003_R;
 'Summary of GLW's Ministry', 5 February 2013, Case Study 50, CCI.0027.00013.0054_R at 0056_R.
 624 Exhibit 50-0012, 'GLW Appointment History', Case Study 50, CTJH.053.91001.0003_R.
 625 Exhibit 50-0012, 'GLW Appointment History', Case Study 50, CTJH.053.91001.0003_R.

626 Exhibit 50-0012, 'Special Issues Allegation Report', 14 January 1994, Case Study 50, CCI.0043.00035.0099_R.
627 Exhibit 50-0012, 'Email from CCI to Marist Brothers and Attachment', 14 July 2013, Case Study 50, CCI.0027.00013.0051_R, CCI.0027.00013.0052_R.
628 Exhibit 50-0012, 'Special Issues Allegation Report', 14 January 1994, Case Study 50, CCI.0043.00035.0099_R.
629 Exhibit 50-0012, 'Email from CCI to Marist Brothers and Attachment', 14 July 2013, Case Study 50, CCI.0027.00013.0051_R, CCI.0027.00013.0052_R.
630 Exhibit 50-0012, 'GLW Appointment History', Case Study 50, CTJH.053.91001.0003_R.
631 Exhibit 50-0012, 'Special Issues Allegation Report', 14 January 1994, Case Study 50, CCI.0043.00035.0099_R.
632 Exhibit 50-0012, 'GLW Appointment History', Case Study 50, CTJH.053.91001.0003_R; 'Special Issues Allegation Report', 14 January 1994, Case Study 50, CCI.0043.00035.0099_R; 'Summary of GLW's Ministry', 5 February 2013, Case Study 50, CCI.0027.00013.0054_R at 0057_R; 'Marist Brothers' response to Royal Commission Letter of Request dated 20 December 2013', 2014, Case Study 50, CTJH.053.23001.0004_E_R.
633 Exhibit 50-0012, 'Special Issues Allegation Report', 14 January 1994, Case Study 50, CCI.0043.00035.0099_R.
634 Exhibit 50-0012, 'Summary of GLW's Ministry', 5 February 2013, Case Study 50, CCI.0027.00013.0054_R at 0057_R; 'GLW Appointment History', Case Study 50, CTJH.053.91001.0003_R.
635 Exhibit 50-0012, 'Summary of GLW's Ministry', 5 February 2013, Case Study 50, CCI.0027.00013.0054_R at 0057_R.
636 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.016.0001_R.
637 Exhibit 50-0012, 'Email from CCI to Marist Brothers and Attachment', 14 July 2013, Case Study 50, CCI.0027.00013.0051_R, CCI.0027.00013.0052_R.
638 Exhibit 50-0012, 'Special Issues Allegation Report', 14 January 1994, Case Study 50, CCI.0043.00035.0099_R.
639 Exhibit 50-0012, 'Special Issues Allegation Report', 14 January 1994, Case Study 50, CCI.0043.00035.0099_R.
640 Exhibit 50-0012, 'Special Issues Allegation Report', 14 January 1994, Case Study 50, CCI.0043.00035.0099_R.
641 Exhibit 50-0012, 'Contact Report – GCJ', 2013, Case Study 50, CCI.0027.00013.0035_R at 0037_R; 'Special Issues Allegation Report', 14 January 1994, Case Study 50, CCI.0043.00035.0099_R.
642 Exhibit 50-0012, 'Contact Report – GCJ', 2013, Case Study 50, CCI.0027.00013.0035_R at 0037_R.
643 Exhibit 50-0012, 'Further information provided by the Marist Brothers to the Royal Commission', 21 February 2017, Case Study 50, CORR.0647.001.0002_R.
644 Exhibit 50-0012, 'Further information provided by the Marist Brothers to the Royal Commission', 21 February 2017, Case Study 50, CORR.0647.001.0002_R.
645 Exhibit 50-0012, 'Further information provided by the Marist Brothers to the Royal Commission', 21 February 2017, Case Study 50, CORR.0647.001.0002_R.
646 Exhibit 50-0012, 'Further information provided by the Marist Brothers to the Royal Commission', 21 February 2017, Case Study 50, CORR.0647.001.0002_R.
647 Exhibit 50-0012, 'Summary of GLW's Ministry', 5 February 2013, Case Study 50, CCI.0027.00013.0054_R at 0057_R; 'GLW Appointment History', Case Study 50, CTJH.053.91001.0003_R.
648 Exhibit 50-0012, 'Special Issues Allegation Report', 14 January 1994, Case Study 50, CCI.0043.00035.0099_R; see further Exhibit 50-0012, 'Marist Brothers' response to Royal Commission Letter of Request dated 20 December 2013', 2014, Case Study 50, CTJH.053.23001.0004_E_R.
649 Exhibit 50-0012, 'GLW Appointment History', Case Study 50, CTJH.053.91001.0003_R.
650 Exhibit 50-0012, 'Special Issues Allegation Report', 14 January 1994, Case Study 50, CCI.0043.00035.0099_R.
651 Exhibit 50-0012, 'GLW Appointment History', Case Study 50, CTJH.053.91001.0003_R.
652 Exhibit 50-0012, 'GLW Appointment History', Case Study 50, CTJH.053.91001.0003_R.
653 Exhibit 50-0012, 'GLW Appointment History', Case Study 50, CTJH.053.91001.0003_R; 'Email from Marist Brothers Professional Standards Office to NSW Professional Standards Office', 2013, Case Study 50, CCI.0027.00013.0041_R.
654 Exhibit 50-0012, 'Further information provided by the Marist Brothers to the Royal Commission', 21 February 2017, Case Study 50, CORR.0647.001.0002_R.
655 Exhibit 50-0012, 'Email from NSW Police to the Marist Brothers', 6 January 2016, Case Study 50, CTJH.053.70102.0001_R; 'Further information provided by the Marist Brothers to the Royal Commission', 21 February 2017, Case Study 50, CORR.0647.001.0002_R.
656 Exhibit 50-0012, 'GLW Appointment History', Case Study 50, CTJH.053.91001.0003_R.
657 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.016.0001_R.
658 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.016.0001_R.
659 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.022.0001_R; 'Archdiocese of Sydney appointment history for McNeill', Case Study 50, CTJH.400.91001.0018_R.
660 Exhibit 50-0012, 'Diocese of Broken Bay appointment history for McNeill', 13 December 2016, Case Study 50, CTJH.070.91001.0036_R; 'Archdiocese of Sydney appointment history for McNeill', Case Study 50, CTJH.400.91001.0017_R.
661 Exhibit 50-0012, 'Diocese of Broken Bay appointment history for McNeill', 13 December 2016, Case Study 50, CTJH.070.91001.0036_R; 'Archdiocese of Sydney appointment history for McNeill', Case Study 50, CTJH.400.91001.0018_R.
662 Exhibit 50-0012, 'Diocese of Broken Bay appointment history for McNeill', 13 December 2016, Case Study 50, CTJH.070.91001.0036_R.
663 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.022.0001_R.
664 Exhibit 50-0012, 'Archdiocese of Sydney appointment history for McNeill', Case Study 50, CTJH.400.91001.0018_R; 'Diocese of Broken Bay appointment history for McNeill', 13 December 2016, Case Study 50, CTJH.070.91001.0036_R.

665 Exhibit 50-0012, 'Assessment Report', Case Study 50, CCI.0058.00007.0037_R at 0039-0041_R; 'Letter from CCI's
lawyers to CCI about GEA claim', 2 June 2004, Case Study 50, CCI.0058.00007.0057_R at 0058_R; 'Data survey
summary', 18 January 2017, Case Study 50, CARC.0050.022.0001_R.

666 Exhibit 50-0012, 'Archdiocese of Sydney appointment history for McNeill', Case Study 50, CTJH.400.91001.0018_R;
'Diocese of Broken Bay appointment history for McNeill', 13 December 2016, Case Study 50, CTJH.070.91001.0036_R.

667 Exhibit 50-0012, 'Diocese of Broken Bay appointment history for McNeill', 13 December 2016, Case Study 50,
CTJH.070.91001.0036_R.

668 Exhibit 50-0012, 'Diocese of Broken Bay appointment history for McNeill', 13 December 2016, Case Study 50,
CTJH.070.91001.0036_R.

669 Exhibit 50-0012, 'Assessment Report', Case Study 50, CCI.0058.00007.0037_R at 0042_R; 'Letter to Professional
Standards Office', 16 July 2002, Case Study 50, CCI.0058.00007.0036_R.

670 Exhibit 50-0012, 'Assessment Report', Case Study 50, CCI.0058.00007.0037_R at 0043_R, 0044_R; 'Letter from CCI's
lawyers to CCI about GEA claim', 2 June 2004, Case Study 50, CCI.0058.00007.0057_R at 0058_R.

671 Exhibit 50-0012, 'Assessment Report', Case Study 50, CCI.0058.00007.0037_R at 0043_R, 0044_R.

672 Exhibit 50-0012, 'Assessment Report', Case Study 50, CCI.0058.00007.0037_R at 0044_R; see further Exhibit 50-0012,
'Letter from CCI's lawyers to CCI about GEA claim', 2 June 2004, Case Study 50, CCI.0058.00007.0057_R at 0058_R.

673 Exhibit 50-0012, 'Letter from CCI's lawyers to CCI about GEA claim', 2 June 2004, Case Study 50, CCI.0058.00007.0057_R
at 0058_R.

674 Exhibit 50-0012, 'Assessment Report', Case Study 50, CCI.0058.00007.0037_R at 0043_R.

675 Exhibit 50-0012, 'Medical Certificate re McNeill', 18 July 1969, Case Study 50, CCI.0058.00007.0047_R.

676 Exhibit 50-0012, 'Assessment Report', Case Study 50, CCI.0058.00007.0037_R at 0044_R, 0046_R; see further Exhibit
50-0012, 'Letter from CCI's lawyers to CCI about GEA claim', 2 June 2004, Case Study 50, CCI.0058.00007.0057_R
at 0058_R.

677 Exhibit 50-0012, 'Letter from CCI to the Diocese of Broken Bay', 28 July 2004, Case Study 50, CCI.0058.00007.0031_R;
'Letter from CCI's lawyers to CCI', 11 November 2004, Case Study 50, CCI.0058.00007.0029_R.

678 Exhibit 50-0012, 'Assessment Report', Case Study 50, CCI.0058.00007.0037_R at 0046_R.

679 Exhibit 50-0012, 'Letter from CCI's lawyers to CCI about GEA claim', 2 June 2004, Case Study 50, CCI.0058.00007.0057_R
at 0058_R.

680 Exhibit 50-0012, 'Assessment Report', Case Study 50, CCI.0058.00007.0037_R at 0044_R; see further Exhibit 50-0012,
'Letter from CCI's lawyers to CCI about GEA claim', 2 June 2004, Case Study 50, CCI.0058.00007.0057_R at 0059_R.

681 Exhibit 50-0012, 'Diocese of Broken Bay appointment history for McNeill', 13 December 2016, Case Study
50, CTJH.070.91001.0036_R; 'Archdiocese of Sydney appointment history for McNeill', Case Study 50,
CTJH.400.91001.0017_R; 'Letter from CCI's lawyers to CCI about GEA claim', 2 June 2004, Case Study 50,
CCI.0058.00007.0057_R at 0058_R.

682 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.022.0001_R.

683 Exhibit 50-0012, 'Diocese of Broken Bay appointment history for McNeill', 13 December 2016, Case Study 50,
CTJH.070.91001.0036_R; 'Further information provided by the Diocese of Broken Bay to the Royal Commission',
21 February 2017, Case Study 50, CORR.0647.001.0007_R.

684 Exhibit 50-0012, 'Diocese of Broken Bay appointment history for McNeill', 13 December 2016, Case Study 50,
CTJH.070.91001.0036_R; 'Further information provided by the Diocese of Broken Bay to the Royal Commission',
21 February 2017, Case Study 50, CORR.0647.001.0007_R.

685 Exhibit 50-0012, 'Clergy Personal Information form for McNeill', 26 June 2002, Case Study 50, CTJH.070.02002.0009_R.

686 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.022.0001_R.

687 Exhibit 50-0012, 'Diocese of Broken Bay appointment history for McNeill', 13 December 2016, Case Study 50,
CTJH.070.91001.0036_R.

688 Exhibit 50-0012, 'Diocese of Broken Bay appointment history for McNeill', 13 December 2016, Case Study 50,
CTJH.070.91001.0036_R.

689 Exhibit 50-0012, 'Further information provided by the Diocese of Broken Bay to the Royal Commission',
21 February 2017, Case Study 50, CORR.0647.001.0007_R.

690 Exhibit 50-0012, 'Diocese of Broken Bay appointment history for McNeill', 13 December 2016, Case Study 50,
CTJH.070.91001.0036_R.

691 Exhibit 50-0012, 'Diocese of Broken Bay appointment history for McNeill', 13 December 2016, Case Study
50, CTJH.070.91001.0036_R; 'Clergy Personal Information form for McNeill', 26 June 2002, Case Study 50,
CTJH.070.02002.0009_R.

692 Exhibit 50-0012, 'Letter from the Professional Standards Office to Bishop Walker', 3 June 1997, Case Study 50,
CTJH.070.02002.0014_R.

693 Exhibit 50-0012, 'Professional Standards Office Memorandum', 23 February 2000, Case Study 50,
CTJH.070.02002.0011_R; see further Exhibit 50-0012, 'Further information provided by the Diocese of Broken Bay
to the Royal Commission', 21 February 2017, Case Study 50, CORR.0647.001.0007_R.

694 Exhibit 50-0012, 'Assessment Report', Case Study 50, CCI.0058.00007.0037_R at 0039_R.

695 Exhibit 50-0012, 'Assessment Report', Case Study 50, CCI.0058.00007.0037_R at 0046_R.

696 Exhibit 50-0012, 'Assessment Report', Case Study 50, CCI.0058.00007.0037_R at 0046_R.

697 Exhibit 50-0012, 'Letter from Bishop Walker to the Professional Standards Office', 20 September 2002, Case Study 50,
CTJH.070.02002.0012_R.

698 Exhibit 50-0012, 'Letter from Bishop Walker to McNeill', 2 November 2004, Case Study 50, CTJH.070.02002.0013_R.
699 Exhibit 50-0012, 'Diocese of Broken Bay appointment history for McNeill', 13 December 2016, Case Study 50, CTJH.070.91001.0036_R; 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.022.0001_R; 'Archdiocese of Sydney appointment history for McNeill', Case Study 50, CTJH.400.91001.0018_R.
700 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.022.0001_R.
701 Exhibit 50-0012, 'Data survey summary', 8 February 2017, Case Study 50, CARC.0050.003.0005_R at 0005_R.
702 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R.
703 Exhibit 50-0012, 'Letter from Father Cooney to Vincentian Fathers' lawyers', 24 April 2008, Case Study 50, CCI.0242.00001.0151_R; 'Memorandum from CCI's lawyers to CCI', 1 April 2011, Case Study 50, CCI.0004.00003.0116_R at 0116_R; 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R; 'Data survey summary', 8 February 2017, Case Study 50, CARC.0050.003.0005_R at 0005_R.
704 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R.
705 Exhibit 50-0012, 'Data survey summary', 8 February 2017, Case Study 50, CARC.0050.003.0005_R at 0005_R.
706 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R.
707 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R.
708 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R.
709 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R.
710 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R.
711 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R.
712 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R.
713 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R.
714 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R; 'Diocese of Port Pirie appointment history for Barnett', 8 December 2016, Case Study 50, CTJH.069.91001.0001_R at 0001_R.
715 Exhibit 50-0012, 'Diocese of Port Pirie appointment history for Barnett', 8 December 2016, Case Study 50, CTJH.069.91001.0001_R at 0001_R, 0002_R.
716 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R; 'Professional Standards Resource Group Report', 30 September 2004, Case Study 50, CCI.0004.00002.0192_R at 0193_R; 'Diocese of Port Pirie appointment history for Barnett', 8 December 2016, Case Study 50, CTJH.069.91001.0001_R at 0001-0002_R.
717 Exhibit 50-0012, 'Data survey summary', 8 February 2017, Case Study 50, CARC.0050.003.0005_R at 0006_R, 0007_R; 'Letter from CCI to Bishop of Port Pirie', 11 September 2011, Case Study 50, CCI.0004.00002.0110_R.
718 Exhibit 50-0012, 'Data survey summary', 8 February 2017, Case Study 50, CARC.0050.003.0005_R at 0007_R.
719 Exhibit 50-0012, 'Sentencing remarks for Barnett', 5 August 2010, Case Study 50, CCI.0033.00004.0284_R at 0284-0285_R, 0290_R; 'Memorandum from CCI's lawyers to CCI', 1 April 2011, Case Study 50, CCI.0004.00003.0116_R at 0117_R.
720 Exhibit 50-0012, 'Memorandum from CCI's lawyers to CCI', 1 April 2011, Case Study 50, CCI.0004.00003.0116_R at 0119_R.
721 Exhibit 50-0012, 'Statement to police by GEF', 2006, Case Study 50, CCI.0033.00004.0266_R at 0271_R.
722 Exhibit 50-0012, 'Memorandum from CCI's lawyers to CCI', 1 April 2011, Case Study 50, CCI.0004.00003.0116_R at 0124_R, 0126_R.
723 Exhibit 50-0012, 'Memorandum from CCI's lawyers to CCI', 1 April 2011, Case Study 50, CCI.0004.00003.0116_R at 0124_R, 0125_R.
724 Exhibit 50-0012, 'Memorandum from CCI's lawyers to CCI', 1 April 2011, Case Study 50, CCI.0004.00003.0116_R at 0125_R.
725 Exhibit 50-0012, 'Letter from CCI to Bishop of Port Pirie', 11 September 2011, Case Study 50, CCI.0004.00002.0110_R.
726 Exhibit 50-0012, 'Further information provided by the Diocese of Port Pirie to the Royal Commission', 21 February 2017, Case Study 50, CORR.0647.001.0003_R; 'Handwritten file note', 2002, Case Study 50, CTJH.069.02003.0001_R at 0004_R.
727 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R.
728 Exhibit 50-0012, 'Transcript of interview of Father Scott', Case Study 50, CCI.0081.00001.0033_R at 0033_R, 0034_R.
729 Exhibit 50-0012, 'Letter from CCI's lawyers to the Vincentian Fathers' lawyers', 13 April 2011, Case Study 50, CCI.0500.00008.0002_R.

730 Exhibit 50-0012, 'Letter from CCI's lawyers to CCI', 12 April 2011, Case Study 50, CCI.0081.00001.0027_R at 0029_R, 0030_R.

731 Exhibit 50-0012, 'Further information provided by the Diocese of Port Pirie to the Royal Commission', 21 February 2017, Case Study 50, CORR.0647.001.0003_R.

732 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R.

733 Exhibit 50-0012, 'Letter from Father Cooney to Vincentian Fathers' lawyers', 24 April 2008, Case Study 50, CCI.0242.00001.0151_R.

734 Exhibit 50-0012, 'Transcript of interview of Father Scott', Case Study 50, CCI.0081.00001.0033_R at 0035-0036_R.

735 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R.

736 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R.

737 Exhibit 50-0012, 'Data survey summary', 8 February 2017, Case Study 50, CARC.0050.003.0005_R at 0007_R.

738 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R.

739 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R.

740 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R.

741 Exhibit 50-0012, 'Data survey summary', 8 February 2017, Case Study 50, CARC.0050.003.0005_R at 0007_R.

742 Exhibit 50-0012, 'Sentencing remarks for Barnett', 5 August 2010, Case Study 50, CCI.0033.00004.0284_R at 0284-0285_R, 0290_R; 'Memorandum from CCI's lawyers to CCI', 1 April 2011, Case Study 50, CCI.0004.00003.0116_R at 0117_R.

743 Exhibit 50-0012, 'Addition to Proposal for Special Issues Liability Insurance', 9 April 1994, Case Study 50, CCI.0043.00025.0008_R; 'Letter from Father Mannix to CCI', 9 April 1994, Case Study 50, CCI.0043.00025.0007_R; 'Letter from Father Cooney to Vincentian Fathers' lawyers', 24 April 2008, Case Study 50, CCI.0242.00001.0151_R.

744 Exhibit 50-0012, 'Special Issues Notification', 14 July 1995, Case Study 50, CCI.0400.00035.0006_R; 'Letter from Father Mannix to CCI', 14 July 1995, Case Study 50, CCI.0400.00035.0008_R; 'Letter from Father Cooney to Vincentian Fathers' lawyers', 24 April 2008, Case Study 50, CCI.0242.00001.0151_R.

745 Exhibit 50-0012, 'Special Issues Notification', 14 July 1995, Case Study 50, CCI.0400.00035.0006_R; 'Letter from Father Cooney to Vincentian Fathers' lawyers', 24 April 2008, Case Study 50, CCI.0242.00001.0151_R.

746 Exhibit 50-0012, 'Professional Standards Office appointment history for Barnett', 3 March 2008, Case Study 50, CCI.0004.00002.0197_R; 'Sentencing remarks for Barnett', 5 August 2010, Case Study 50, CCI.0033.00004.0284_R at 0286_R.

747 Exhibit 50-0012, 'Professional Standards Resource Group Report', 30 September 2004, Case Study 50, CCI.0004.00002.0192_R at 0195_R.

748 Exhibit 50-0012, 'Data survey summary', 8 February 2017, Case Study 50, CARC.0050.003.0005_R at 0005_R.

749 Exhibit 50-0012, 'Sentencing remarks for Barnett', 5 August 2010, Case Study 50, CCI.0033.00004.0284_R at 0286_R.

750 Exhibit 50-0012, 'Sentencing remarks for Barnett', 5 August 2010, Case Study 50, CCI.0033.00004.0284_R at 0284-0285_R, 0290_R; 'Memorandum from CCI's lawyers to CCI', 1 April 2011, Case Study 50, CCI.0004.00003.0116_R at 0117_R.

751 Exhibit 50-0012, 'Data survey summary', 8 February 2017, Case Study 50, CARC.0050.003.0005_R at 0006-0008_R.

752 Exhibit 50-0012, 'Data survey summary', 8 February 2017, Case Study 50, CARC.0050.003.0005_R at 0006-0008_R.

753 Exhibit 50-0012, 'Data survey summary', 8 February 2017, Case Study 50, CARC.0050.003.0005_R at 0007_R.

754 Exhibit 50-0012, 'Secular Clergy Personal Information Form', Case Study 50, CTJH.400.91001.0003_R.

755 Exhibit 50-0012, 'Secular Clergy Personal Information Form', Case Study 50, CTJH.400.91001.0003_R; 'Data survey summary', 24 March 2017, Case Study 50, CARC.0050.021.0005_R.

756 Exhibit 50-0012, 'Secular Clergy Personal Information Form', Case Study 50, CTJH.400.91001.0003_R; 'Appointment history', 1 July 2013, Case Study 50, CTJH.400.91001.0001_R; 'Appointment history', Case Study 50, CTJH.400.91001.0005_R.

757 Exhibit 50-0012, 'Secular Clergy Personal Information Form', Case Study 50, CTJH.400.91001.0003_R; 'Appointment history', Case Study 50, CTJH.400.91001.0005_R.

758 Exhibit 50-0012, 'Letter from GJM to Archbishop Freeman', 27 November 1972, Case Study 50, CCI.0097.00236.0028_R.

759 Exhibit 50-0012, 'Letter from GJM to Archbishop Freeman', 27 November 1972, Case Study 50, CCI.0097.00236.0028_R.

760 Exhibit 50-0012, 'Letter from GJM to Archbishop Freeman', 27 November 1972, Case Study 50, CCI.0097.00236.0028_R.

761 Exhibit 50-0012, 'Letter from GJM to Archbishop Freeman', 27 November 1972, Case Study 50, CCI.0097.00236.0028_R.

762 Exhibit 50-0012, 'Letter from GJM to Archbishop Freeman', 27 November 1972, Case Study 50, CCI.0097.00236.0028_R.

763 Exhibit 50-0012, 'Letter from GJM to Archbishop Freeman', 27 November 1972, Case Study 50, CCI.0097.00236.0028_R.

764 Exhibit 50-0012, 'Copy of letter from Archbishop Freeman to GJM', 19 December 1972, Case Study 50, CCI.0097.00236.0029_R.

765 Exhibit 50-0012, 'Copy of letter from Archbishop Freeman to Flaherty', 19 December 1972, Case Study 50, CCI.0097.00236.0030_R.

766 Exhibit 50-0012, 'Letter from CCI to the Archdiocese of Sydney', 22 October 2015, Case Study 50, CCI.0097.00236.0017_R.

767 Exhibit 50-0012, 'Secular Clergy Personal Information Form', Case Study 50, CTJH.400.91001.0003_R;
'Appointment history', 1 July 2013, Case Study 50, CTJH.400.91001.0001_R; 'Appointment history', Case Study 50,
CTJH.400.91001.0005_R.

768 Exhibit 50-0012, 'Secular Clergy Personal Information Form', Case Study 50, CTJH.400.91001.0003_R;
'Appointment history', 1 July 2013, Case Study 50, CTJH.400.91001.0001_R; 'Appointment history', Case Study 50,
CTJH.400.91001.0005_R.

769 Exhibit 50-0012, 'Letter from CCI to the Archdiocese of Sydney', 22 October 2015, Case Study 50,
CCI.0097.00236.0017_R at 0017_R; 'Data survey summary', 24 March 2017, Case Study 50, CARC.0050.021.0005_R.

770 Exhibit 50-0012, 'Secular Clergy Personal Information Form', Case Study 50, CTJH.400.91001.0003_R;
'Appointment history', 1 July 2013, Case Study 50, CTJH.400.91001.0001_R; 'Appointment history', Case Study 50,
CTJH.400.91001.0005_R.

771 Exhibit 50-0012, 'Email correspondence between CCI and the Archdiocese of Sydney', October 2015, Case Study 50,
CCI.0097.00236.0025_R at 0025_R; 'Data survey summary', 24 March 2017, Case Study 50, CARC.0050.021.0005_R.

772 Exhibit 50-0012, 'Secular Clergy Personal Information Form', Case Study 50, CTJH.400.91001.0003_R;
'Appointment history', 1 July 2013, Case Study 50, CTJH.400.91001.0001_R; 'Appointment history', Case Study 50,
CTJH.400.91001.0005_R.

773 Exhibit 50-0012, 'Secular Clergy Personal Information Form', Case Study 50, CTJH.400.91001.0003_R;
'Appointment history', 1 July 2013, Case Study 50, CTJH.400.91001.0001_R; 'Appointment history', Case Study 50,
CTJH.400.91001.0005_R.

774 Exhibit 50-0012, 'Secular Clergy Personal Information Form', Case Study 50, CTJH.400.91001.0003_R.

775 Exhibit 50-0012, 'Appointment history', 1 July 2013, Case Study 50, CTJH.400.91001.0001_R; 'Appointment history',
Case Study 50, CTJH.400.91001.0005_R.

776 Exhibit 50-0012, 'Email correspondence between CCI and the Archdiocese of Sydney', October 2015, Case Study 50,
CCI.0097.00236.0025_R at 0025_R.

777 Exhibit 50-0012, 'Secular Clergy Personal Information Form', Case Study 50, CTJH.400.91001.0003_R;
'Appointment history', Case Study 50, CTJH.400.91001.0005_R.

778 Exhibit 50-0012, 'Data survey summary', 24 March 2017, Case Study 50, CARC.0050.021.0005_R.

779 Exhibit 50-0012, 'Secular Clergy Personal Information Form', Case Study 50, CTJH.400.91001.0003_R;
'Appointment history', 1 July 2013, Case Study 50, CTJH.400.91001.0001_R; 'Appointment history', Case Study 50,
CTJH.400.91001.0005_R.

780 Exhibit 50-0012, 'Secular Clergy Personal Information Form', Case Study 50, CTJH.400.91001.0003_R;
'Appointment history', 1 July 2013, Case Study 50, CTJH.400.91001.0001_R; 'Appointment history', Case Study 50,
CTJH.400.91001.0005_R.

781 Exhibit 50-0012, 'Secular Clergy Personal Information Form', Case Study 50, CTJH.400.91001.0003_R;
'Appointment history', Case Study 50, CTJH.400.91001.0005_R.

782 Exhibit 50-0012, 'Email correspondence between CCI and the Archdiocese of Sydney', October 2015, Case Study 50,
CCI.0097.00236.0025_R.

783 Exhibit 50-0012, 'Email correspondence between CCI and the Archdiocese of Sydney', October 2015, Case Study
50, CCI.0097.00236.0025_R at 0025_R; 'Further information provided by the Archdiocese of Sydney to the Royal
Commission', 21 February 2017, Case Study 50, CORR.0647.001.0005_R; 'Data survey summary', 24 March 2017,
Case Study 50, CARC.0050.021.0005_R.

784 Exhibit 50-0012, 'Data survey summary', 24 March 2017, Case Study 50, CARC.0050.021.0005_R.

785 Exhibit 50-0012, 'Email correspondence between CCI and the Archdiocese of Sydney', October 2015, Case Study 50,
CCI.0097.00236.0025_R at 0026_R.

786 Exhibit 50-0012, 'Email correspondence between CCI and the Archdiocese of Sydney', October 2015, Case Study 50,
CCI.0097.00236.0025_R at 0026_R; 'Data survey summary', 24 March 2017, Case Study 50, CARC.0050.021.0005_R.

787 Exhibit 50-0012, 'Data survey summary', 24 March 2017, Case Study 50, CARC.0050.021.0005_R.

788 Exhibit 50-0012, 'Data survey summary', 10 February 2017, Case Study 50, CARC.0050.001.0005_R.

789 Exhibit 50-0012, 'GKI's Application for Position of Senior Primary Teacher', 26 May 1988, Case Study 50,
CTJH.210.91001.0001_R at 0002_R.

790 Exhibit 50-0012, 'GKI's Application for Position of Senior Primary Teacher', 26 May 1988, Case Study 50,
CTJH.210.91001.0001_R at 0003_R.

791 Exhibit 50-0012, 'GKI's Application for Position of Senior Primary Teacher', 26 May 1988, Case Study 50,
CTJH.210.91001.0001_R at 0003_R; 'GKI's Application for Teaching Position in the Diocese of Maitland-Newcastle',
25 March 1974, Case Study 50, CCI.0054.00008.0141_R at 0142_R.

792 Exhibit 50-0012, 'Affidavit by GKI', 16 February 2005, Case Study 50, CCI.0054.00008.0094_R.

793 Exhibit 50-0012, 'GKI's Application for Teaching Position in the Diocese of Maitland-Newcastle', 25 March 1974,
Case Study 50, CCI.0054.00008.0141_R.

794 Exhibit 50-0012, 'GKI's Application for Teaching Position in the Diocese of Maitland-Newcastle', 25 March 1974,
Case Study 50, CCI.0054.00008.0141_R.

795 Exhibit 50-0012, 'Affidavit by GKI', 16 February 2005, Case Study 50, CCI.0054.00008.0094_R.

796 Exhibit 50-0012, 'Affidavit by GKI', 16 February 2005, Case Study 50, CCI.0054.00008.0094_R.

797 Exhibit 50-0012, 'Affidavit by GKI', 16 February 2005, Case Study 50, CCI.0054.00008.0094_R.

798 Exhibit 50-0012, 'Affidavit by GKI', 16 February 2005, Case Study 50, CCI.0054.00008.0094_R;
'Employment reference by GLG', 3 April 1974, Case Study 50, CCI.0054.00010.0144_R.

799 Exhibit 50-0012, 'Employment reference', 30 March 1974, Case Study 50, CCI.0054.00008.0149_R.
800 Exhibit 50-0012, 'Employment reference', March 1974, Case Study 50, CCI.0054.00008.0146_R.
801 Exhibit 50-0012, 'GKI's Application for Teaching Position in the Diocese of Maitland-Newcastle', 25 March 1974, Case Study 50, CCI.0054.00008.0141_R at 0144_R.
802 Exhibit 50-0012, 'Letter from CCI to Bishop Malone', 21 February 2005, Case Study 50, CCI.0054.00008.0016_R.
803 Exhibit 50-0012, 'GKI's Statement of Service', 27 September 1988, Case Study 50, CCI.0054.00008.0195_R; 'GKI's Application for Position of Senior Primary Teacher', 26 May 1988, Case Study 50, CTJH.210.91001.0001_R.
804 Exhibit 50-0012, 'Data survey summary', 10 February 2017, Case Study 50, CARC.0050.001.0005_R.
805 Exhibit 50-0012, 'GKI's Statement of Service', 27 September 1988, Case Study 50, CCI.0054.00008.0195_R; 'GKI's Application for Position of Senior Primary Teacher', 26 May 1988, Case Study 50, CTJH.210.91001.0001_R.
806 Exhibit 50-0012, 'Data survey summary', 10 February 2017, Case Study 50, CARC.0050.001.0005_R.
807 Exhibit 50-0012, 'GKI's Statement of Service', 27 September 1988, Case Study 50, CCI.0054.00008.0195_R.
808 Exhibit 50-0012, 'Data survey summary', 10 February 2017, Case Study 50, CARC.0050.001.0005_R.
809 Exhibit 50-0012, 'Letter from CCI to Bishop Malone', 21 February 2005, Case Study 50, CCI.0054.00008.0016_R; 'Letter from Monsignor Coolahan to Monsignor Wilson', 28 October 1988, Case Study 50, CCI.0054.00008.0217_R at 0217_R.
810 Exhibit 50-0012, 'Draft Affidavit by GKH', 1 July 2004, Case Study 50, CCI.0054.00010.0048_R.
811 Exhibit 50-0012, 'Draft Affidavit by GKH', 1 July 2004, Case Study 50, CCI.0054.00010.0048_R.
812 Exhibit 50-0012, 'Letter from GKH to GMX', Case Study 50, CCI.0054.00008.0173_R.
813 Exhibit 50-0012, 'Draft Affidavit by GKH', 1 July 2004, Case Study 50, CCI.0054.00010.0048_R.
814 Exhibit 50-0012, 'Interview by Arrow Insurance Adjusting with GKH', Case Study 50, CCI.0054.00008.0102_R at 0109_R; CCI has informed the Royal Commission that this interview was conducted in 2003; 'Correspondence on behalf of CCI to the Royal Commission', 10 January 2017, Case Study 50, CORR.0356.001.0001_R.
815 Exhibit 50-0012, 'Affidavit by GMX', 13 February 2004, Case Study 50, CCI.0054.00010.0149_R; see further Exhibit 50-0012, 'Interview by Arrow Insurance Adjusting with GMX', Case Study 50, CCI.0054.00008.0161_R at 0163_R; CCI has informed the Royal Commission that this interview was conducted in 2003; 'Correspondence on behalf of CCI to the Royal Commission', 10 January 2017, Case Study 50, CORR.0356.001.0001_R.
816 Exhibit 50-0012, 'Affidavit by GKA', 19 May 2004, Case Study 50, CCI.0054.00010.0103_R.
817 Exhibit 50-0012, 'Affidavit by GKA', 19 May 2004, Case Study 50, CCI.0054.00010.0103_R.
818 Exhibit 50-0012, 'Affidavit by GKB', 30 April 2004, Case Study 50, CCI.0054.00010.0125_R.
819 Exhibit 50-0012, 'Affidavit by GKC', 29 April 2004, Case Study 50, CCI.0054.00010.0122_R.
820 Exhibit 50-0012, 'Affidavit by GKC', 29 April 2004, Case Study 50, CCI.0054.00010.0122_R; 'Affidavit by GKB', 30 April 2004, Case Study 50, CCI.0054.00010.0125_R; 'Letter from GKD to GMX', 20 November 1987, Case Study 50, CCI.0054.00008.0177_R.
821 Exhibit 50-0012, 'Affidavit by GKB', 30 April 2004, Case Study 50, CCI.0054.00010.0125_R; see further Exhibit 50-0012, 'Affidavit by GKC', 29 April 2004, Case Study 50, CCI.0054.00010.0122_R.
822 Exhibit 50-0012, 'Affidavit by GKD', 4 March 2004, Case Study 50, CCI.0054.00010.0134_R.
823 Exhibit 50-0012, 'Letter from GKD to GMX', 20 November 1987, Case Study 50, CCI.0054.00008.0177_R; see further Exhibit 50-0012, 'Interview by Arrow Insurance Adjusting with GKD', Case Study 50, CCI.0054.00009.0372_R at 0374-0376_R.
824 Exhibit 50-0012, 'Letter from GKD to GMX', 20 November 1987, Case Study 50, CCI.0054.00008.0177_R.
825 Exhibit 50-0012, 'Letter from Monsignor Coolahan to Monsignor Wilson', 28 October 1988, Case Study 50, CCI.0054.00008.0217_R at 0218_R.
826 Exhibit 50-0012, 'Letter from Monsignor Coolahan to Monsignor Wilson', 28 October 1988, Case Study 50, CCI.0054.00008.0217_R at 0217_R.
827 Exhibit 50-0012, 'Letter from Monsignor Coolahan to Monsignor Wilson', 28 October 1988, Case Study 50, CCI.0054.00008.0217_R at 0217_R; see further Exhibit 50-0012, 'Affidavit by GKT', 5 May 2004, Case Study 50, CCI.0054.00010.0105_R.
828 Exhibit 50-0012, 'Letter from Monsignor Coolahan to GKI', 21 September 1988, Case Study 50, CCI.0054.00008.0179_R; see further Exhibit 50-0012, 'Letter from Monsignor Coolahan to Monsignor Wilson', 28 October 1988, Case Study 50, CCI.0054.00008.0217_R at 0217-0218_R.
829 Exhibit 50-0012, 'Letter from Monsignor Coolahan to Monsignor Wilson', 28 October 1988, Case Study 50, CCI.0054.00008.0217_R at 0218_R; 'Minutes of Meeting with GKI and CEO', 23 September 1988, Case Study 50, CCI.0054.00008.0186_R.
830 Exhibit 50-0012, 'Minutes of Meeting with GKI and CEO', 23 September 1988, Case Study 50, CCI.0054.00008.0186_R.
831 Exhibit 50-0012, 'Letter from Monsignor Coolahan to GKI', 27 September 1988, Case Study 50, CCI.0054.00008.0196_R; 'GKI's Statement of Service', 27 September 1988, Case Study 50, CCI.0054.00008.0195_R.
832 Exhibit 50-0012, 'Letter from Monsignor Coolahan to Monsignor Wilson', 28 October 1988, Case Study 50, CCI.0054.00008.0217_R at 0218_R.
833 Exhibit 50-0012, 'Letter from Parents to Monsignor Coolahan', 29 September 1988, Case Study 50, CCI.0054.00008.0199_R; 'Letter from Monsignor Wilson to Monsignor Coolahan', 18 October 1988, Case Study 50, CCI.0054.00008.0208_R; 'Letter from Monsignor Coolahan to Monsignor Wilson', 28 October 1988, Case Study 50, CCI.0054.00008.0217_R at 0219-0221_R.
834 Exhibit 50-0012, 'Letter from Monsignor Wilson to GKB', 16 October 1988, Case Study 50, CCI.0054.00008.0228_R.

- 835 Exhibit 50-0012, 'Letter from Monsignor Coolahan to Monsignor Wilson', 28 October 1988, Case Study 50, CCI.0054.00008.0217_R at 0222_R; 'Letter from Monsignor Wilson to GKB', 16 October 1988, Case Study 50, CCI.0054.00008.0228_R.
- 836 Exhibit 50-0012, 'Letter from CCI to Bishop Malone', 21 February 2005, Case Study 50, CCI.0054.00008.0016_R; 'Letter from Monsignor Coolahan to Monsignor Wilson', 28 October 1988, Case Study 50, CCI.0054.00008.0217_R at 0217_R.
- 837 Exhibit 50-0012, 'Report to Bishop Clarke', 17 August 1990, Case Study 50, CCI.0054.00008.0245_R.
- 838 Exhibit 50-0012, 'Report to Bishop Clarke', 17 August 1990, Case Study 50, CCI.0054.00008.0245_R at 0246_R.
- 839 Exhibit 50-0012, 'Report to Bishop Clarke', 17 August 1990, Case Study 50, CCI.0054.00008.0245_R at 0247-0248_R.
- 840 Exhibit 50-0012, 'Data survey summary', 10 February 2017, Case Study 50, CARC.0050.001.0005_R.
- 841 Exhibit 50-0012, 'Data survey summary', 10 February 2017, Case Study 50, CARC.0050.001.0005_R.
- 842 Exhibit 50-0012, 'Mamo – Curriculum Vitae', Case Study 50, CCI.0096.00015.0067_R.
- 843 Exhibit 50-0012, 'Report on Mamo', 15 February 1966, Case Study 50, CCI.0092.00004.0616_R; 'Signed statement by Mamo', 15 February 1966, Case Study 50, CCI.0092.00004.0625; 'Report on Mamo', 5 August 1967, Case Study 50, CCI.0092.00004.0613; 'Mamo – Curriculum Vitae', Case Study 50, CCI.0096.00015.0067_R; 'Data survey summary', 7 February 2017, Case Study 50, CARC.0050.007.0004_R at 0004_R.
- 844 Exhibit 50-0012, 'Mamo – Curriculum Vitae', Case Study 50, CCI.0096.00015.0067_R.
- 845 Exhibit 50-0012, 'Mamo – Curriculum Vitae', Case Study 50, CCI.0096.00015.0067_R; 'Report on Mamo', 5 August 1970, Case Study 50, CCI.0092.00004.0604_R.
- 846 Exhibit 50-0012, 'Mamo – Curriculum Vitae', Case Study 50, CCI.0096.00015.0067_R.
- 847 Exhibit 50-0012, 'Data survey summary', 7 February 2017, Case Study 50, CARC.0050.007.0004_R at 0005_R; 'Schedule 6 – Mamo Complaints History', Case Study 50, CCI.0096.00129.0141_R; CCI has confirmed that the Complaints History was prepared by CCI's lawyers in 2014: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 22 December 2016, Case Study 50, CORR.0353.001.0001_R.
- 848 Exhibit 50-0012, 'Mamo – Curriculum Vitae', Case Study 50, CCI.0096.00015.0067_R; 'Data survey summary', 7 February 2017, Case Study 50, CARC.0050.007.0004_R at 0004_R.
- 849 Exhibit 50-0012, 'Mamo – Curriculum Vitae', Case Study 50, CCI.0096.00015.0067_R.
- 850 Exhibit 50-0012, 'Data survey summary', 7 February 2017, Case Study 50, CARC.0050.007.0004_R at 0005-0007_R; 'Schedule 6 – Mamo Complaints History', Case Study 50, CCI.0096.00129.0141_R; CCI has confirmed that the Complaints History was prepared by CCI's lawyers in 2014: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 22 December 2016, Case Study 50, CORR.0353.001.0001_R; 'Letter from CCI to Father Mulrooney', 25 August 2014, Case Study 50, CCI.0096.00129.0170_R at 0170_R.
- 851 Exhibit 50-0012, 'Unrevised sentencing transcript – DPP v Mamo', 2013, Case Study 50, CCI.0092.00004.0280_R at 0281-0282_R, 0286-0287_R.
- 852 Exhibit 50-0012, 'File note of telephone conversation with GLN', 14 August 2014, Case Study 50, CCI.0096.00129.0028_R.
- 853 Exhibit 50-0012, 'File note of telephone conversation with GLN', 14 August 2014, Case Study 50, CCI.0096.00129.0028_R.
- 854 Exhibit 50-0012, 'Letter from CCI's lawyers to CCI', 27 August 2014, Case Study 50, CCI.0096.00129.0024_R at 0025_R.
- 855 Exhibit 50-0012, 'File note of telephone conversation with GLN', 14 August 2014, Case Study 50, CCI.0096.00129.0028_R.
- 856 Exhibit 50-0012, 'File note of telephone conversation with GLN', 14 August 2014, Case Study 50, CCI.0096.00129.0028_R.
- 857 Exhibit 50-0012, 'Memorandum by Father Murphy', Case Study 50, CCI.0096.00129.0156_R; see further Exhibit 50-0012, 'Letter from CCI to Missionaries of the Sacred Heart', 1 October 2014, Case Study 50, CCI.0203.00001.0357_R at 0358-0359_R.
- 858 Exhibit 50-0012, 'Letter from CCI to Missionaries of the Sacred Heart', 1 October 2014, Case Study 50, CCI.0203.00001.0357_R at 0358-0360_R.
- 859 Exhibit 50-0012, 'Letter from CCI to Missionaries of the Sacred Heart', 1 October 2014, Case Study 50, CCI.0203.00001.0357_R at 0360_R.
- 860 Exhibit 50-0012, 'Memorandum of telephone conversation with GNB', 3 September 2014, Case Study 50, CCI.0096.00129.0036_R.
- 861 Exhibit 50-0012, 'File note of telephone conversation with GLN', 14 August 2014, Case Study 50, CCI.0096.00129.0028_R.
- 862 Exhibit 50-0012, 'Schedule 9 – Provincial Council Minutes summary', 14 August 2014, Case Study 50, CCI.0096.00129.0159_R; CCI has confirmed that this summary was prepared by CCI's lawyers in 2014: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 22 December 2016, Case Study 50, CORR.0353.001.0001_R.
- 863 Exhibit 50-0012, 'Email correspondence regarding Mamo', 17 September 2013, Case Study 50, CCI.0092.00004.0322_R; 'Memorandum of interview with GLM', 20 August 2014, Case Study 50, CCI.0096.00129.0030_R.
- 864 Exhibit 50-0012, 'Memorandum of interview with GLM', 20 August 2014, Case Study 50, CCI.0096.00129.0030_R.
- 865 Exhibit 50-0012, 'Memorandum of interview with GLM', 20 August 2014, Case Study 50, CCI.0096.00129.0030_R.
- 866 Exhibit 50-0012, 'Memorandum of interview with GLM', 20 August 2014, Case Study 50, CCI.0096.00129.0030_R; 'Email correspondence regarding Mamo', 17 September 2013, Case Study 50, CCI.0092.00004.0322_R.
- 867 Exhibit 50-0012, 'Memorandum of telephone conversation with GNB', 3 September 2014, Case Study 50, CCI.0096.00129.0036_R.

868 Exhibit 50-0012, 'Confidential Report on Mamo', Case Study 50, CCI.0092.00004.0520_R at 0520_R; see further
869 Exhibit 50-0012, 'Letter from Father Braun to Father Torres', 21 March 1985, Case Study 50, CCI.0092.00004.0506.
Exhibit 50-0012, 'Schedule 9 – Provincial Council Minutes summary', 14 August 2014, Case Study 50,
CCI.0096.00129.0159_R; CCI has confirmed that this summary was prepared by CCI's lawyers in 2014:
Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 22 December 2016, Case Study 50,
CORR.0353.001.0001_R.

870 Exhibit 50-0012, 'Mamo – Curriculum Vitae', Case Study 50, CCI.0096.00015.0067_R.
871 Exhibit 50-0012, 'Confidential Report on Mamo', Case Study 50, CCI.0092.00004.0520_R at 0520–0521_R.
872 Exhibit 50-0012, 'Letter from Father Mulrooney to Director Office of Professional Standards', 10 September 2014,
Case Study 50, CCI.0096.00015.0055_R.

873 Exhibit 50-0012, 'Letter from Mamo', 5 April 1983, Case Study 50, CCI.0092.00004.0534_R at 0534_R.
874 Exhibit 50-0012, 'Letter from Mamo', 5 April 1983, Case Study 50, CCI.0092.00004.0534_R at 0534–0535_R.
875 Exhibit 50-0012, 'Memo by Father Edmiston', 29 April 1983, Case Study 50, CCI.0092.00004.0527_R.
876 Exhibit 50-0012, 'Memo by Father Edmiston', 29 April 1983, Case Study 50, CCI.0092.00004.0527_R.
877 Exhibit 50-0012, 'Mamo – Curriculum Vitae', Case Study 50, CCI.0096.00015.0067_R; 'Letter from Father Edmiston
to Mamo', 28 March 1984, Case Study 50, CCI.0092.00004.0542_R.

878 Exhibit 50-0012, 'Letter from Father Quirk to Mamo', 22 February 1984, Case Study 50, CCI.0092.00004.0550_R.
879 Exhibit 50-0012, 'Confidential Report on Mamo', Case Study 50, CCI.0092.00004.0520_R at 0521_R.
880 Exhibit 50-0012, 'Letter from Father Mulrooney to Director Office of Professional Standards', 10 September 2014,
Case Study 50, CCI.0096.00015.0055_R; 'Mamo – Curriculum Vitae', Case Study 50, CCI.0096.00015.0067_R.
881 Exhibit 50-0012, 'Mamo – Curriculum Vitae', Case Study 50, CCI.0096.00015.0067_R; 'Letter from Father Quirk
to Mamo', 7 April 1986, Case Study 50, CCI.0092.00004.0484_R.

882 Exhibit 50-0012, 'Letter from Mamo to Provincial and Provincial Council', 16 March 1986, Case Study 50,
CCI.0092.00004.0485_R.

883 Exhibit 50-0012, 'Mamo – Curriculum Vitae', Case Study 50, CCI.0096.00015.0067_R.
884 Exhibit 50-0012, 'Letter from Father Littleton to Mamo', 22 February 1988, Case Study 50, CCI.0092.00004.0470_R;
'Mamo – Curriculum Vitae', Case Study 50, CCI.0096.00015.0067_R.

885 Exhibit 50-0012, 'Brochure', Case Study 50, CCI.0092.00004.0419_R.
886 Exhibit 50-0012, 'Further information provided by the Missionaries of the Sacred Heart to the Royal Commission',
21 February 2017, Case Study 50, CORR.0647.001.0001_R.

887 Exhibit 50-0012, 'Memorandum by Father Murphy', Case Study 50, CCI.0096.00129.0156_R.
888 Exhibit 50-0012, 'Letter from Father Braun to Mamo', 17 November 1989, Case Study 50, CCI.0092.00004.0441.
889 Exhibit 50-0012, 'Mamo – Curriculum Vitae', Case Study 50, CCI.0096.00015.0067_R; 'Letter from Father Littleton
to Mamo', 19 March 1991, Case Study 50, CCI.0092.00004.0397_R; 'Letter from Secretary General to Mamo',
24 April 1991, Case Study 50, CCI.0092.00004.0435_R.

890 Exhibit 50-0012, 'Mamo – Curriculum Vitae', Case Study 50, CCI.0096.00015.0067_R; see further Exhibit 50-0012,
'Letter from Father Gallagher to Mamo', 4 May 1993, Case Study 50, CCI.0092.00004.0407_R.

891 Exhibit 50-0012, 'Record of Provincial Council decision', 1993, Case Study 50, CCI.0092.00004.0350_R;
'Letter from Father Mulrooney to Director Office of Professional Standards', 10 September 2014, Case Study 50,
CCI.0096.00015.0055_R.

892 Exhibit 50-0012, 'Record of Provincial Council meeting', 26 January 1994, Case Study 50, CCI.0092.00004.0335_R.
893 Exhibit 50-0012, 'Record of decision of Provincial Council', 5 March 1994, Case Study 50, CCI.0092.00004.0345_R.
894 Exhibit 50-0012, 'Fax from Father Irwin to Father Dossmann', 13 November 1999, Case Study 50,
CCI.0092.00004.0270_R.

895 Exhibit 50-0012, 'Further information provided by the Missionaries of the Sacred Heart to the Royal Commission',
21 February 2017, Case Study 50, CORR.0647.001.0001_R.

896 Exhibit 50-0012, 'Letter from Mamo to Father Gallagher', 9 May 1994, Case Study 50, CCI.0092.00004.0375_R.
897 Exhibit 50-0012, 'Letter from Father Gallagher to Mamo', 24 May 1994, Case Study 50, CCI.0092.00004.0290_R.
898 Exhibit 50-0012, 'Letter from Father Gallagher to Father Curran', 14 June 1994, Case Study 50, CCI.0092.00004.0320.
899 Exhibit 50-0012, 'Fax from Father Irwin to Father Dossmann', 13 November 1999, Case Study 50,
CCI.0092.00004.0270_R.

900 Exhibit 50-0012, 'Letter from Father Gallagher to GHR', 14 June 1994, Case Study 50, CCI.0013.00006.0174_R;
'Special Issues Incident Report', Case Study 50, CCI.0013.00006.0213_R; 'Letter from lawyers to CCI', 8 August 2000,
Case Study 50, CCI.0014.00011.0052_R.

901 Exhibit 50-0012, 'Letter from Father Gallagher to GHR', 14 June 1994, Case Study 50, CCI.0013.00006.0174_R.
902 Exhibit 50-0012, 'Letter from Father Gallagher to GHR', 7 September 1994, Case Study 50, CCI.0013.00006.0176_R.
903 Exhibit 50-0012, 'Decree of dismissal', 11 October 1994, Case Study 50, CCI.0092.00004.0227_R.
904 Exhibit 50-0012, 'Document titled "Beatissime Pater"', 10 March 1995, Case Study 50, CCI.0092.00004.0283_R.
905 Exhibit 50-0012, 'Fax from Father Torres to Father Curran', 28 October 1999, Case Study 50, CCI.0092.00004.0271_R.
906 Exhibit 50-0012, 'Fax from Father Irwin to Father Dossmann', 13 November 1999, Case Study 50,
CCI.0092.00004.0270_R.

907 Exhibit 50-0012, 'Towards Healing assessment – GHW', 2003, Case Study 50, CCI.0058.00003.0033_R at 0039–0041_R.
908 Exhibit 50-0012, 'Unrevised sentencing transcript – DPP v Mamo', 2013, Case Study 50, CCI.0092.00004.0280_R
at 0284_R.

909 Exhibit 50-0012, 'Unrevised sentencing transcript – DPP v Mamo', 2013, Case Study 50, CCI.0092.00004.0280_R.

910 Exhibit 50-0012, 'Data survey summary', 7 February 2017, Case Study 50, CARC.0050.007.0004_R; 'Schedule 6 – Mamo Complaints History', Case Study 50, CCI.0096.00129.0141_R; CCI has confirmed that the Complaints History was prepared by CCI's lawyers in 2014: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 22 December 2016, Case Study 50, CORR.0353.001.0001_R; 'Letter from CCI to Father Mulrooney', 25 August 2014, Case Study 50, CCI.0096.00129.0170_R.

911 Exhibit 50-0012, 'Data survey summary', 7 February 2017, Case Study 50, CARC.0050.007.0004_R.

912 Exhibit 50-0012, 'Data survey summary', 6 February 2017, Case Study 50, CARC.0050.009.0003_R at 0003_R; 'Teacher history card for GKG', Case Study 50, CCI.0089.00001.0115_R.

913 Exhibit 50-0012, 'Letter from CEO's lawyers to GEL's lawyers', 6 March 2013, Case Study 50, CCI.0012.00006.0023_R.

914 Exhibit 50-0012, 'Data survey summary', 6 February 2017, Case Study 50, CARC.0050.009.0003_R at 0004_R.

915 Exhibit 50-0012, 'File note by CCI's lawyers regarding GKG's 1999 trial', 27 June 2001, Case Study 50, CCI.0089.00001.0061_R.

916 Exhibit 50-0012, 'Letter from CEO's lawyers to GEL's lawyers', 6 March 2013, Case Study 50, CCI.0012.00006.0023_R.

917 Exhibit 50-0012, 'Letter from CEO's lawyers to GEL's lawyers', 6 March 2013, Case Study 50, CCI.0012.00006.0023_R.

918 Exhibit 50-0012, 'Data survey summary', 6 February 2017, Case Study 50, CARC.0050.009.0003_R at 0004_R.

919 Exhibit 50-0012, 'Facsimile sent to CCI', 1996, Case Study 50, CCI.0096.00078.0135_R, CCI.0096.00078.0136_R.

920 Exhibit 50-0012, 'Transcript of interview of GFF', 16 May 2001, Case Study 50, CCI.0089.00001.0078_R at 0080–0081_R.

921 Exhibit 50-0012, 'Transcript of interview of GFF', 16 May 2001, Case Study 50, CCI.0089.00001.0078_R at 0082_R.

922 Exhibit 50-0012, 'Transcript of interview of GFF', 16 May 2001, Case Study 50, CCI.0089.00001.0078_R at 0084_R.

923 Exhibit 50-0012, 'Transcript of interview of GFF', 16 May 2001, Case Study 50, CCI.0089.00001.0078_R at 0082_R.

924 Exhibit 50-0012, 'Transcript of interview of GFF', 16 May 2001, Case Study 50, CCI.0089.00001.0078_R at 0082_R.

925 Exhibit 50-0012, 'Transcript of interview of GFF', 16 May 2001, Case Study 50, CCI.0089.00001.0078_R at 0084_R.

926 Exhibit 50-0012, 'Transcript of interview of GFF', 16 May 2001, Case Study 50, CCI.0089.00001.0078_R at 0085_R.

927 Exhibit 50-0012, 'Email from CCI's lawyers to CCI', 26 June 2001, Case Study 50, CCI.0089.00001.0063_R; 'Draft letter from CCI to Archdiocese of Sydney', Case Study 50, CCI.0089.00001.0064_R at 0065_R; 'Email from CCI's lawyers to CCI', 5 July 2001, Case Study 50, CCI.0089.00001.0053_R.

928 Exhibit 50-0012, 'Facsimile sent to CCI', 1996, Case Study 50, CCI.0096.00078.0135_R, CCI.0096.00078.0136_R; 'Transcript of interview of GFF', 16 May 2001, Case Study 50, CCI.0089.00001.0078_R at 0084–0085_R, 0090_R.

929 Exhibit 50-0012, 'Data survey summary', 6 February 2017, Case Study 50, CARC.0050.009.0003_R at 0004_R; 'Letter from CEO's lawyers to GEL's lawyers', 6 March 2013, Case Study 50, CCI.0012.00006.0023_R; 'Case Management/Contact Sheet', Case Study 50, CCI.0012.00006.0002_R.

930 Exhibit 50-0012, 'File note by CCI's lawyers regarding GKG's 1999 trial', 27 June 2001, Case Study 50, CCI.0089.00001.0061_R.

931 Exhibit 50-0012, 'Data survey summary', 6 February 2017, Case Study 50, CARC.0050.009.0003_R at 0004_R, 0005_R.

932 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.060.91001.0002_R; 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.011.0001_R.

933 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.060.91001.0002_R.

934 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.011.0001_R.

935 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.060.91001.0002_R; 'Appointment history', Case Study 50, CCI.0047.00006.0067_R.

936 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.060.91001.0002_R, 'Appointment history', Case Study 50, CCI.0047.00006.0067_R.

937 Exhibit 50-0012, 'Letter from St John of God Brothers' investigators to St John of God Brothers' lawyers enclosing transcript of interview with Brother Donnellan', 18 November 1994, Case Study 50, CCI.0047.00006.0047_R, CCI.0047.00006.0048_R at 0048–0049_R, 0053_R.

938 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.011.0001_R; 'Psychiatric Report regarding GKO', 1994, Case Study 50, CCI.0047.00006.0120_R at 0120_R, 0122_R; CCI has informed the Royal Commission that it received the claim of GKO in 1994: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 23 December 2016, Case Study 50, CORR.0352.001.0001_R; 'Psychiatric Report regarding GLA', 2002, Case Study 50, CCI.0052.00006.0029_R at 0029–0030_R; CCI has informed the Royal Commission it received the claim of GLA in 2002: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 23 December 2016, Case Study 50, CORR.0352.001.0001_R; 'Email from CCI's lawyers to CCI', 23 January 2002, Case Study 50, CCI.0052.00006.0020_R.

939 Exhibit 50-0012, 'Letter from St John of God Brothers' investigators to St John of God Brothers' lawyers enclosing transcript of interview with Brother Donnellan', 18 November 1994, Case Study 50, CCI.0047.00006.0047_R, CCI.0047.00006.0048_R at 0063_R.

940 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.060.91001.0002_R; 'Appointment history', Case Study 50, CCI.0047.00006.0067_R.

941 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.011.0001_R.

942 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.060.91001.0002_R.

943 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.060.91001.0002_R.

944 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.060.91001.0002_R; 'Appointment history', Case Study 50, CCI.0047.00006.0067_R.

945 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.011.0001_R.

946 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.060.91001.0002_R; 'Appointment history', Case Study 50, CCI.0047.00006.0067_R.

947 Exhibit 50-0012, 'St John of God Brothers Summary of Claim', 30 March 2009, Case Study 50, CCI.0500.00007.0007_R.
 948 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.060.91001.0002_R; 'Appointment history', Case Study 50, CCI.0047.00006.0067_R.
 949 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.060.91001.0002_R; 'Appointment history', Case Study 50, CCI.0047.00006.0067_R.
 950 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.011.0001_R.
 951 Exhibit 50-0012, 'Report from Social Welfare Secretariat to Bishop John Gerry', 16 June 1981, Case Study 50, CCI.0500.00007.0011_R at 0011_R, 0013_R.
 952 Exhibit 50-0012, 'Report from Social Welfare Secretariat to Bishop John Gerry', 16 June 1981, Case Study 50, CCI.0500.00007.0011_R at 0011_R.
 953 Exhibit 50-0012, 'Report from Social Welfare Secretariat to Bishop John Gerry', 16 June 1981, Case Study 50, CCI.0500.00007.0011_R at 0011_R.
 954 Exhibit 50-0012, 'Report from Social Welfare Secretariat to Bishop John Gerry', 16 June 1981, Case Study 50, CCI.0500.00007.0011_R at 0012_R.
 955 Exhibit 50-0012, 'Report from Social Welfare Secretariat to Bishop John Gerry', 16 June 1981, Case Study 50, CCI.0500.00007.0011_R at 0012_R.
 956 Exhibit 50-0012, 'Report from Social Welfare Secretariat to Bishop John Gerry', 16 June 1981, Case Study 50, CCI.0500.00007.0011_R at 0013_R.
 957 Exhibit 50-0012, 'Report from Social Welfare Secretariat to Bishop John Gerry', 16 June 1981, Case Study 50, CCI.0500.00007.0011_R at 0013_R.
 958 Exhibit 50-0012, 'Report from Social Welfare Secretariat to Bishop John Gerry', 16 June 1981, Case Study 50, CCI.0500.00007.0011_R at 0012_R.
 959 Exhibit 50-0012, 'Report from Social Welfare Secretariat to Bishop John Gerry', 16 June 1981, Case Study 50, CCI.0500.00007.0011_R at 0015_R.
 960 Exhibit 50-0012, 'Letter from St John of God Brothers' investigators to St John of God Brothers' lawyers enclosing transcript of interview with Brother Donnellan', 18 November 1994, Case Study 50, CCI.0047.00006.0047_R, CCI.0047.00006.0048_R at 0061-0062_R.
 961 Exhibit 50-0012, 'Letter from St John of God Brothers' investigators to St John of God Brothers' lawyers enclosing transcript of interview with Brother Donnellan', 18 November 1994, Case Study 50, CCI.0047.00006.0047_R, CCI.0047.00006.0048_R at 0061_R.
 962 Exhibit 50-0012, 'Letter from St John of God Brothers' investigators to St John of God Brothers' lawyers enclosing transcript of interview with Brother Donnellan', 18 November 1994, Case Study 50, CCI.0047.00006.0047_R, CCI.0047.00006.0048_R at 0063_R.
 963 Exhibit 50-0012, 'Letter from St John of God Brothers' investigators to St John of God Brothers' lawyers enclosing transcript of interview with Brother Donnellan', 18 November 1994, Case Study 50, CCI.0047.00006.0047_R, CCI.0047.00006.0048_R at 0060_R.
 964 Exhibit 50-0012, 'Report from Social Welfare Secretariat to Bishop John Gerry', 16 June 1981, Case Study 50, CCI.0500.00007.0011_R at 0013_R.
 965 Exhibit 50-0012, 'Report from Social Welfare Secretariat to Bishop John Gerry', 16 June 1981, Case Study 50, CCI.0500.00007.0011_R at 0016_R.
 966 Exhibit 50-0012, 'Letter from St John of God Brothers' investigators to St John of God Brothers' lawyers enclosing transcript of interview with Brother Donnellan', 18 November 1994, Case Study 50, CCI.0047.00006.0047_R, CCI.0047.00006.0048_R at 0060-0061_R.
 967 Exhibit 50-0012, 'Report from Social Welfare Secretariat to Bishop John Gerry', 16 June 1981, Case Study 50, CCI.0500.00007.0011_R at 0016_R.
 968 Exhibit 50-0012, 'Letter from CCI's lawyers to CCI', 9 October 2001, Case Study 50, CCI.0211.00002.0114_R; 'Email from CCI to CCI's lawyers', 2 November 2001, Case Study 50, CCI.0211.00002.0110_R; see further Exhibit 50-0012, 'St John of God Brothers Summary of Claim', 30 March 2009, Case Study 50, CCI.0500.00007.0007_R; 'Email from CCI to St John of God Brothers' lawyers', 7 January 2013, Case Study 50, CCI.0500.00007.0005_R.
 969 Exhibit 50-0012, 'Letter from CCI's lawyers to CCI', 9 October 2001, Case Study 50, CCI.0211.00002.0114_R.
 970 Exhibit 50-0012, 'Email from CCI to St John of God Brothers' lawyers', 7 January 2013, Case Study 50, CCI.0500.00007.0005_R.
 971 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.060.91001.0002_R; 'Appointment history', Case Study 50, CCI.0047.00006.0067_R.
 972 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.011.0001_R; CCI has informed the Royal Commission that it received the claim of GIX in 1994: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 23 December 2016, Case Study 50, CORR.0352.001.0001_R.
 973 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.060.91001.0002_R; 'Appointment history', Case Study 50, CCI.0047.00006.0067_R.
 974 Exhibit 50-0012, 'Letter from St John of God Brothers' investigators to St John of God Brothers' lawyers enclosing transcript of interview with Brother Donnellan', 18 November 1994, Case Study 50, CCI.0047.00006.0047_R, CCI.0047.00006.0048_R at 0066_R.
 975 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.060.91001.0002_R; 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.011.0001_R.

976 Exhibit 50-0012, 'Appointment history', Case Study 50, CTJH.060.91001.0002_R; 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.011.0001_R.

977 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.011.0001_R; 'Psychiatric Report regarding GKO', 1994, Case Study 50, CCI.0047.00006.0120_R at 0120_R, 0122_R; CCI has informed the Royal Commission that it received the claim of GKO in 1994: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 23 December 2016, Case Study 50, CORR.0352.001.0001_R; 'Psychiatric Report regarding GLA', 2002, Case Study 50, CCI.0052.00006.0029_R at 0029-0030_R; 'Email from CCI's lawyers to CCI', 23 January 2002, Case Study 50, CCI.0052.00006.0020_R; CCI has informed the Royal Commission it received the claim of GLA in 2002: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 23 December 2016, Case Study 50, CORR.0352.001.0001_R; 'St John of God Brothers Summary of Claim', 30 March 2009, Case Study 50, CCI.0500.00007.0007_R; CCI has informed the Royal Commission that it received the claim of GKK in 1994: Exhibit 50-0012, 'Correspondence on behalf of CCI to the Royal Commission', 23 December 2016, Case Study 50, CORR.0352.001.0001_R.

978 Exhibit 50-0012, 'Data survey summary', 18 January 2017, Case Study 50, CARC.0050.011.0001_R.

979 Exhibit 50-0012, 'Data survey summary', 9 February 2017, Case Study 50, CARC.0050.015.0003_R.

980 Exhibit 50-0012, 'Data survey summary', 9 February 2017, Case Study 50, CARC.0050.015.0003_R; 'Diocese of Sandhurst Appointment history for Howarth', Case Study 50, CTJH.295.91001.0001_R.

981 Exhibit 50-0012, 'Diocese of Sandhurst Appointment history for Howarth', Case Study 50, CTJH.295.91001.0001_R; 'Appointment history', Case Study 50, CCI.0271.00047.0212_R.

982 Exhibit 50-0012, 'Diocese of Sandhurst Appointment history for Howarth', Case Study 50, CTJH.295.91001.0001_R; 'Appointment history', Case Study 50, CCI.0271.00047.0212_R.

983 Exhibit 50-0012, 'Claim Summary', 31 October 2002, Case Study 50, CCI.0603.00020.0276_R.

984 Exhibit 50-0012, 'Appointment history', Case Study 50, CCI.0271.00047.0212_R, see further Exhibit 50-0012, 'Transcript of Interview with Monsignor Hickey', Case Study 50, CCI.0271.00047.0073_R at 0076_R; 'Diocese of Sandhurst Appointment history for Howarth', Case Study 50, CTJH.295.91001.0001_R.

985 Exhibit 50-0012, 'Transcript of Interview with Monsignor Hickey', Case Study 50, CCI.0271.00047.0073_R at 0076_R.

986 Exhibit 50-0012, 'Diocese of Sandhurst Appointment history for Howarth', Case Study 50, CTJH.295.91001.0001_R; 'Appointment history', Case Study 50, CCI.0271.00047.0212_R.

987 Exhibit 50-0012, 'Data survey summary', 9 February 2017, Case Study 50, CARC.0050.015.0003_R.

988 Exhibit 50-0012, 'Claim Summary', 31 October 2002, Case Study 50, CCI.0603.00020.0276_R; 'Memo from Laurie Rolls, Professional Standards Risk Management Service to CCI', 7 May 2004, Case Study 50, CCI.0271.00047.0018_R at 0018_R, 0020_R.

989 Exhibit 50-0012, 'Diocese of Sandhurst Appointment history for Howarth', Case Study 50, CTJH.295.91001.0001_R; 'Appointment history', Case Study 50, CCI.0271.00047.0212_R; 'Transcript of Interview with Monsignor Hickey', Case Study 50, CCI.0271.00047.0073_R at 0076_R.

990 Exhibit 50-0012, 'Special Issues Supplementary Questionnaire', 30 April 1991, Case Study 50, CCI.0271.00047.0016_R; 'Claim Summary', 31 October 2002, Case Study 50, CCI.0603.00020.0276_R; 'Transcript of Interview with Monsignor Hickey', Case Study 50, CCI.0271.00047.0073_R at 0078_R; 'Further information provided by the Diocese of Sandhurst to the Royal Commission', 21 February 2017, Case Study 50, CORR.0647.001.0006_R; see further Exhibit 50-0012, 'Record of discussion', Case Study 50, CTJH.295.01001.0027_R; 'Letter from the Diocese of Sandhurst's lawyers to the Diocese of Sandhurst', 14 October 2005, Case Study 50, CCI.0271.00047.0056_R at 0064_R.

991 Exhibit 50-0012, 'Record of discussion', Case Study 50, CTJH.295.01001.0027_R; 'Further information provided by the Diocese of Sandhurst to the Royal Commission', 21 February 2017, Case Study 50, CORR.0647.001.0006_R.

992 Exhibit 50-0012, 'Transcript of Interview with Monsignor Hickey', Case Study 50, CCI.0271.00047.0073_R at 0078_R.

993 Exhibit 50-0012, 'Special Issues Supplementary Questionnaire', 30 April 1991, Case Study 50, CCI.0271.00047.0016_R.

994 Exhibit 50-0012, 'Transcript of Interview with Monsignor Hickey', Case Study 50, CCI.0271.00047.0073_R at 0079_R, 0080_R.

995 Exhibit 50-0012, 'Memo from Laurie Rolls, Professional Standards Risk Management Service to CCI', 7 May 2004, Case Study 50, CCI.0271.00047.0018_R at 0019_R; 'Memo from Laurie Rolls, Professional Standards Risk Management Service to CCI', 21 June 2004, Case Study 50, CCI.0271.00047.0015_R.

996 Exhibit 50-0012, 'Memo from Laurie Rolls, Professional Standards Risk Management Service to CCI', 21 June 2004, Case Study 50, CCI.0271.00047.0015_R; see further Exhibit 50-0012, 'Memo from Laurie Rolls, Professional Standards Risk Management Service to CCI', 7 May 2004, Case Study 50, CCI.0271.00047.0018_R.

997 Exhibit 50-0012, 'Letter from the Diocese of Sandhurst's lawyers to the Diocese of Sandhurst', 14 October 2005, Case Study 50, CCI.0271.00047.0056_R at 0064_R; 'Memo from Laurie Rolls, Professional Standards Risk Management Service to CCI', 7 May 2004, Case Study 50, CCI.0271.00047.0018_R at 0020_R; 'Transcript of Interview with Monsignor Hickey', Case Study 50, CCI.0271.00047.0073_R at 0080_R; 'Letter from Bishop Daly', 3 October 1984, Case Study 50, CCI.0271.00047.0011_R; 'Letter from Bishop Daly to Howarth', 5 December 1984, Case Study 50, CCI.0271.00047.0012_R.

998 Exhibit 50-0012, 'Memo from Laurie Rolls, Professional Standards Risk Management Service to CCI', 21 June 2004, Case Study 50, CCI.0271.00047.0015_R.

999 Exhibit 50-0012, 'Transcript of Interview with Monsignor Hickey', Case Study 50, CCI.0271.00047.0073_R at 0079_R.

1000 Exhibit 50-0012, 'Transcript of Interview with Monsignor Hickey', Case Study 50, CCI.0271.00047.0073_R at 0078_R.

1001 Exhibit 50-0012, 'Letter from Bishop Daly', 3 October 1984, Case Study 50, CCI.0271.00047.0011_R.

1002 Exhibit 50-0012, 'Letter from Bishop Daly', 3 October 1984, Case Study 50, CCI.0271.00047.0011_R.

1003 Exhibit 50-0012, 'Letter from Bishop Daly to Howarth', 5 December 1984, Case Study 50, CCI.0271.00047.0012_R.

- 1004 Exhibit 50-0012, 'Letter from CCI to the Diocese of Sandhurst', 28 July 2004, Case Study 50, CCI.0001.00804.0307_R.
- 1005 Exhibit 50-0012, 'Transcript of Interview with Monsignor Hickey', Case Study 50, CCI.0271.00047.0073_R at 0080_R.
- 1006 Exhibit 50-0012, 'Diocese of Sandhurst Appointment history for Howarth', Case Study 50, CTJH.295.91001.0001_R; 'Transcript of Interview with Monsignor Hickey', Case Study 50, CCI.0271.00047.0073_R at 0076_R; 'Appointment history', Case Study 50, CCI.0271.00047.0212_R.
- 1007 Exhibit 50-0012, 'Data survey summary', 9 February 2017, Case Study 50, CARC.0050.015.0003_R; 'Letter from CCI to the Diocese of Sandhurst', 28 July 2004, Case Study 50, CCI.0001.00804.0307_R.
- 1008 Exhibit 50-0012, 'Diocese of Sandhurst Appointment history for Howarth', Case Study 50, CTJH.295.91001.0001_R; 'Appointment history', Case Study 50, CCI.0271.00047.0212_R.
- 1009 Exhibit 50-0012, 'Diocese of Sandhurst Appointment history for Howarth', Case Study 50, CTJH.295.91001.0001_R; 'Appointment history', Case Study 50, CCI.0271.00047.0212_R.
- 1010 Exhibit 50-0012, 'Diocese of Sandhurst Appointment history for Howarth', Case Study 50, CTJH.295.91001.0001_R; 'Data survey summary', 9 February 2017, Case Study 50, CARC.0050.015.0003_R.
- 1011 Exhibit 50-0012, 'Memo from Laurie Rolls, Professional Standards Risk Management Service to CCI', 7 May 2004, Case Study 50, CCI.0271.00047.0018_R at 0018_R, 0020_R; 'Claim Summary', 31 October 2002, Case Study 50, CCI.0603.00020.0276_R.
- 1012 Exhibit 50-0012, 'Data survey summary', 9 February 2017, Case Study 50, CARC.0050.015.0003_R.
- 1013 Exhibit 50-0012, 'Data survey summary', 9 February 2017, Case Study 50, CARC.0050.015.0003_R; 'Appointment history', Case Study 50, CCI.0271.00047.0212_R.
- 1014 Exhibit 50-0012, 'Data survey summary', 9 February 2017, Case Study 50, CARC.0050.015.0003_R; 'Further information provided by the Diocese of Sandhurst to the Royal Commission', 21 February 2017, Case Study 50, CORR.0647.001.0006_R.

Appendix D The Society of St Gerard Majella

In the course of our investigations we issued notices to various parties to request documents relating to the Society of St Gerard Majella (the Society). Relevant documents were tendered into evidence as Exhibit 50-0013 in *Case Study 50: Institutional review of Catholic Church authorities*. These documents were not the subject of examination during that hearing.

We prepared a narrative summary of this documentary evidence, which was provided to relevant Catholic Church authorities for comment. We have taken those authorities' responses into account in finalising this narrative.

In around 1958, John Sweeney, who was in his early twenties, began the process of establishing the Society in the Archdiocese of Sydney.¹ At the time the Society had only one other member.² The Society was established primarily to minister to Catholic students attending state schools and to their families.³

In early 1960, Brother Sweeney sought the approval of the archdiocese for the Society's constitution, proposed first community, appointment of superiors and apostolic undertakings.⁴ The first formal community of the Society, made up of six brothers, was established in the Parish of Leichhardt.⁵ Early concerns about the Society were raised in an anonymous letter dated 14 May 1960 addressed to 'Your Eminence'. The author commented: 'Young boys are often entertained in the private rooms of these brothers, which can lead to abuses'. The author warned that 'no good can come to [the brothers] or from them without proper supervision'.⁶

In 1962, the Society became involved in running retreats and weekend camps for children from the state schools.⁷ In 1967 the Archbishop of Sydney, Cardinal Norman Gilroy, blessed and opened the Society's Novitiate House at Mount Vernon, Kemps Creek.⁸ The following year, in 1968, the Society took control of St Simon Stock Boys School at Pendle Hill at the request of Cardinal Gilroy.⁹ That year Brother Stephen Robinson started teaching at St Simon Stock Boys School.¹⁰

In 1971 the Society opened its first year novitiate at a house in Bowral.¹¹ In 1972 Brother Joseph Pritchard was appointed principal of St Simon Stock Boys School, and Brother Robinson became novice master at the Bowral Novitiate.¹²

On 24 March 1973, following approval from the Vatican Sacred Congregation for the Evangelization of Peoples, Archbishop of Sydney, Archbishop James Freeman erected the Society as a lay Religious Congregation of Diocesan Right.¹³ The term 'diocesan right' meant that the Society was accountable to the relevant diocese for its activities (and specifically the local bishop, who at that time was the Archbishop of Sydney).¹⁴ Brother Sweeney, as Superior General of the Society, announced his Council, which included Brother Pritchard and Brother Robinson.¹⁵

In 1974, Brother Sweeney was ordained as a priest.¹⁶ Brothers Robinson and Pritchard would also later be ordained (in 1977 and 1987 respectively).¹⁷

In 1975, Brother Pritchard was reappointed as school principal at St Simon Stock Boys School (which that year was renamed Newman High School).¹⁸ At the first General Chapter of Election of the Society in September 1979, Brother Sweeney was elected superior general for a further term of six years, and Brother Pritchard was elected vicar general.¹⁹

In the late 1970s, HBD, a 17-year-old, joined the Society as a postulant (the preparatory stage before becoming a novice). In the same year that HBD joined the Society, Brother Robinson committed an act of indecency against him at the house in Bowral.²⁰

In 1983, Brother Pritchard was appointed superior at the Mount Vernon Novitiate at Kemps Creek.²¹ After this appointment, Brother Pritchard indecently assaulted HBE, a 16 year old in the Kemp's Creek novitiate.²²

In 1985, by agreement with the Archbishop of Sydney, Archbishop Edward Bede Clancy, the Society took over responsibility for the pastoral care of the Parish of Greystanes, with Brother Sweeney taking on the role of parish priest.²³

In 1986, the Archdiocese of Sydney was subdivided to create the additional dioceses of Parramatta and Broken Bay. The Society was placed under the supervision of the new Bishop of Parramatta, Bishop Bede Vincent Heather.²⁴

In around mid-1989, Brother Pritchard was appointed as a chaplain to HMAS *Nirimba*.²⁵

In August 1991, Brother Robinson was elected as the new Superior General of the Society.²⁶

In June 1992, Mr Ian Dempsey, the Director General of Chaplaincy for the Royal Australian Navy, informed Brother Robinson that Brother Pritchard was under police investigation and that, as a result, Mr Dempsey had requested that the Navy not employ Brother Pritchard. Mr Dempsey also said that he had informed the Catholic Bishop to the Forces of this action.²⁷

On 26 August 1992, Brother Pritchard was charged with sexual offences in relation to the abuse of a 17-year-old naval apprentice at HMAS *Nirimba*.²⁸

On 11 March 1993, Brother Pritchard resigned from the Council and his position as superior at the Mount Vernon Novitiate.²⁹ On 16 April 1993 he was convicted of one count of indecent assault against the 17-year-old naval cadet, for which he was later given a two-year good behaviour bond.³⁰

In April 1993, a number of brothers in the Society wrote to Father Rodger Austin, a canon lawyer, alleging they had been sexually abused by Brothers Sweeney, Pritchard or Robinson.³¹ The authors of the letters all alleged that the abuse had started when they were postulants or novices in the Society. At least one person, HBA, explicitly alleged that he was a minor at the time the abuse started, and the letters from another two persons raised this possibility (including from one, HBB, who alleged abuse by Brother Robinson).³² Later in April 1993, Father Austin had a meeting with Bishop Heather regarding the allegations of sexual abuse and provided him with the letters he had received.³³

On 3 May 1993, Bishop Heather wrote to Brother Pritchard asking him to refrain from priestly ministry because of the allegations against him ‘that have become known to me in the past ten days’. Brother Pritchard agreed to this.³⁴

On 4 May 1993, Bishop Heather established a Special Enquiry into the Society, to be conducted by Father Austin and Father Peter Blayney, and notified all members of the Society.³⁵ The mandate of the Special Enquiry included ‘To investigate the sexual impropriety which is alleged to have taken place within the Society of St. Gerard Majella’.³⁶ According to Father Blayney, Bishop Heather established the Special Enquiry ‘outside the guidelines of the Protocol’ (being the Australian Catholic Bishops Conference Special Issues Committee’s 1992 *Protocol for Dealing with Allegations of Criminal Behaviour*).³⁷

On 4 May 1993, Bishop Heather directed superior general Brother Robinson not to take any action in relation to any member of the Society until the Special Enquiry had reported and the bishop had made any decisions he considered appropriate.³⁸ Days later, on 11 May 1993, following a further allegation of prolonged sexual abuse (of an adult) by Brother Robinson, the bishop suspended him from the office of superior general for the duration of the Special Enquiry and asked him to refrain from priestly ministry, to which he agreed.³⁹ Bishop Heather also wrote to Cardinal Clancy, Archbishop of Sydney, informing him about the Special Enquiry and his actions in relation to Brothers Pritchard and Robinson.⁴⁰

As part of the Special Enquiry, Fathers Austin and Blayney interviewed all members of the Society and the novitiate.⁴¹ At the time of the Special Enquiry, there were 23 members of the Society, including five priests (three of whom – Brothers Sweeney, Robinson and Pritchard – were the subject of allegations to the Special Enquiry).⁴²

On 28 July 1993, Father Blayney provided an interim report of the Special Enquiry to Bishop Heather.⁴³ In that report he stated that ‘serious allegations of sexual misconduct’ had been made against Brothers Sweeney, Pritchard and Robinson.⁴⁴ Father Blayney noted that ‘the allegations have been by and large admitted [by the brothers] to be true’.⁴⁵ Father Blayney noted that Brother Sweeney’s ‘encounters’ with young men (which Brother Sweeney admitted had occurred but denied constituted abuse) involved ‘emotionally disturbed son[s] of 16–20 years’.⁴⁶

On 31 August 1993, the Special Enquiry completed its final report to Bishop Heather (the 1993 report). The Special Enquiry concluded that all of the allegations it had received against Brothers Sweeney, Robinson and Pritchard of ‘sexual impropriety’ (which the authors said was a term used synonymously with sexual abuse) were substantiated. The allegations related to multiple incidents and multiple victims on the part of each of the three brothers. The incidents of abuse had started in the late 1960s and continued until the early 1990s. All of those who had been abused had at some point been members of the Society, and for the majority the abuse had started when they were postulants or novices.⁴⁷

Fathers Austin and Blayney did not explicitly identify the ages of the individuals whom they concluded had been sexually abused. However, it is apparent from the report and its appendices (which included the letters written to Father Austin in April 1993) that some of the victims alleged they were under 18 years old at the time the abuse started.⁴⁸ The Special Enquiry also explicitly stated that Brother Sweeney had ‘perform[ed] acts’ with 17–26-year-olds.⁴⁹

The Special Enquiry also found that Brother Sweeney, when superior general, had been informed that Brother Pritchard was engaging in ‘sexual impropriety’ with ‘young males’ as early as 1974.⁵⁰ Despite this, subsequent to 1974 Brother Pritchard was appointed principal of Newman High School. The Special Enquiry found that he sexually ‘interfered’ with a student at the school.⁵¹

The Special Enquiry recommended that Bishop Heather have Brother Robinson resign as superior general and that he should withdraw all faculties of Brothers Sweeney, Pritchard and Robinson and forbid them from exercising any priestly ministry.⁵² The Special Enquiry also recommended that the bishop immediately terminate the Diocese of Parramatta’s contract with the Society which gave the latter priestly responsibility for the Parish of Greystanes.⁵³

Following the 1993 report, in September 1993 Bishop Heather made determinations including that:⁵⁴

- the Society ‘may retain for the present’ the pastoral care of the Parish of Greystanes, which would remain under review
- Brother Sweeney would be excluded from any position in the Society but would remain ‘available for priestly ministry on behalf of the Society’
- Brother Robinson would be asked to resign as superior general (and would be removed if unwilling)
- both Brother Robinson and Brother Pritchard would be prohibited from engaging in priestly ministry on behalf of the Society and from living in any community of the Society.

Bishop Heather allowed Brother Sweeney to continue in priestly ministry despite the Special Enquiry's finding that the allegations against him were substantially true.⁵⁵ Bishop Heather noted that, in coming to this decision, he took into account Brother Sweeney's record of pastoral care in the Parish of Greystanes, his 'position and record ... as Founder of the Society', and the 'absence of any allegation of impropriety outside the Society of St. Gerard Majella'.⁵⁶

Bishop Heather noted the Special Enquiry's finding that 'There is some reason to fear further allegations from persons who were minors at Newman High School when Brother Joseph was Principal'.⁵⁷ The bishop decided, 'It is urged on Brother Joseph that he seek a Decree of Laicisation and Dispensation from religious vows'.⁵⁸ The bishop noted that Brother Robinson had 'continued to give spiritual direction and counsel since stepping down from his office and leaving Greystanes' and prohibited him from continuing to do so.⁵⁹ Bishop Heather also noted that Brother Robinson had been undergoing therapy and had been assessed by a psychiatrist. The bishop determined that 'Brother Stephen is to continue in therapy until convincing evidence is offered of deep and lasting rehabilitation'.⁶⁰

Brother Robinson resigned as superior general on 15 September 1993.⁶¹ On 22 September 1993, Bishop Heather sent a circular letter to all members of the Society informing them of his decisions following the 1993 Report. He wrote that Brothers Pritchard and Robinson would not 'for the present' be living in the community or exercising priestly ministry.⁶²

On 28 October 1993, a group of 22 former and current members of the Society, many of whom had given evidence to the Special Enquiry, wrote to the bishop voicing their dissatisfaction at his 'minimalist approach'.⁶³ They noted that his letter of 22 September did not contain any admission of wrongful action on the part of the brothers who had been sanctioned or any mention of the allegations of sexual impropriety that the Special Enquiry had investigated.⁶⁴ They also stated that none of those individuals who had made allegations and been part of the Special Enquiry had been offered pastoral care by the Society or the Church.⁶⁵

On 23 December 1993, HBC met with Father Blayney and presented him with a statement alleging he had been sexually abused by Brother Sweeney, starting in the 1970s, when HBC was 16 years old.⁶⁶ HBC's statement was provided to Bishop Heather the following day.⁶⁷ Bishop Heather wrote to Father John Usher on 27 December 1993, providing him with HBC's statement and notifying him that 'since some of the allegations concern a period when HBC was a minor, I expect to be informing you of the matter officially after my meeting with Brother John Sweeney'.⁶⁸ Bishop Heather told Father Usher that he expected that the latter would need to interview HBC and Brother Sweeney.⁶⁹ Father Usher later wrote that the reason that Bishop Heather asked him to investigate the matter was because it 'referred to child sexual assault in terms of New South Wales laws and it was deemed appropriate that it should be investigated by me rather than by the earlier investigating team'.⁷⁰

The Bishop informed Father Usher in his letter on 27 December that:

in the Special Inquiry held earlier this year eight members or former members of the Society alleged sexual impropriety in their regard by Brother John Sweeney. He received less severe treatment than some others because the improprieties were in many instances less recent, less protracted and apparently less serious than those of the others. The present letter throws quite a different light on him. HBC did not appear before the Special Enquiry. I have never had to deal with anything as terrifying as this.⁷¹

On 31 December 1993, Bishop Heather asked Brother Sweeney to take administrative leave and forbade him from exercising any priestly ministry pending the outcome of an investigation to be conducted by Father Usher.⁷²

On 12 January and 3 February 1994, Father Usher interviewed Brother Sweeney about HBC's allegations.⁷³ Father Usher completed his report to Bishop Heather on 17 February 1994 (the 1994 report). He concluded:

I believe that [HBC] has adequate grounds to proceed with criminal action in relation to Brother John Sweeney ... The truth of his allegations is impossible to verify because, as Brother John explained, he and [HBC] were not living in the same house until long after [HBC] 's 18th birthday [Sweeney denied that any inappropriate sexual behaviour had occurred with [HBC] prior to his 18th birthday]. Nevertheless, if [HBC] decided to proceed with police action he would have every right to do so and it is likely that the police would take the allegations seriously and that Brother John would be charged with child sexual abuse. Brother John's subsequent behaviour in relation to [HBC] would give any formal investigation into child sexual assault great credence and I doubt that Brother John would escape without a conviction. Of course, I make this statement with no prejudice and, having interviewed Brother John, I believe that he always acted in the best interests of [HBC] even though his actions were inappropriate for a senior member of a religious society.⁷⁴

Father Usher recommended that Brother Sweeney 'take leave' from the Society for at least 12 months, not exercise any public priestly ministry and not be involved in any affairs of the Society or reside in any Society community during this time.⁷⁵ Father Usher also recommended that Brother Sweeney be psychologically assessed and enter into therapy. However, Father Usher recommended that at the end of the period of leave it would be open to the bishop, if Brother Sweeney had adhered to the recommendations and there were favourable reports about his progress, to consider allowing Brother Sweeney to play an 'ongoing role with limited pastoral involvement with the Brothers and the general community,' or for Brother Sweeney to approach the Bishop of Parramatta with a view to 'transfer to another diocese to carry out a priestly ministry'.⁷⁶

On 21 February 1994, Bishop Heather wrote to Brother Sweeney about the 1994 Report.⁷⁷ Brother Sweeney formally tendered his resignation as pastor of the Parish of Greystanes and requested 12 months' leave from the community.⁷⁸ On 22 February Bishop Heather informed superior general Brother Maurice Taylor that he was terminating the contract of the diocese with the Society in relation to the Parish of Greystanes and that the diocese would resume care of the parish from 4 April 1994.⁷⁹

On 2 March 1994, HBC made a statement to NSW Police that he was sexually abused by Brother Sweeney.⁸⁰ He alleged that the abuse had started months after he joined the Society as a postulant.⁸¹

In a letter to Dr Alex Braszczyński [sic] dated 20 April 1994, Father Usher stated that Brother Sweeney had been stood down from all active roles for a period of three years. He further stated that Brother Sweeney was, at the time of Father Usher's letter, 'being interviewed by the police' following the allegations by 'the former member' who 'was 16 years of age when he met John Sweeney'.⁸²

On 26 June 1994, there was an Extraordinary Meeting of the seven remaining active brothers in the Society. The minutes of the meeting record that it was unanimously decided that 'there was no future for the Society' and that 'steps would be put in place to facilitate the winding down and closure of the Society'.⁸³

In September 1994, Brother Robinson was employed at St John's Riverstone, a primary school. He wrote a letter to Bishop Heather thanking him for assisting him in getting the appointment.⁸⁴

In October and November 1994, Brothers Robinson, Sweeney and Pritchard formally declared that they intended to seek dispensations from all their vows in the Society. However, they indicated that they were not seeking dispensations from the obligations of priesthood and therefore asked to be placed under the special care of the Bishop of Parramatta.⁸⁵

In response to a letter asking about Brother Robinson, on 4 October 1994 Bishop Heather wrote, 'Stephen is at present teaching in a primary school of our Diocese'.⁸⁶

Around 12 December 1994, Detective Constable Sean Lynch contacted Bishop Heather.⁸⁷ According to NSW Police, 'the Bishop indicated that he had the [1993] report but would not release it to them without some Court process'.⁸⁸

On the morning of 13 December 1994, NSW Police executed a search warrant at the diocesan office in Parramatta (Bishop Heather was not present at the time).⁸⁹ The warrant authorised police to search for the 1993 report.⁹⁰ The police seized four files, but none of them contained a copy of the report.⁹¹ That afternoon NSW Police attended Father Austin's office and obtained a copy of the 1993 report from him.⁹²

Days later, on 16 December 1994, Bishop Heather held a meeting with parishioners in the Parish of Greystanes to inform them that the Brothers of St Gerard Majella had decided to dissolve the Society. The official media statement issued in relation to the event explained that:

The Society withdrew from its commitment to the parish due to the findings of an enquiry initiated by the Bishop following allegations by several members of sexual misconduct and problems of governance within the Society.⁹³

On 19 April 1995, Brother Pritchard was charged with 14 counts of indecent assault, three counts of buggery and two counts of sexual intercourse without consent.⁹⁴ Four of the indecent assault counts concerned HBE, including Pritchard's assault against him in the 1980s, when he was 16 years old. Another count related to an indecent assault of HBF at Kemps Creek in the early 1990s, when HBF was under 18 years of age. Two of the counts of buggery concerned HBA, the first relating to when he was 17 years old.⁹⁵

On the same day, Brother Sweeney was charged with 10 counts of indecent assault against former members of the Society (none of whom were under 18 at the time of the assaults).⁹⁶

On 24 April 1995, Brother Robinson was charged with four counts of sexual offences, including one count of indecent assault against HBB when he was 17 years old and either a postulant or novice in the Society; and one count of an act of indecency committed against HBD when he was a 17-year-old postulant.⁹⁷

On 5 June 1995, Bishop Heather wrote to Cardinal Eduardo Somalo of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life in Rome seeking the 'suppression' of the Society.⁹⁸ He noted that Brothers Sweeney, Robinson and Pritchard had all requested dispensations from their vows in the Society but not from the obligations of priesthood. Bishop Heather wrote, 'In my judgement none of the three would be suitable for public priestly ministry'.⁹⁹

On 11 August 1995, Bishop Heather granted Brother Pritchard, Brother Sweeney and Brother Robinson dispensations from their vows and all obligations as brothers in the Society.¹⁰⁰ On 18 January 1996, the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life issued a Decree of Suppression dissolving the Society.¹⁰¹

In May 1997, Sweeney was convicted of three counts of indecent assault against a former member of the Society who was 19 at the time of the first assault.¹⁰² He was subsequently sentenced to 27 months' imprisonment (with a non-parole period of 18 months).¹⁰³

On 10 July 1997 Bishop Heather resigned as Bishop of Parramatta.¹⁰⁴

On 18 August 1997, Pritchard pleaded guilty to four charges of sexual offences in respect of four complainants, including the indecent assault of HBE when he was 16 years old.¹⁰⁵ All four complainants were either postulants or novices in the Society at the time of the abuse, but only HBE was under 18 years old.¹⁰⁶ Pritchard also asked that a further four sexual offences (against persons aged 18 or over) for which he had been charged and admitted guilt be taken into account for the purposes of sentencing.¹⁰⁷ On 12 November 1997 he was sentenced to a total of six years' imprisonment with a non-parole period of four years for his offending over a 19-year period, which related to the eight different complainants, all of whom were aged between 16 and 21 years.¹⁰⁸

In March 1998 the four charges against Brother Stephen Robinson were split into four separate trials.¹⁰⁹ Stephen Robinson was ultimately convicted for the act of indecency against HBD when he was a 17-year-old postulant, and one count of indecent assault against a novice.¹¹⁰ He was sentenced to a total of two years' imprisonment (with a non-parole period of 18 months), including a sentence of nine months' imprisonment for the act of indecency.¹¹¹ His conviction for the offence against HBD was confirmed on appeal (but he was successful in overturning the other conviction).¹¹²

In April 1999, Ms Wendy Tuckerman conducted an assessment for the Catholic Church in relation to allegations that Stephen Robinson had sexually abused an 11-year-old student at school, HBK, in the late 1960s and continued to abuse him into the early 1970s.¹¹³ Ms Tuckerman, in her report to the then Bishop of Parramatta, Bishop Kevin Manning, concluded that 'there are grounds on the balance of probability that the complaint is justified'.¹¹⁴

On 24 April 2012, the Professional Standards Manager for the Diocese of Parramatta, Mr Paul Davis, met with Father Andrew Robinson, who was the parish priest at St Bernadette's Lalor Park (and a former brother in the Society).¹¹⁵ Father Andrew Robinson later confirmed that, prior to this meeting, Stephen Robinson had been involved with his parish, subsequent to his conviction and imprisonment for an offence concerning child sexual abuse.¹¹⁶ He stated that:

Stephen Joseph Robinson has been involved as a part-time volunteer by playing the piano for the parish choir at a Sunday mass when his weekend work commitments have permitted. He has worked under two choir masters who had all been fully informed as to his background of being charged and sentenced. His involvement in this manner was not seen as a problem, as it did not involve unsupervised face to face contact with children.¹¹⁷

At the meeting in April 2012 Mr Davis directed that Stephen Robinson was not to have any further involvement with the parish.¹¹⁸

In August 2012 the Vicar General of the Diocese of Parramatta, Father Peter Williams, emailed Father Blayney saying that he had met with Stephen Robinson the week prior and that Robinson indicated he would cooperate with the process of his laicisation.¹¹⁹ On 25 June 2013, the Bishop of Parramatta, Bishop Anthony Fisher, wrote to Archbishop Paul Gallagher, the Apostolic Nuncio, requesting he forward to the Congregation of the Doctrine of the Faith the enclosed case against Stephen Robinson.¹²⁰

On 25 June 2013, Bishop Fisher also petitioned the pope to dismiss Pritchard from the clerical state, given the convictions against him in 1993 and 1997 for sexual assault, including with victims under 18 years of age.¹²¹ By decree dated 13 December 2013, Pope Francis dismissed Pritchard from the clerical state, noting that, 'if there is a danger of abusing minors, the Ordinary can divulge the fact of the dismissal and even the canonical reasons'.¹²²

In his Professional Standards report to Bishop Fisher dated 1 August 2013, Mr Davis included a section which read as follows:

Andrew Robinson – Stephen Robinson's engagement in ministry ... Despite undertakings made by AR, information has been provided to indicate that SR continues to engage in the music ministry of the Parish of Lalor Park. In the current circumstances this situation is considered high risk and inconsistent with current community expectations.¹²³

On 26 August 2013, an employee of the NSW Department of Family and Community Services (FACS) wrote to Mr Davis.¹²⁴ FACS informed him that it had received information alleging that the children at St Bernadette's Catholic Church Lalor Park were at risk of harm. FACS notified Mr Davis that it had received information that Stephen Robinson had been charged with offences against boys under the age of 18 in 1998 and had been incarcerated but was acting 'as a volunteer in relation to the preparation of celebration of religious services which include children and young people'.¹²⁵

In a letter dated 30 August 2013, Mr Davis responded to the letter from the FACS employee and informed her that they were investigating the allegation that Stephen Robinson continued to be involved in parish activities at St Bernadette's.¹²⁶

On 12 September 2013, Father Andrew Robinson met with Father Christopher De Souza, Vicar General for the Diocese of Parramatta, and Ms Dianne Dawson, Acting Professional Standards Manager. Father De Souza and Ms Dawson put to Father Andrew Robinson the allegation that Stephen Robinson continued to be involved with his parish.¹²⁷ On 17 September 2013 Father Andrew Robinson responded to the allegation in writing, stating that Stephen Robinson's involvement in the parish had ended after the directive issued by the Diocese of Parramatta at the meeting on 24 April 2012.¹²⁸

Endnotes

- 1 Exhibit 50-0013, 'The Constitutions of the Society of St Gerard Majella', Case Study 50, CTJH.280.01015.0148 at 0151; 'An historico-juridical report on the Society of St. Gerard Majella', Case Study 50, CTJH.280.01045.0328_R at 0331_R. John Sweeney was born on 18 August 1937: see Exhibit 50-0013, '*Regina v John Gerard Patrick Sweeney* Sentencing Transcript', 18 July 1997, Case Study 50, CTJH.280.03005.0295_R at 0304_R.
- 2 Exhibit 50-0013, 'An historico-juridical report on the Society of St. Gerard Majella', Case Study 50, CTJH.280.01045.0328_R at 0331_R.
- 3 Exhibit 50-0013, 'Letter from John Sweeney to the Most Rev James Carroll', 6 February 1960, Case Study 50, CTJH.400.30001.1130 at 1131; 'Report of the Diocese of Parramatta on the Society of St Gerard Majella', January 2014, Case Study 50, CTJH.280.01003.0001_R at 0002_R.
- 4 Exhibit 50-0013, 'Letter from John Sweeney to the Most Rev James Carroll', 6 February 1960, Case Study 50, CTJH.400.30001.1130.
- 5 Exhibit 50-0013, 'An historico-juridical report on the Society of St. Gerard Majella', Case Study 50, CTJH.280.01045.0328_R at 0331–0332_R; 'Report of the Diocese of Parramatta on the Society of St Gerard Majella', January 2014, Case Study 50, CTJH.280.01003.0001_R at 0004_R; 'Report of the Superior General to the first Chapter of Election', 15 September 1979, Case Study 50, CTJH.280.01047.0001_R at 0004–0005_R.
- 6 Exhibit 50-0013, 'Letter to "Your Eminence"', 14 May 1960, Case Study 50, CTJH.400.30001.1127.
- 7 Exhibit 50-0013, 'Report of the Superior General to the first Chapter of Election', 15 September 1979, Case Study 50, CTJH.280.01047.0001_R at 0007_R.
- 8 Exhibit 50-0013, 'Report of the Diocese of Parramatta on the Society of St Gerard Majella', January 2014, Case Study 50, CTJH.280.01003.0001_R at 0004_R.
- 9 Exhibit 50-0013, 'Report of the Diocese of Parramatta on the Society of St Gerard Majella', January 2014, Case Study 50, CTJH.280.01003.0001_R at 0005_R; 'Report of the Superior General to the first Chapter of Election', 15 September 1979, Case Study 50, CTJH.280.01047.0001_R at 0010–0012_R. The school was renamed Newman High School in 1975.
- 10 Exhibit 50-0013, 'Assessment Report: Compiled by Wendy Tuckerman for the Archbishop of the Diocese of Parramatta', CTJH.280.01075.0033_R at 0036_R.
- 11 Exhibit 50-0013, 'Report of the Diocese of Parramatta on the Society of St Gerard Majella', January 2014, Case Study 50, CTJH.280.01003.0001_R at 0005_R.
- 12 Exhibit 50-0013, 'Report of the Superior General to the first Chapter of Election', 15 September 1979, Case Study 50, CTJH.280.01047.0001_R at 0019_R.
- 13 Exhibit 50-0013, 'An historico-juridical report on the Society of St. Gerard Majella', Case Study 50, CTJH.280.01045.0328_R at 0338_R; 'Report of the Diocese of Parramatta on the Society of St Gerard Majella', January 2014, Case Study 50, CTJH.280.01003.0001_R at 0005_R.
- 14 Exhibit 50-0013, 'Bishop Bede Heather Transcript of Interview with Police', 13 April 1995, Case Study 50, STAT.1188.001.0034_R at 0035_R.
- 15 Exhibit 50-0013, 'Letter from Br John Sweeney to "Friends"', 12 April 1973, Case Study 50, CTJH.400.30001.1160_R.
- 16 Exhibit 50-0013, 'Report of the Diocese of Parramatta on the Society of St Gerard Majella', January 2014, Case Study 50, CTJH.280.01003.0001_R at 0005_R.
- 17 Exhibit 50-0013, 'Report of the Superior General to the First Chapter of the Election', 15 September 1979, Case Study 50, CTJH.280.01047.0001_R at 0023_R; 'Dismissorial Letters from Br John Sweeney to Br Joseph Pritchard', 19 March 1987, Case Study 50, CTJH.280.03003.0087 (see annotation at bottom).
- 18 Exhibit 50-0013, 'Document titled "Appointments – Joseph Pritchard"', Case Study 50, CTJH.280.03003.0156.
- 19 Exhibit 50-0013, 'An historico-juridical report on the Society of St. Gerard Majella', Case Study 50, CTJH.280.01045.0328_R at 0339_R; 'Report of the Diocese of Parramatta on the Society of St Gerard Majella', January 2014, Case Study 50, CTJH.280.01003.0001_R at 0005_R; 'Document titled "Superior Generals of The Society of St Gerard Majella"', Case Study 50, CTJH.280.02001.0229_R at 0231_R; 'Document titled "Appointments – Joseph Pritchard"', Case Study 50, CTJH.280.03003.0156.
- 20 Brother Robinson was convicted of this offence in 1998: see Exhibit 50-0013, 'Police Statement of HBD', 25 November 1994, CCI.0018.00006.0452_R at 0452_R; and '*Regina v Robinson* [1999] NSWCCA 172', 2 July 1999, Case Study 50, WEB.0183.001.0001_R at 0002_R [4], 0005_R [27–28], 0007_R [44] (referred to as the 'fourth trial').
- 21 Exhibit 50-0013, 'Document titled "PROFILE JOSEPH (Peter Harold) PRITCHARD"', Case Study 50, CTJH.280.01163.0278_R.
- 22 In 1997 Brother Pritchard pleaded guilty to this indecent assault: Exhibit 50-0013, '*Regina v Peter Harold Pritchard* Sentencing Transcript', 12 November 1997, Case Study 50, CTJH.280.01077.0225_R at 0225_R, 0228–0229_R (referred to as 'the third charge'); 'Charge Sheet for Peter Harold Pritchard', Case Study 50, CTJH.280.01134.0104_R at 0107_R. See also Exhibit 50-0013, 'Police Statement of HBE', 11 January 1995, Case Study 50, CCI.0352.00031.0009_R at 0009–0014_R.
- 23 Exhibit 50-0013, 'Report of the Diocese of Parramatta on the Society of St Gerard Majella', January 2014, Case Study 50, CTJH.280.01003.0001_R at 0006_R; 'Report to Bishop B Heather on the Special Enquiry into the Society of St Gerard Majella', 31 August 1993, Case Study 50, CTJH.280.01001.0002_R at 0010_R (for a copy of the contract see Appendix 5 (at 0048) of the report).
- 24 Exhibit 50-0013, 'Report of the Diocese of Parramatta on the Society of St Gerard Majella', January 2014, Case Study 50, CTJH.280.01003.0001_R at 0002_R.
- 25 Exhibit 50-0013, 'Letter from Br John Sweeney to the Presiding Magistrate', 4 March 1993, Case Study 50, CTJH.280.03007.0011.

26 Exhibit 50-0013, 'Document titled "Superior Generals of The Society of St Gerard Majella"', CTJH.280.02001.0229_R at 0232_R.

27 Exhibit 50-0013, 'Letter from IT Dempsey to Br Stephen Robinson', 10 June 1992, Case Study 50, CTJH.280.03007.0003.

28 Exhibit 50-0013, 'Report of the Diocese of Parramatta on the Society of St Gerard Majella', January 2014, Case Study 50, CTJH.280.01003.0001_R at 0006_R.

29 Exhibit 50-0013, 'Letter from Br Stephen Robinson to Br John Sweeney', 15 March 1993, Case Study 50, CTJH.280.03008.0007.

30 Exhibit 50-0013, 'Document titled "PROFILE JOSEPH (Peter Harold) PRITCHARD"', Case Study 50, CTJH.280.01163.0278_R; *Regina v Peter Harold Pritchard* Sentencing Transcript', 12 November 1997, Case Study 50, CTJH.280.01077.0225_R at 0234_R.

31 Exhibit 50-0013, 'Report to Bishop B Heather on the Special Enquiry into the Society of St Gerard Majella', 31 August 1993, Case Study 50, CTJH.280.01001.0002_R (Appendices 11 (0095_R), 12 (0104_R), 14 (0124_R), 18 (0139_R) (for the date of this latter letter, see 0024_R)).

32 Exhibit 50-0013, 'Report to Bishop B Heather on the Special Enquiry into the Society of St Gerard Majella', 31 August 1993, Case Study 50, CTJH.280.01001.0002_R at Appendices 11 (0095_R), 14 (0124_R), 18 (0139_R).

33 Exhibit 50-0013, 'Bishop Bede Heather Transcript of Interview with Police', 13 April 1995, Case Study 50, STAT.1188.001.0034_R at 0036_R.

34 Exhibit 50-0013, 'Letter from Bishop Heather to Br Joseph Pritchard', 3 May 1993, Case Study 50, CTJH.280.03003.0089_R.

35 Exhibit 50-0013, 'Decree: Special Enquiry into the Society of St. Gerard Majella', 4 May 1993, Case Study 50, CTJH.280.01123.0025; 'Circular Letter to All Members of the Society of St. Gerard Majella from Bishop Bede Heather', 4 May 1993, Case Study 50, CTJH.280.01123.0027.

36 Exhibit 50-0013, 'Special Enquiry into the Society of St. Gerard Majella: Mandate', 4 May 1993, Case Study 50, CTJH.280.01123.0024.

37 Exhibit 50-0013, 'Report to Bishop Heather on Society of St Gerard Majella', 28 July 1993, Case Study 50, CCI.0631.00012.0315_R at 0317_R.

38 Exhibit 50-0013, 'Letter from Bishop Heather to Br Stephen Robinson', 4 May 1993, Case Study 50, CTJH.280.01127.0028.

39 Exhibit 50-0013, 'Letter from Bishop Heather to Br Stephen Robinson', 11 May 1993, Case Study 50, CTJH.280.01077.0076_R; 'Letter from Bishop Heather to Br Stephen Robinson', 11 May 1993, Case Study 50, CTJH.280.03005.0484_R.

40 Exhibit 50-0013, 'Letter from Bishop Heather to Cardinal E B Clancy', 13 May 1993, Case Study 50, CTJH.280.03003.0075.

41 Exhibit 50-0013, 'Report to Bishop B Heather on the Special Enquiry into the Society of St Gerard Majella', 31 August 1993, Case Study 50, CTJH.280.01001.0002_R at 0007_R.

42 Exhibit 50-0013, 'Report to Bishop B Heather on the Special Enquiry into the Society of St Gerard Majella', 31 August 1993, Case Study 50, CTJH.280.01001.0002_R at 0008_R, 0015_R.

43 Exhibit 50-0013, 'Report to Bishop Heather on Society of St Gerard Majella', 28 July 1993, Case Study 50, CCI.0631.00012.0315_R.

44 Exhibit 50-0013, 'Report to Bishop Heather on Society of St Gerard Majella', 28 July 1993, Case Study 50, CCI.0631.00012.0315_R at 0317_R.

45 Exhibit 50-0013, 'Report to Bishop Heather on Society of St Gerard Majella', 28 July 1993, Case Study 50, CCI.0631.00012.0315_R at 0317-0318_R.

46 Exhibit 50-0013, 'Report to Bishop Heather on Society of St Gerard Majella', 28 July 1993, Case Study 50, CCI.0631.00012.0315_R at 0317_R.

47 Exhibit 50-0013, 'Report to Bishop B Heather on the Special Enquiry into the Society of St Gerard Majella', 31 August 1993, Case Study 50, CTJH.280.01001.0002_R at 0017_R-0029_R, 0096_R-0103_R, 0125_R-0126_R.

48 Exhibit 50-0013, 'Report to Bishop B Heather on the Special Enquiry into the Society of St Gerard Majella', 31 August 1993, Case Study 50, CTJH.280.01001.0002_R (see, for example, the letters at Appendices 11 (0095_R) and 14 (0124_R)).

49 Exhibit 50-0013, 'Report to Bishop B Heather on the Special Enquiry into the Society of St Gerard Majella', 31 August 1993, Case Study 50, CTJH.280.01001.0002_R at 0021_R.

50 Exhibit 50-0013, 'Report to Bishop B Heather on the Special Enquiry into the Society of St Gerard Majella', 31 August 1993, Case Study 50, CTJH.280.01001.0002_R at 0028-0030_R.

51 Exhibit 50-0013, 'Report to Bishop B Heather on the Special Enquiry into the Society of St Gerard Majella', 31 August 1993, Case Study 50, CTJH.280.01001.0002_R at 0030_R.

52 Exhibit 50-0013, 'Report to Bishop B Heather on the Special Enquiry into the Society of St Gerard Majella', 31 August 1993, Case Study 50, CTJH.280.01001.0002_R at 0033-0034_R.

53 Exhibit 50-0013, 'Report to Bishop B Heather on the Special Enquiry into the Society of St Gerard Majella', 31 August 1993, Case Study 50, CTJH.280.01001.0002_R at 0033-0034_R.

54 Exhibit 50-0013, 'Determinations: For the Society of the Brothers of St Gerard Majella following the Report of the Special Enquiry 31/8/93', 10 September 1993, Case Study 50, CTJH.270.08001.0023_R.

55 Exhibit 50-0013, 'Determinations: for Brother John Sweeney of the Society of St Gerard Majella following the Report of the Special Enquiry 31/8/93', 13 September 1993, Case Study 50, CTJH.270.08001.0025.

56 Exhibit 50-0013, 'Determinations: for Brother John Sweeney of the Society of St Gerard Majella following the Report of the Special Enquiry 31/8/93', 13 September 1993, Case Study 50, CTJH.270.08001.0025.

57 Exhibit 50-0013, 'Determinations: for Brother Joseph Pritchard of the Society of St Gerard Majella following the Report
of the Special Enquiry 31/8/93', 13 September 1993, Case Study 50, CTJH.270.08001.0027.

58 Exhibit 50-0013, 'Determinations: for Brother Joseph Pritchard of the Society of St Gerard Majella following the Report
of the Special Enquiry 31/8/93', 13 September 1993, Case Study 50, CTJH.270.08001.0027.

59 Exhibit 50-0013, 'Determinations: for Brother Stephen Robinson of the Society of St Gerard Majella following the Report
of the Special Enquiry 31/8/93', 15 September 1993, Case Study 50, CTJH.270.08001.0029.

60 Exhibit 50-0013, 'Determinations: for Brother Stephen Robinson of the Society of St Gerard Majella following the Report
of the Special Enquiry 31/8/93', 15 September 1993, Case Study 50, CTJH.270.08001.0029.

61 Exhibit 50-0013, 'Letter from Br Stephen Robinson to Bishop Heather', 15 September 1993, Case Study 50,
CTJH.280.01077.0078.

62 Exhibit 50-0013, 'Circular Letter to All Members of the Society of St Gerard Majella', 22 September 1993, Case Study 50,
CTJH.280.01127.0026_R.

63 Exhibit 50-0013, 'Letter from REDACTED *et al* to Bishop Heather', 28 October 1993, Case Study 50,
CTJH.270.08001.0014_R at 0017_R.

64 Exhibit 50-0013, 'Letter from REDACTED *et al* to Bishop Heather', 28 October 1993, Case Study 50,
CTJH.270.08001.0014_R at 0014–0015_R.

65 Exhibit 50-0013, 'Letter from REDACTED *et al* to Bishop Heather', 28 October 1993, Case Study 50,
CTJH.270.08001.0014_R at 0015_R.

66 Exhibit 50-0013, 'Handwritten statement signed by HBC', 23 December 1993, Case Study 50, CTJH.280.01073.0023_R.

67 Exhibit 50-0013, 'Letter from "Bede" to Rev John Usher', 27 December 1993, Case Study 50, CTJH.280.01073.0009_R.

68 Exhibit 50-0013, 'Letter from "Bede" to Rev John Usher', 27 December 1993, Case Study 50, CTJH.280.01073.0009_R.

69 Exhibit 50-0013, 'Letter from "Bede" to Rev John Usher', 27 December 1993, Case Study 50, CTJH.280.01073.0009_R.

70 Exhibit 50-0013, 'Report to Bishop Heather Bishop of the Diocese of Parramatta concerning certain matters pertaining
to Br John Sweeney SSG Prepared by John Usher', 17 February 1994, Case Study 50, CTJH.280.01073.0015_R at 0017_R.

71 Exhibit 50-0013, 'Letter from "Bede" to Rev John Usher', 27 December 1993, Case Study 50, CTJH.280.01073.0009_R.

72 Exhibit 50-0013, 'Brief Notes on the Meeting called by Bishop Heather with Bro John Sweeney SSG at the Diocesan
Office', 31 December 1993, Case Study 50, CTJH.280.01073.0013_R at 0013_R; 'Handwritten letter from Bishop Heather
to Br John Sweeney', 31 December 1993, Case Study 50, CTJH.270.08001.0011_R.

73 Exhibit 50-0013, 'Report to Bishop Heather Bishop of the Diocese of Parramatta concerning certain matters pertaining
to Br John Sweeney SSG Prepared by John Usher', 17 February 1994, Case Study 50, CTJH.280.01073.0015_R at
0017–0018_R.

74 Exhibit 50-0013, 'Report to Bishop Heather Bishop of the Diocese of Parramatta concerning certain matters pertaining
to Br John Sweeney SSG Prepared by John Usher', 17 February 1994, Case Study 50, CTJH.280.01073.0015_R at 0020_R.

75 Exhibit 50-0013, 'Report to Bishop Heather Bishop of the Diocese of Parramatta concerning certain matters pertaining
to Br John Sweeney SSG Prepared by John Usher', 17 February 1994, Case Study 50, CTJH.280.01073.0015_R at 0021_R.

76 Exhibit 50-0013, 'Report to Bishop Heather Bishop of the Diocese of Parramatta concerning certain matters pertaining
to Br John Sweeney SSG Prepared by John Usher', 17 February 1994, Case Study 50, CTJH.280.01073.0015_R at 0021_R.

77 Exhibit 50-0013, 'Letter from Bishop Heather to Br John Sweeney', 21 February 1994, Case Study 50,
CTJH.280.02011.0016.

78 Exhibit 50-0013, 'Handwritten Letter from Br John Sweeney to Br Maurice Taylor', Case Study 50,
CTJH.280.02011.0025_R.

79 Exhibit 50-0013, 'Letter from Bishop Heather to Br Maurice Taylor', 22 February 1994, Case Study 50,
CTJH.280.01077.0080_R.

80 Exhibit 50-0013, 'Police Statement of HBC', 2 March 1994, Case Study 50, STAT.1188.001.0029_R.

81 Exhibit 50-0013, 'Police Statement of HBC', 2 March 1994, Case Study 50, STAT.1188.001.0029_R at 0030_R.

82 Exhibit 50-0013, 'Letter from Father John Usher to Alex Braszczyński', 20 April 1994, Case Study 50, IND.0533.001.0001.

83 Exhibit 50-0013, 'Minutes of Extraordinary Meeting', 26 June 1994, Case Study 50, NPF.104.01077.0060_R.

84 Exhibit 50-0013, 'Handwritten letter from "Stephen" to "Bede"', Case Study 50, NPF.104.001.0202_R at 0202_R.

85 Exhibit 50-0013, 'Request for dispensation signed by Br Stephen Robinson', 24 October 1994, Case Study 50,
CTJH.280.01074.0011; 'Request for dispensation signed by Br John Sweeney', 14 November 1994, Case Study 50,
CTJH.280.01119.0017; 'Request for dispensation signed by Br Joseph Pritchard', 14 November 1994, Case Study 50,
CTJH.280.03003.0048.

86 Exhibit 50-0013, 'Letter from Bishop Heather to REDACTED', 4 October 1994, Case Study 50, NPF.104.001.0162_R.

87 Exhibit 50-0013, 'Police Statement of Sean Lynch', 27 May 1995, Case Study 50, CTJH.280.01144.0029_R.

88 Exhibit 50-0013, 'New South Wales Police Situation Report – No. 1', 13 December 1994, Case Study 50,
NPF.104.001.0094_R at 0095_R.

89 Exhibit 50-0013, 'New South Wales Police Situation Report – No. 1', 13 December 1994, Case Study 50,
NPF.104.001.0094_R at 0095_R.

90 Exhibit 50-0013, 'New South Wales Police Force Search Warrant', 13 December 1994, Case Study 50,
CTJH.280.03005.0132_R.

91 Exhibit 50-0013, 'Police Statement of Shaunagh Cassidy', 7 June 1995, Case Study 50, CTJH.280.01144.0027_R;
'Letter from Makinson & d'Apice to Detective S P Lynch', 14 December 1994, Case Study 50, CTJH.280.03005.0098.

92 Exhibit 50-0013, 'Police Statement of Sean Lynch', 27 May 1995, Case Study 50, CTJH.280.01144.0029_R.

93 Exhibit 50-0013, 'Diocese of Parramatta Media Statement', 16 December 1994, Case Study 50, CTJH.280.01077.0359.

94 Exhibit 50-0013, 'Charge Sheet for Peter Harold Pritchard', Case Study 50, CTJH.280.01134.0104_R; 'Handwritten notes', 20 April 1995, Case Study 50, CTJH.280.03005.0018_R.

95 Exhibit 50-0013, 'Charge Sheet for Peter Harold Pritchard', Case Study 50, CTJH.280.01134.0104_R at 0107–108_R, 0110_R, 0113_R; 'Police Statement of HBE', 11 January 1995, Case Study 50, CCI.0352.00031.0009_R; 'Police Statement of HBF', 11 January 1995, Case Study 50, CCI.0352.00039.0006_R; 'Police Statement of HBA', 23 February 1995, Case Study 50, CCI.0352.00028.0007_R.

96 Exhibit 50-0013, 'Charge Sheet for John Gerard Patrick Sweeney', Case Study 50, CTJH.280.01144.0002_R.

97 Exhibit 50-0013, 'Report of the Diocese of Parramatta on the Society of St Gerard Majella', January 2014, Case Study 50, CTJH.280.01003.0001_R at 0006_R; 'Letter from Bishop Heather to Cardinal Eduardo Somalo', 5 June 1995, Case Study 50, CTJH.280.01123.0029_R at 0031_R; *Regina v Stephen Joseph Robinson* Summing-up Transcript', 12 March 1998, Case Study 50, CTJH.280.03005.0494_R at 0496_R, 0498_R; *Regina v Robinson* [1999] NSWCCA 172', 2 July 1999, Case Study 50, WEB.0183.001.0001_R at 0002_R [4], 0005_R [27]; 'Police Statement of HBD', 25 November 1994, Case Study 50, CCI.0018.00006.0452_R at 0452–0455_R.

98 Exhibit 50-0013, 'Letter from Bishop Heather to Cardinal Eduardo Somalo', 5 June 1995, Case Study 50, CTJH.280.01123.0029_R at 0033_R.

99 Exhibit 50-0013, 'Letter from Bishop Heather to Cardinal Eduardo Somalo', 5 June 1995, Case Study 50, CTJH.280.01123.0029_R at 0031_R.

100 Exhibit 50-0013, 'Dispensation from Perpetual Vows (Br Joseph Pritchard)', 11 August 1995, Case Study 50, CTJH.280.01077.0161; 'Dispensation from Perpetual Vows (Br John Sweeney)', 11 August 1995, Case Study 50, CTJH.280.01119.0018; 'Dispensation from Perpetual Vows (Br Stephen Robinson)', 11 August 1995, Case Study 50, CTJH.280.01074.0010.

101 Exhibit 50-0013, 'Letter from Francisco Ossa to Bishop Heather', 18 January 1996, Case Study 50, CTJH.280.01077.0369; 'Decree signed by Cardinal Eduardo Somalo', 18 January 1996, Case Study 50, CTJH.280.01077.0370.

102 Exhibit 50-0013, *Regina v John Gerard Patrick Sweeney* Sentencing Transcript', 18 July 1997, Case Study 50, CTJH.280.03005.0295_R at 0295–0297_R.

103 Exhibit 50-0013, *Regina v John Gerard Patrick Sweeney* Sentencing Transcript', 18 July 1997, Case Study 50, CTJH.280.03005.0295_R at 0317_R.

104 Diocese of Parramatta, *Most Rev Bede Vincent Heather DD LSS BA*, www.parra.catholic.org.au/about-your-diocese/history/former-bishops/bishop-bede/most-rev-bede-vincent-heather-dd-lss-ba.aspx (viewed 8 August 2017).

105 Exhibit 50-0013, *Regina v Peter Harold Pritchard* Sentencing Transcript', 12 November 1997, Case Study 50, CTJH.280.01077.0225_R at 0225–0230_R; 'Charge Sheet for Peter Harold Pritchard', Case Study 50, CTJH.280.01134.0104_R at 0107_R.

106 Exhibit 50-0013, *Regina v Peter Harold Pritchard* Sentencing Transcript', 12 November 1997, Case Study 50, CTJH.280.01077.0225_R at 0225–0230_R; 'Police Statement of HBE', 11 January 1995, Case Study 50, CCI.0352.00031.0009_R at 0009–0014_R; 'Police Statement of HBA', 23 February 1995, Case Study 50, CCI.0352.00028.0007_R at 0007–0014_R; 'Report to Bishop B Heather on the Special Enquiry into the Society of St Gerard Majella', 31 August 1993, Case Study 50, CTJH.280.01001.0002_R at 0096–0103_R (Appendix 11).

107 Exhibit 50-0013, *Regina v Peter Harold Pritchard* Sentencing Transcript', 12 November 1997, Case Study 50, CTJH.280.01077.0225_R at 0230–0232_R, 0238_R.

108 Exhibit 50-0013, *Regina v Peter Harold Pritchard* Sentencing Transcript', 12 November 1997, Case Study 50, CTJH.280.01077.0225_R; 'Charge Sheet for Peter Harold Pritchard', Case Study 50, CTJH.280.01134.0104_R; 'Report of the Diocese of Parramatta on the Society of St Gerard Majella', January 2014, Case Study 50, CTJH.280.01003.0001_R at 0011_R.

109 Exhibit 50-0013, *Regina v Robinson* [1999] NSWCCA 172', 2 July 1999, Case Study 50, WEB.0183.001.0001_R at 0002_R [1]–[4]; *Regina v Stephen Joseph Robinson* Summing-up Transcript', 12 March 1998, Case Study 50, CTJH.280.03005.0494_R.

110 Exhibit 50-0013, *Regina v Robinson* [1999] NSWCCA 172', 2 July 1999, Case Study 50, WEB.0183.001.0001_R at 0002_R [3]–[6], 0005_R [27–28], 0007_R [44] (referred to as the 'fourth trial'); 'Police Statement of HBD', 25 November 1994, Case Study 50, CCI.0018.00006.0452_R. See also Exhibit 50-0013, 'Letter from Fr Andrew Robinson to Fr Christopher De Souza and Dianne Dawson', 17 September 2013, Case Study 50, CTJH.280.03037.0002.

111 Exhibit 50-0013, *Regina v Robinson* [1999] NSWCCA 172', 2 July 1999, Case Study 50, WEB.0183.001.0001_R at 0002_R [3]–[4].

112 Exhibit 50-0013, *Regina v Robinson* [1999] NSWCCA 172', 2 July 1999, Case Study 50, WEB.0183.001.0001_R at 0007_R [43]–[44].

113 Exhibit 50-0013, 'Assessment Report: Compiled by Wendy Tuckerman with attachments', Case Study 50, CTJH.280.01075.0033_R at 0035_R, 0067_R.

114 Exhibit 50-0013, 'Assessment Report: Compiled by Wendy Tuckerman with attachments', Case Study 50, CTJH.280.01075.0033_R at 0038_R.

115 Exhibit 50-0013, 'Letter from Fr Andrew Robinson to Fr Christopher De Souza and Dianne Dawson', 17 September 2013, Case Study 50, CTJH.280.03037.0002. Andrew Robinson had been a brother in the Society since at least 1973: see Exhibit 50-0013, 'Letter from Br John Sweeney to "Friends"', 12 April 1973, Case Study 50, CTJH.400.30001.1160_R.

116 Exhibit 50-0013, 'Letter from Fr Andrew Robinson to Fr Christopher De Souza and Dianne Dawson', 17 September 2013, Case Study 50, CTJH.280.03037.0002.

117 Exhibit 50-0013, 'Letter from Fr Andrew Robinson to Fr Christopher De Souza and Dianne Dawson', 17 September 2013, Case Study 50, CTJH.280.03037.0002.

- 118 Exhibit 50-0013, 'Letter from Fr Andrew Robinson to Fr Christopher De Souza and Dianne Dawson', 17 September 2013, Case Study 50, CTJH.280.03037.0002.
- 119 Exhibit 50-0013, 'Email from Peter Williams to Peter Blayney', 27 August 2012, Case Study 50, CTJH.280.01077.0008_R.
- 120 Exhibit 50-0013, 'Letter from Bishop Anthony Fisher to Archbishop Paul Gallagher', 25 June 2013, Case Study 50, CTJH.280.01134.0195.
- 121 Exhibit 50-0013, 'Diocese of Parramatta, Australia: VOTUM relating to Rev Peter Harold (Joseph) Pritchard', 25 June 2013, Case Study 50, CTJH.280.01134.0191; 'Letter from Bishop Anthony Fisher to Most Rev Gerhard L Muller', 25 June 2013, Case Study 50, CTJH.280.01134.0172.
- 122 Exhibit 50-0013, 'Document titled "The Congregation for the Doctrine of the Faith, Prot. N. 441/2013"', 13 December 2013, Case Study 50, CTJH.280.01134.0207 at 0208.
- 123 Exhibit 50-0013, 'Diocese of Parramatta Professional Standards Report', 1 August 2013, Case Study 50, CTJH.280.01161.0178_R at 0181_R.
- 124 Exhibit 50-0013, 'Letter from Lina Zahid to Paul Davis', 26 August 2013, Case Study 50, CTJH.280.01161.0487_R.
- 125 Exhibit 50-0013, 'Letter from Lina Zahid to Paul Davis', 26 August 2013, Case Study 50, CTJH.280.01161.0487_R.
- 126 Exhibit 50-0013, 'Letter from Paul Davis to Lina Zahid', 30 August 2013, Case Study 50, CTJH.280.03037.0001_R.
- 127 Exhibit 50-0013, 'Letter from Fr Andrew Robinson to Fr Christopher De Souza and Dianne Dawson', 17 September 2013, Case Study 50, CTJH.280.03037.0002.
- 128 Exhibit 50-0013, 'Letter from Fr Andrew Robinson to Fr Christopher De Souza and Dianne Dawson', 17 September 2013, Case Study 50, CTJH.280.03037.0002.

Glossary

The following glossary contains terms specific to this volume. A complete glossary of terms used across this Final Report is set out in Volume 1, *Our inquiry*.

General terms

Term	Definition
Cleric	A person who is ordained for religious ministry.
Clergy	The group or body of people who are ordained for religious ministry.
Ecclesiastical	Pertaining to a church.
Episcopal	Pertaining to a bishop.
Pastoral ministry	Any form of religious ministry of care or service to a religious community and/or the broader community. This might include administration of the sacraments, hospital or prison chaplaincy, counselling, or outreach to marginalised individuals and communities. In the Catholic Church, care and service of the community is one of the functions of priests and deacons, but pastoral ministry is increasingly undertaken by lay people.
Person in religious ministry	A minister of religion, priest, deacon, pastor, rabbi, Salvation Army officer, church elder, religious brother or sister and any other person recognised as a spiritual leader in a religious institution.
Religious institution	An entity which operates or previously operated under the auspices of a particular religious denomination or faith and provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children. This includes, for example, dioceses, religious institutes, parishes, schools and residential facilities.
Religious organisation	A group of religious institutions from a particular religious denomination or faith that coordinate and/or organise together. For example, the Catholic Church is a religious organisation which is made up of different dioceses and religious institutes.

Catholic Church

Term	Definition
Administrative leave	The temporary removal of a cleric or religious brother or sister from ministry during an investigative process, prior to any determination of guilt or innocence.
Altar	The table at which the bread and wine are consecrated during mass.
Apostolic nunciature	The diplomatic mission (equivalent to an embassy) representing the Holy See in a foreign country such as Australia.
Apostolic nuncio	The Holy See's diplomatic representative in a foreign country such as Australia. The apostolic nuncio is also the pope's personal representative to the local church of that country. Usually a bishop or an archbishop.
Archdiocese	The major diocese of a large or older city, whose pastoral care is entrusted to an archbishop.
Assistant priest	A priest who is appointed to assist the parish priest in the pastoral care of a parish. Also referred to as a curate.
Australian Catholic Bishops Conference	The assembly of the Catholic bishops of Australia, established to provide a structure in which the bishops jointly exercise certain pastoral functions.
Auxiliary bishop	An assistant bishop to the diocesan bishop. Auxiliary bishops are usually only appointed in larger dioceses.
Bishop (diocesan)	A cleric appointed to lead a diocese.
Canon law	The internal law governing the structure and discipline of the Catholic Church.
Cardinal	A senior cleric appointed by the pope to advise him. A cardinal is a member of the College of Cardinals, which elects the pope.
Catechism	A published compendium of the beliefs and teachings of the Catholic Church.
Catholic Church authority	An archdiocese, diocese, religious institute, public juridic person, lay association or personal prelature. The term also refers to diocesan bishops, leaders of religious institutes and the administrative authorities of Catholic lay organisations.
Catholic Church Insurance Limited (CCI)	A registered insurance company which provides Catholic Church authorities and institutions in Australia with insurance services.

Term	Definition
Catholic Church personnel	Any current or former cleric or member of a religious institute, or any other person employed or appointed to a voluntary position by a Catholic Church authority.
Catholic Education Office (CEO)	A body that provides administrative support to Catholic schools, operating under the auspices of a particular diocese or dioceses in Australia.
Catholic Religious Australia (CRA)	The public name for the peak body of religious institutes in Australia (it was formerly known only as the Australian Conference of Leaders of Religious Institutes (ACLRI) and this remains its official name).
Celebret	An official document attesting that a priest who wishes to minister in another diocese is in good standing.
Coadjutor bishop	A bishop who has immediate right of succession on the death, resignation or transfer of the incumbent bishop of a diocese.
College of Consultors	A committee of priests, chosen from among the members of the Council of Priests, whose purpose is to advise the bishop in the governance of the diocese.
Congregation for Bishops	The department of the Roman Curia responsible for the appointment and supervision of bishops.
Congregation for the Clergy	The department of the Roman Curia responsible for overseeing the life and ministry of the clergy.
Congregation for the Doctrine of the Faith (CDF)	The department of the Roman Curia responsible for promoting and safeguarding official Catholic Church teaching. Formerly known as the Holy Office. It currently has jurisdiction over cases of child sexual abuse by clergy.
Congregation for the Evangelisation of Peoples	The department of the Roman Curia responsible for administering the mission territories of the Catholic Church, mostly in developing countries. Formerly known as the Congregation of Propaganda Fidei. The Catholic Church in Australia was administered by Propaganda Fidei until 1986.
Consultor	A priest who is a member of the College of Consultors of a diocese.
Council of Priests	The body which represents the priests of a diocese and assists the bishop in the governance of the diocese. It has a consultative role.
Curia (diocesan)	The administration which assists a bishop to govern his diocese. It consists of individuals and bodies including the vicar general, episcopal vicars, the chancellor, the judicial vicar, the business manager, and the financial council.

Term	Definition
Curia (Roman)	The central administration that assists the pope in governing the worldwide Catholic Church. It consists of dicasteries (similar to government departments) including congregations, pontifical councils, pontifical commissions, tribunals and administrative offices.
Deacon	A minister of the Catholic Church, lower in rank than a priest, who exercises a ministry of service. Deacons may baptise, officiate at funerals, assist at mass, preach, or exercise a ministry of charity to the poor, the sick and the elderly. Deacons had considerable influence in the early church. The office of deacon is only open to men.
Dicastery	A department of the Roman Curia.
Diocese	A defined faith community, determined on the basis of territory, whose pastoral care is entrusted to a bishop. In canon law, each diocese or eparchy is also referred to as a local or particular church.
Directors of professional standards	Officials appointed Under Towards Healing in each state and territory to receive complaints and manage the process of Towards Healing in that jurisdiction.
Dismissal	Dismissal from the clerical state occurs when a cleric is no longer permitted to use the title of cleric, wear clerical attire or perform any ministry reserved for a cleric. A religious may also be dismissed from a religious institute.
Dispensation of vows	When a member of a religious institute applies for and is granted relief from their vows by their religious superior. It is a voluntary procedure.
Encompass Australasia	A national residential facility for the treatment of priests and religious, including for substance abuse and psychosexual disorders. It was funded by the Australian Catholic Bishops Conference and the Australian Conference of Leaders of Religious Institutes and operated from 1997 to 2008.
Eparchy	A diocese of one of the Eastern Catholic Churches. In canon law, each diocese or eparchy is also referred to as a local or particular church.
Excardinate	To transfer a cleric from the diocese in which he is incardinated to another diocese into which he then becomes incardinated. Canon law does not allow clerics to be transient or unattached. Excardination cannot take place without the written permission of the bishop of the diocese in which the cleric is already incardinated, and does not take effect unless a letter of incardination has been obtained from the bishop of the diocese the cleric wishes to join.

Term	Definition
Excommunication	The highest penalty available under canon law, whereby a person is excluded from celebrating mass or receiving the sacraments and from exercising any ecclesiastical offices, ministries or functions.
Faculties	The set of ministerial functions, such as preaching, celebrating mass and hearing confessions, that a cleric is allowed to exercise. A diocesan bishop authorises a cleric to exercise these faculties.
Holy See	<p>The central government of the Catholic Church, consisting of the pope and the various bodies that make up the Roman Curia. It is a non-territorial institution, but also a sovereign entity recognised under international law. It operates from the Vatican City State, which is an independent sovereign territory. Also referred to as the Apostolic See.</p> <p>The Holy See is often informally referred to as 'the Vatican'. This report uses the term 'Holy See' when referring to occasions when the papacy is acting as a sovereign juridical entity (for example in relation to diplomatic or international law issues) or in reference to communications between the Holy See and an external party.</p>
Incardination	The enrolment, or attachment, of a cleric in a particular diocese or religious institute. Incardination in a diocese requires the cleric to obey the bishop, to accept and fulfil the ministry to which the bishop appoints him, and to reside in the diocese in which he is incardinated unless his absence is authorised by the bishop.
Laicisation	A dispensation from the clerical state. Laicisation is granted at the request of the priest himself, and is accordingly voluntary.
Mass	The central act of worship in the life of the Catholic Church.
Metropolitan	<p>An archbishop who presides over an ecclesiastical province. A metropolitan is also archbishop in his own diocese. The subordinate dioceses of a province are known as suffragan dioceses, and their bishops as suffragan bishops. For example, the Archbishop of Brisbane is also the Metropolitan of Queensland. The Queensland dioceses of Townsville, Cairns, Rockhampton and Toowoomba are suffragan dioceses. Metropolitans have certain limited powers in relation to the affairs of suffragan dioceses, which are set out in canon law.</p>
Monsignor	An honorary title granted to a priest by the pope.
National Committee for Professional Standards (NCPS)	A joint committee of the Australian Catholic Bishops Conference and Catholic Religious Australia which oversees the development of policies, principles and procedures for responding to Catholic Church related abuse complaints, including the national protocol Towards Healing.

Term	Definition
Novice	A trainee member of a religious institute who has not yet taken vows. Also known as a postulant.
Novitiate	The institution where novices train before professing their vows and being admitted as members of a religious institute. Also refers to the prescribed period of training prior to admission as a member of a religious institute.
Ordination	The sacramental rite by which a person becomes a deacon, priest or bishop. Only a bishop may ordain a priest or deacon. A new bishop is consecrated by at least three other bishops, and only with a papal mandate. In the Catholic tradition, only males may be ordained.
Parish	A local community of the Catholic faithful, determined on the basis of territory, whose pastoral care is entrusted to a parish priest.
Parish priest	The priest in charge of a parish.
Pope	The bishop of Rome and leader of the worldwide Catholic Church. The pope is elected by the College of Cardinals.
Prefect	The head of a Vatican congregation of the Roman Curia. Prefects are usually cardinals.
Presbytery	The house where the parish priest or priests reside.
Priest	An ordained member of a diocese (a diocesan or secular priest) or of a religious institute (a religious priest).
Profession of vows	The admission of men or women as members of a religious institute by means of formal public vows. Members of religious institutes take vows of poverty, chastity and obedience.
Professional standards offices (PSOs)	Offices in some states/territories which provide administrative support to the director of professional standards in carrying out his or her duties.
Professional standards resource groups (PSRGs)	A state or territory based body whose members provide advice and support to the director of professional standards and to Catholic Church authorities in responding to complaints.
Province	A grouping of neighbouring dioceses gathered around an archdiocese. Catholic religious institutes are often divided into provinces, which may cover one or more countries or a part or parts of a single country.
Provincial	The leader of a Catholic religious institute within a given province. For the purposes of this report, a provincial is a Catholic Church authority.
Recognitio	Formal approval by the Vatican of a local or national policy or document, thereby allowing it to form part of canon law applicable to that jurisdiction.

Term	Definition
Religious	A member or members of a religious institute of the Catholic Church (a brother, sister or religious order priest).
Religious brother	A male non-ordained member of a religious institute.
Religious institute	<p>An entity within the Catholic Church whose members commit themselves through religious vows to lead a life of poverty, chastity and obedience.</p> <p>Societies of apostolic life resemble religious institutes in that their members also live a life in common. They do not take religious vows but also undertake to live lives of poverty, chastity and obedience.</p> <p>Many religious institutes and societies of apostolic life are commonly referred to as orders or congregations.</p> <p>This report uses the term 'religious institutes' to include orders, congregations and societies of apostolic life.</p>
Religious priest	A male ordained member of a religious institute.
Religious sister	A female non-ordained member of a religious institute.
Religious superior	The leader of a religious institute or congregation.
Removal of faculties, withdrawal of faculties	A measure prohibiting a cleric from exercising any public ministry, imposed after a finding of wrongdoing. Generally, a priest who has had his faculties withdrawn may continue to say mass privately for himself.
Sacrament	A sacred rite which, in Catholic teaching, is both a sign and an instrument of God's grace. The Catholic Church recognises seven sacraments: baptism, eucharist (holy communion), penance (or reconciliation), confirmation, marriage, holy orders (ordination) and anointing of the sick (last rites).
Sacristy (or vestry)	A room within a church, usually near the altar, where the clergy dress and prepare for church services, and where sacred vessels and implements are stored.
Seal of confession, confessional seal	The obligation of strict confidentiality imposed on a priest in the sacrament of reconciliation not to reveal to any person the sins confessed, under pain of excommunication.
Seminarian	A student at a seminary.
Seminary	An institution where seminarians are educated in preparation for ordination into the priesthood.
Superior general	The international leader of a religious institute.

Term	Definition
Vatican	A term often informally used to refer to the Holy See (see definition for Holy See above).
Vicar general	A priest appointed by the diocesan bishop to assist in the governance of the diocese. He is the senior official of the diocesan curia.
Vestry	See definition of 'sacristy'.

Anglican Church

Term	Definition
Anglican Communion	An international association of 45 member churches in 165 countries, with an estimated combined membership of 85 million people.
Appellate Tribunal	A tribunal which hears and determines appeals from diocesan and provincial tribunals and the Special Tribunal, and determines or expresses opinions on questions arising under the Constitution of the Anglican Church.
Bishop	The spiritual and administrative leader of a diocese. Assistant bishops may be appointed to assist a diocesan bishop discharge his or her leadership duties.
Canon law	The laws, ordinances, regulations and rules governing the Anglican Church of Australia. The primary sources of canon law are the canon law carried over from the Church of England, laws passed by each diocesan synod, laws passed by the General Synod, and laws passed by the General Synod and adopted by a diocese.
Church worker	A lay person who is licensed, authorised or employed by or holds a position or office in an Anglican Church institution with the actual or apparent authority of the diocesan bishop. The term includes volunteers.
Deacon	A person ordained in holy orders, either as a transitional state or on a permanent basis. A deacon performs ministry such as assisting a priest within a parish, or working in another ministry area such as chaplaincy in schools or welfare agencies.
Deposition from holy orders	The removal from office of a person in holy orders, effected by the diocesan bishop, whether by consent or following sentence of a tribunal. There is a separate process for deposing a bishop from holy orders rather than a priest or deacon.
Diocesan Tribunal	A tribunal to deal with disciplinary matters involving ordained persons in a diocese.

Term	Definition
Diocese	One of 23 areas, defined by territory, into which the Anglican Church of Australia is divided. A diocese is synodically governed and episcopally led by the diocesan bishop.
Episcopate	The position or a term of office of a bishop.
General Synod	The national assembly body of the Anglican Church of Australia, with legislative powers. It comprises lay and ordained members and is divided into three houses: the House of Bishops (composed of diocesan bishops), the House of Clergy (composed of ordained priests and assistant bishops), and the House of Laity (composed of lay Anglicans).
Metropolitan	The leader of a province, usually an archbishop.
Parish	An area within a diocese, traditionally defined by geography but sometimes defined by ministry district.
Person in holy orders	A person ordained into holy orders as bishop, priest or deacon.
Priest	A person ordained into holy orders who is authorised to baptise, preside at Holy Communion, hear confessions and pronounce absolution.
Primate	The titular head of the Anglican Church of Australia.
Province	A grouping of dioceses. Australia has five provinces, one for each of the five mainland states. The Diocese of Tasmania is an extra-provincial diocese.
Provincial Tribunal	A tribunal to hear and determine appeals from diocesan tribunals and to be the original jurisdiction for hearing and determining a complaint if prescribed by diocesan synods.
Seal of the confessional	The protection of information disclosed in the course of private confession between a person confessing and a person in holy orders.
Special Tribunal	A tribunal to deal with disciplinary matters relating to diocesan bishops or bishops assistant to the primate in his or her capacity as primate.

The Salvation Army

Term	Definition
Territories	<p>Geographical divisions within The Salvation Army. A territory usually corresponds to a country; however, countries with a strong Salvation Army presence may be divided into a number of territories.</p> <p>The territorial headquarters is usually located in the country's capital city. Where there are multiple territories within a country, the territorial headquarters will be located in a relevant state capital.</p>
Division	A geographical subdivision of a Salvation Army territory. A division is a grouping of districts, similar to a diocese in the Catholic and Anglican churches. Each division houses a number of corps and community service centres. Divisions are administered by a divisional commander, who is responsible to the territorial commander.
Corps	Corps are The Salvation Army community churches and are administered by their divisional headquarters. Each corps is led by a corps officer, who is responsible to the divisional commander. The corps provide worship services; community activities, which include Bible studies, Sunday schools, kids' clubs, youth clubs; and some community services.
Community service centre	The social welfare arm of The Salvation Army. They aid and supports people in need within the community in the form of emergency assistance and rehabilitation. This includes, but is not limited to, providing support through addiction services (alcohol, drugs and gambling); aged care services; counselling services; court and prison services; disability services; employment services; homelessness services; domestic violence services; and youth services.
Officers	Salvation Army ministers. Officers are appointed to positions within corps or community service centres by territorial headquarters. They hold varying ranks within the organisation.
Soldiers	Salvation Army church members who worship at their local corps. Like officers, soldiers may wear a uniform; however, they usually only wear a uniform during Sunday worship or when attending official Salvation Army functions and activities.

Jehovah's Witnesses

Term	Definition
Adventist movement	A Christian movement focused on the imminent Second Coming of Jesus Christ. The Jehovah's Witnesses is an Adventist movement.
Branch office	The headquarters for the Jehovah's Witness organisation in a particular country or region. The branch office is also referred to as 'Bethel'.
Congregations	Groups of members of the Jehovah's Witness organisation.
Deletion	The removal of an elder or ministerial servant from their position of authority in the congregation.
Disassociation	A formal process by which a person leaves the Jehovah's Witness organisation.
Disfellowshipping	Excommunication from, or casting out of, the Jehovah's Witness organisation. The organisation directs its members not to associate with disfellowshipped persons.
Elders	Elders are appointed to shepherd the congregation and oversee spiritual matters. Their primary responsibilities include organising fieldwork, running congregational disciplinary committees, leading congregational services and Bible studies and attending to the pastoral care of the congregation. A woman can never be an elder in the Jehovah's Witness organisation. A body of elders oversees each Jehovah's Witness congregation.
Governing body	A council of elders who consider themselves to be anointed by Jehovah (God) and who look to Jehovah and Jesus Christ for direction in all matters.
Jehovah	The name Jehovah's Witnesses use to refer to God.
Judicial committee	A committee of elders in a congregation that is formed after it has been established that there is substance to a report that a member of the congregation has committed a serious sin (including child sexual abuse), and evidence has been produced showing that the serious sin may have been committed. The Judicial Committee assesses the degree of repentance of the person who has committed the serious sin, provides assistance to them and determines an appropriate scriptural sanction.

Term	Definition
Ministerial servants	Office holders in a Jehovah's Witness congregation whose predominant role is to provide administrative support and practical assistance to the elders and service to the congregation. They perform organisational tasks such as acting as attendants at congregational meetings, distributing literature and managing congregational accounts. A woman can never be a ministerial servant in the Jehovah's Witness organisation
Publishers	Members of a Jehovah's Witness congregation. Publishers may be baptised or unbaptised.
Reinstatement	The return of a disfellowshipped person to the congregation.
Reproval	A form of discipline that allows a perpetrator to remain within the congregation. A reproof may be announced to the congregation but the grounds of the reproof are not.
Shunning	The practice of refusing to associate, fraternise or converse with a person who has been disfellowshipped or who has chosen to disassociate from the Jehovah's Witness organisation.

Australian Christian Churches and affiliated Pentecostal Churches

Term	Definition
Pentecostalism	<p>A denomination of Christianity that emphasises the direct personal experience of God.</p> <p>Followers of Pentecostalism believe that through baptism one is filled with the power of the Holy Spirit, which bestows spiritual gifts, such as speaking in tongues, prophecy and healing.</p>
Senior pastor	The senior leader of a Pentecostal church
Pastor	The leader of a Pentecostal church.
Youth pastor	An individual who runs youth ministry or youth programs in a Pentecostal church.
Movement	A group of independent Pentecostal churches which have voluntarily joined together in affiliation.
Affiliated church	A church registered with a Pentecostal movement.

Yeshiva Bondi and Yeshivah Melbourne

Term	Definition
Arka'ot	The requirement to resolve disputes between Jews by applying Jewish law rather than secular law.
Beth din	A rabbinical court for those of the Jewish faith. A beth din is composed of rabbis or dayans (judges) knowledgeable in Jewish law who adjudicate on civil matters within the Jewish community. For example, they hear matters of divorce, conversion to Judaism and the handling of financial disputes.
Chabad-Lubavitch	A movement of Orthodox Judaism which was founded approximately 250 years ago in Eastern Europe. 'Chabad' is an acronym of three Hebrew words: <i>chochmah</i> , <i>binah</i> and <i>da'at</i> (meaning wisdom, comprehension and knowledge). 'Lubavitch' is the name of the town where the movement was founded. The headquarters of the Chabad-Lubavitch movement is in Crown Heights in New York. Chabad-Lubavitch falls under the more general class of Hasidism.
Emissaries	Representatives sent from Chabad-Lubavitch headquarters in New York around the globe to set up or run an appointed territory or community. Once appointed to a territory they were to carry out the mission in that territory and also encouraged to establish Jewish educational systems for their community.
Hasidism	A conservative branch of Haredi Orthodox Judaism. Hasidic Judaism began in Poland in approximately 1740.
Halocho	The collective body of Jewish religious laws.
Rabbi	A Jewish scholar who has achieved a level of learning. Rabbis are commonly spiritual leaders of synagogues and Jewish communities.
Mesirah	A prohibition upon a Jew informing upon, or handing over another Jew to, a secular authority (particularly where criminal conduct is alleged).
Mikveh	Jewish ritual bathhouse.
Moser	A term of contempt applied to a Jew who has committed <i>mesirah</i> .
Loshon horo (or negative talk)	The halachic term for gossiping or speaking negatively about another Jew or a Jewish institution or place. <i>Loshon horo</i> is discouraged under Jewish law, even if what is said is objectively true.
Shunning	Religious, social or economic exclusion of a member of an ultra-orthodox Jewish community who is considered to have committed a sin (or a grave sin).
Synagogue (or shule/shul)	Religious house of prayer for followers of the Jewish faith.



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