



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

JULY 2016

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to allegations of child sexual abuse at children's homes
that it operated

July 2016

COMMISSIONERS

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Preface

The Royal Commission

The Letters Patent provided to the Royal Commission require that it ‘inquire into institutional responses to allegations and incidents of child sexual abuse and related matters’.

In carrying out this task, we are directed to focus on systemic issues but be informed by an understanding of individual cases. The Royal Commission must make findings and recommendations to better protect children against sexual abuse and alleviate the impact of abuse on children when it occurs.

For a copy of the Letters Patent, see Appendix A.

Public hearings

A Royal Commission commonly does its work through public hearings. A public hearing follows intensive investigation, research and preparation by Royal Commission staff and Counsel Assisting the Royal Commission. Although it may only occupy a limited number of days of hearing time, the preparatory work required by Royal Commission staff and by parties with an interest in the public hearing can be very significant.

The Royal Commission is aware that sexual abuse of children has occurred in many institutions, all of which could be investigated in a public hearing. However, if the Royal Commission were to attempt that task, a great many resources would need to be applied over an indeterminate, but lengthy, period of time. For this reason the Commissioners have accepted criteria by which Senior Counsel Assisting will identify appropriate matters for a public hearing and bring them forward as individual ‘case studies’.

The decision to conduct a case study will be informed by whether or not the hearing will advance an understanding of systemic issues and provide an opportunity to learn from previous mistakes, so that any findings and recommendations for future change which the Royal Commission makes will have a secure foundation. In some cases the relevance of the lessons to be learned will be confined to the institution the subject of the hearing. In other cases they will have relevance to many similar institutions in different parts of Australia.

Public hearings will also be held to assist in understanding the extent of abuse which may have occurred in particular institutions or types of institutions. This will enable the Royal Commission to understand the way in which various institutions were managed and how they responded to allegations of child sexual abuse. Where our investigations identify a significant concentration of abuse in one institution, it is likely that the matter will be brought forward to a public hearing.

Public hearings will also be held to tell the story of some individuals which will assist in a public understanding of the nature of sexual abuse, the circumstances in which it may occur and, most importantly, the devastating impact which it can have on some people’s lives.

A detailed explanation of the rules and conduct of public hearings is available in the Practice Notes published on the Royal Commission's website at:

www.childabuseroyalcommission.gov.au

Public hearings are streamed live over the internet.

In reaching findings, the Royal Commission will apply the civil standard of proof which requires its 'reasonable satisfaction' as to the particular fact in question in accordance with the principles discussed by Dixon J in *Briginshaw v Briginshaw* (1938) 60 CLR 336:

... it is enough that the affirmative of an allegation is made out to the reasonable satisfaction of the tribunal. But reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequence of the fact or facts to be proved. The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal...the nature of the issue necessarily affects the process by which reasonable satisfaction is attained.

In other words, the more serious the allegation, the higher the degree of probability that is required before the Royal Commission can be reasonably satisfied as to the truth of that allegation.

Private sessions

When the Royal Commission was appointed, it was apparent to the Australian Government that many people (possibly thousands) would wish to tell us about their personal history of child sexual abuse in an institutional setting. As a result, the Commonwealth Parliament amended the *Royal Commissions Act 1902* to create a process called a 'private session'.

A private session is conducted by one or two Commissioners and is an opportunity for a person to tell their story of abuse in a protected and supportive environment. As at 5 April 2016, the Royal Commission has held 4,962 private sessions and more than 1,543 people were waiting to attend one. Many accounts from these sessions will be recounted in later Royal Commission reports in a de-identified form.

Research program

The Royal Commission also has an extensive research program. Apart from the information we gain in public hearings and private sessions, the program will draw on research by consultants and the original work of our own staff. Significant issues will be considered in issues papers and discussed at roundtables.

This case study

In Case Study 33, the Royal Commission into Institutional Responses to Child Sexual Abuse examined the response of The Salvation Army (Southern Territory) to allegations of child sexual abuse at children's homes that it operated.

The public hearing was held in Adelaide, South Australia, in October 2015.

The scope and purpose of this public hearing was to inquire into the following matters:

1. The experiences of former child residents of the following institutions operated by the Salvation Army between 1940 and 1990:
 - (a) Eden Park Boys' Home, South Australia (Eden Park)
 - (b) Box Hill Boys' Home, Victoria (Box Hill)
 - (c) Bayswater Boys' Home, Victoria (Bayswater)
 - (d) The Salvation Army Boys' Home (also known as Hollywood Children's Village), Nedlands, Western Australia (Nedlands)
2. The response of The Salvation Army (Southern Territory) to allegations of child sexual abuse of former residents of Eden Park, Box Hill, Bayswater and Nedlands.
3. The past and current policies, practices and procedures of The Salvation Army (Southern Territory) for responding to claims of child sexual abuse in the institutions it operated.
4. Some aspects of the criminal law that govern the prosecution of child sexual abuse offences in South Australia, in particular the issues of joinder.
5. Any related matters.

Executive summary

In Case Study 33, the Royal Commission examined the response of The Salvation Army (Southern Territory) (TSAS) to allegations of child sexual abuse at the children's homes that it operated.

The focus of this public hearing was the following TSAS children's institutions:

- Eden Park Boys' Home (Eden Park)
- Nedlands Boys' Home (later known as Hollywood Children's Village) (Nedlands)
- Box Hill Boys' Home (Box Hill)
- Bayswater Boys' Home (Bayswater).

In this report they are collectively referred to as 'the Institutions'.

During the public hearing, the Royal Commission heard evidence from 13 former residents of the Institutions. They gave evidence of physical and sexual abuse by officers and employees of TSAS, and by other residents, that they suffered while they resided at the Institutions.

The Royal Commission also heard evidence from officers of the various government departments, the current Territorial Commanders of TSAS, a former employee of TSAS who was responsible for responding on behalf of TSAS to complaints of child sexual abuse between 1993 and 2012, the solicitor for TSAS and the South Australian Director of Public Prosecutions (DPP).

The Salvation Army (Southern Territory)

Structure

The Salvation Army was formed in 1865 in London, which is where the International Headquarters (IHQ) remains today. It is a religious and charitable organisation and is generally known as 'The Salvation Army'.

Internationally, The Salvation Army is broken up into five different zones. Each zone is overseen by two Commissioners and is organised into further 'Territories', 'commands' or 'regions'.

In Australia, The Salvation Army is an unincorporated association of natural persons, the membership of which fluctuates from time to time.

The Salvation Army in Australia falls within the South Pacific and East Asia zone. Since 1921 it has been divided into two autonomous and distinct Territories: the 'Eastern Territory' and the 'Southern Territory'.

As at the time of the public hearing, The Salvation Army in Australia did not have a national leader. Rather, the two Territories (Southern and Eastern) report directly to the South Pacific and East Asia Office at IHQ.

Each Territory is headed by the Territorial Commander. The Territorial Commander usually has the rank of commissioner or colonel and reports directly to IHQ. The current Territorial Commander of TSAS is Commissioner Floyd Tidd. Commissioner Tidd attended the public hearing and gave evidence.

Institutional care

Since 1881, The Salvation Army has established many social services across Australia, including many institutions for children.

Specifically, from 1894 to 1998 The Salvation Army operated children's homes across the Southern Territory. The primary purpose of these homes was to provide a home and education to children. In total, TSAS operated 55 separate children's homes between 1894 and 1998. TSAS estimates that more than 3,000 officers and employees were engaged to work at the homes over that period. Approximately 15,000 to 17,000 children passed through the homes operated by TSAS.

The governance of the Institutions and the experiences of the former residents are discussed further below.

Commissioner Tidd gave evidence about the managerial structure that applied at the Institutions during the time that they were in operation.

Commissioner Tidd explained that at the apex of the structure was the manager of the institution. The manager was appointed by the Territorial Headquarters staff but would be approved by the Territorial Commander. The manager of the home had the power to appoint the matron, who looked after the domestic aspects of the home. The manager also appointed the assistant manager and any other staff who worked at the home. In contrast, officers who lived and worked at the home were appointed by Territorial Headquarters.

During the life of the Institutions, there were no guidelines, orders or regulations, policies or procedures which regulated the appointment of employees, officers or managers to the homes. In particular, at the time that the Institutions were in operation, there were no legal or other requirements for specific qualifications or for police checks.

The Institutions

Eden Park

Eden Park was located about 40 kilometres outside Adelaide in the Adelaide Hills near Mount Barker in South Australia. The property was about 53 hectares in size and was a working farm. The Salvation Army purchased the land in 1900.

During the time that Eden Park was in operation, it was subject to four broad periods of South Australian Government regulation. The admission of boys to Eden Park was somewhat dependent upon the statutory regime which applied at the time. The statutory regimes also provided for the governance and oversight of Eden Park.

Mr Etienne Scheepers, the Deputy Chief Executive, Child Safety, Department for Education and Child Development in South Australia, provided a statement and attended the public hearing to give evidence about the legislative scheme pursuant to which Eden Park operated.

During the time that Eden Park was in operation, the South Australian State Children's Council and, from 1926, its successor, the Children's Welfare and Public Relief Board had a statutory supervisory function in relation to the home until 25 January 1945. From 1950, the Children's Welfare and Public Relief Board and later the South Australian Government had limited powers of inspection. The nature and extent of these powers varied from time to time.

The Royal Commission heard evidence about the inspections carried out at Eden Park during this period. Copies of the records of inspection were tendered into evidence. The records of inspection that were able to be located did not include any records after 1976. Mr Scheepers said that he was not aware of any inspections of Eden Park after 1976 and he could not find any explanation for that.

Other historical documents were tendered into evidence which revealed the South Australian Government's knowledge of allegations of physical and sexual abuse at Eden Park. These allegations were not contained in inspection records, albeit incomplete, that were tendered into evidence. These documents are discussed in greater detail below.

During the public hearing, the Royal Commission heard evidence from three former residents of Eden Park: Mr Graham Rundle, Mr Steven Grant and BMB.

Mr Rundle, Mr Grant and BMB described how they had come to live at Eden Park and their experiences living at Eden Park as children. All three of the survivors gave evidence about physical abuse that they received from officers and employees of TSAS. This included being hit with a strap and being locked in a small room with no windows and a concrete floor as punishment for minor misdemeanours.

These former survivors also gave evidence about sexual abuse that they suffered which was perpetrated by officers and employees of The Salvation Army. Mr Rundle, Mr Grant and BMB also described steps that they took at the time, and more recently, to discuss the abuse.

The Royal Commission also heard evidence about the serious impact that the abuse had on their physical and mental health. This evidence is set out in further detail below.

Nedlands

Nedlands operated as a residential care facility between 1918 and 1992. It provided residential care for boys. Later, from 1969, it also provided care for girls. The children at Nedlands were a mixture of state wards, children placed privately by their parents and children referred by non-government agencies.

The home was located at Karalla Street, Nedlands, in Western Australia. Over time, the local government boundaries changed and the suburb was variously known as Karrakatta, West Subiaco and Nedlands.

Nedlands had different names at different points in time. It was also referred to as:

- Salvation Army Boy's Home, Hollywood (from May 1957)
- Salvation Army Hollywood Children's Village (Boys and Girls) (from April 1971)
- Salvation Army Hollywood Children's Village (from November 1977).

In or around 1965, Nedlands changed from dormitory-style accommodation to a cottage parent model. At this time, it was renamed the Hollywood Children's Village. Following the transition of the facility to a cottage parent model, it primarily catered for teenage children. The majority of residents were aged between 12 and 15.

During the time that Nedlands was in operation, the State of Western Australia had statutory oversight of and responsibility for the home. The nature and extent of the exercise of that statutory oversight varied from time to time. In addition, the State of Western Australia had the ability to approve the appointment of managers to Nedlands.

Ms Kathryn Benham, Acting Director General of the Department for Child Protection and Family Support in the State of Western Australia, provided a statement and attended the public hearing to give evidence about the legislative scheme pursuant to which Nedlands operated and the degree of oversight and responsibility that the Western Australian Government had in respect to Nedlands.

The Royal Commission heard evidence about the Western Australian Government's express and ancillary powers of inspection relating to Nedlands. Copies of some of the inspection records that the department was able to locate were tendered into evidence. These records were limited but

were able to give some indication about the nature of the relationship between the State and Nedlands (and also TSAS) under the relevant legislative scheme and also the conditions at Nedlands. Some of these inspection records recorded the state of Nedlands as ‘deplorable’ and ‘in need of consideration attention’. At other times, the children were described as in ‘good’ health and dormitories as ‘spotlessly clean’.

Other documents relating to the Western Australian Government’s ability to approve the appointment of managers to Nedlands were tendered into evidence. These documents revealed concerns about the appointment of the Salvation Army officer ‘Captain Saunders’ as manager at Nedlands. These documents were further examined during the public hearing in the context of The Salvation Army’s historical response to allegations of physical abuse (and sexual abuse) at Nedlands.

The Royal Commission heard evidence from BMC, a former resident of Nedlands. BMC described being physically punished and humiliated. BMC also gave evidence about sexual abuse she suffered while resident at Nedlands. The Royal Commission heard evidence about the long-lasting impact on BMC of her experiences at Nedlands. BMC’s evidence is discussed further below.

Box Hill and Bayswater

In 1897, the Salvation Army Boys Home was established at Brunswick in Victoria under the control and management of The Salvation Army. Its location was changed to Box Hill on 12 December 1912. Box Hill Boys’ Home (Box Hill) officially opened in 1913.

Box Hill was a private institution which housed a mixture of state wards, children placed privately by their parents and children referred by non-government agencies. From at least 1955, Box Hill had a primary school on the premises conducted by the Victorian Department of Education. Box Hill Technical School was available for boys requiring secondary or technical school. In February 1972, the home formerly known as Box Hill became known as Hayville.

Also in 1897, a home for children operated by The Salvation Army opened at Bayswater in Victoria. It was originally established as a reformatory school for boys.

There were originally three Salvation Army homes on the Bayswater site. The home called ‘Bayswater No 1’ (the No 1 home) was responsible for boys aged over 14 years who had committed serious offences. ‘Bayswater No 2’ (the No 2 home) was responsible for younger boys and ‘Bayswater No 3’ (the No 3 home) was responsible for older non-offending boys. The three homes were collectively referred to until 1957 as ‘the Salvation Army Farm and Vocational Training Centre (Bayswater)’.

By 1957, the No 1 and No 3 homes had been combined and housed boys aged over 14 years. The No 2 home retained responsibility for boys 14 years and under.

In 1962, the approved juvenile school based at the No 1 home was renamed the Bayswater Youth Training Centre (Bayswater YTC) and was formally declared to be a youth training centre.

The No 2 home was closed in 1980. Bayswater YTC closed in 1987.

During the time that Bayswater and Box Hill were in operation the Victorian Government had statutory oversight of and responsibility for the homes. The nature and extent of the exercise of that statutory oversight and responsibility varied from time to time. These statutory powers included the powers of inspection.

Mr Alan Hall, Director of Performance, Regulation and Reporting at the Department of Health & Human Services (Victoria) provided a statement to the Royal Commission and attended the public hearing to give evidence in respect to the legislative scheme pursuant to which Box Hill and Bayswater operated and the statutory oversight and responsibility in respect to the homes.

No records of inspection for Bayswater or Box Hill could be located for the period before 1957. For Bayswater (including Bayswater YTC, the Bayswater No 1 Reformatory School and No 2 home) only 12 inspection records were located. These related to the period 1957 to 1982. For Box Hill only 10 inspection records were located. They related to the period 1958 to 1970. No other inspection records could be located for the period that Bayswater and Box Hill operated.

Mr Hall gave evidence that he did not find any records of allegations of child sexual abuse at Box Hill, the No 2 home or the reformatory school at Bayswater.

The documents tendered into evidence, and oral evidence received by the Royal Commission, revealed that during the time that Bayswater and Box Hill were in operation:

- the State of Victoria did not inspect those institutions with the frequency required by the relevant legislation
- the records of inspection that could be located focused more the physical aspects of the home and contained only general observations about the wellbeing of residents.

The Royal Commission heard evidence from six former residents of Box Hill about their experiences. They were:

- Mr Jack Charles
- BML
- Mr Brian Cherrie
- Mr Ross Rogers
- Mr David Reece.

A statement from David Wright, a former resident of Box Hill, was also read into evidence.

The Royal Commission also heard from three former residents of Bayswater:

- BMS
- Mr Philip Hodges
- BMA (who gave evidence of his experiences at Bayswater YTC).

These men recounted their experiences of living in Box Hill and Bayswater. They described an environment where corporal punishment was commonplace and where children suffered repeated sexual abuse by the officers and employees of TSAS who were meant to care for them. The Royal Commission heard extensive evidence about the negative effects and lifelong impact on the former residents of their physical and sexual abuse. These impacts were both physical and mental.

Reporting of abuse

Many of the former residents of the Institutions gave evidence that they did not tell anyone about the sexual abuse at the time that it was occurring. Some said that this was because they did not think that there was anyone to tell. Others said that they did not tell anyone because they did not think that they would be believed.

Other former residents gave evidence that they were threatened with physical harm if they did report their abuse or that they attempted to report their abuse to the officers and employees of The Salvation Army but they were not believed and were accused of telling lies.

The Royal Commission also heard evidence that some of the former residents were physically punished after telling officers or employees of The Salvation Army about their abuse.

We are satisfied that many former residents of the Institutions run by TSAS did not report their complaints of sexual abuse at the time it was occurring because:

- they did not think there was anyone to tell
- they did not think they would be believed
- they were threatened with physical harm
- when they did attempt to report the sexual abuse, they were accused of telling lies.

We are also satisfied 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.

Salvation Army policies and procedures

Orders and Regulations

The Royal Commission received evidence about The Salvation Army's internal orders and regulations which applied at the time that the Institutions were in operation and which governed the conduct of staff, officers and soldiers of The Salvation Army, including in the Institutions which were the subject of the public hearing.

The *Orders and Regulations for Soldiers of The Salvation Army* is a manual of operations issued by IHQ for The Salvation Army worldwide. It applies to all officers and soldiers throughout the world regardless of rank, appointment or Territory.

Since at least 1895, The Salvation Army has had in place orders and regulations dealing with the discipline of officers and appropriate conduct when dealing with children.

Other policies and procedures

Before 1990, aside from the *Orders and Regulations for Soldiers of The Salvation Army* (and its ancillary volumes, collectively referred to in this report as the Orders and Regulations), The Salvation Army had no practice of maintaining written policies and procedures for its social welfare programs. In particular, the Royal Commission heard evidence that between 1940 and 1990 The Salvation Army did not have any specific policies or procedures on how to respond to complaints of sexual abuse in any of the homes it operated.

We are satisfied that before 1990 The Salvation Army had no policies or procedures which governed how to handle and respond to complaints of sexual abuse received in respect to its institutions.

Disciplinary action

The iterations of the Orders and Regulations provide different bases for disciplinary action against an officer, soldier or employee of The Salvation Army. From at least 1895, under each of the ancillary volumes of regulations, any physical or sexual abuse of a child within the care of The Salvation Army would have constituted a sufficient basis for disciplinary action. Copies of the relevant Orders and Regulations were tendered into evidence.

The earliest iteration of the disciplinary process provided to the Royal Commission is that contained within the Orders and Regulations for Staff Officers (1895) and the latest iteration of the disciplinary process is that contained within Orders and Regulations for Officers of the Salvation Army (1974).

The Orders and Regulations were updated in 1997 and in 2003.

The Salvation Army's compliance with its policies and procedures

During the public hearing the Royal Commission heard extensive evidence and received documentary material about the extent to which TSAS complied with its own Orders and Regulations in their treatment of children and responses to allegations of physical and sexual abuse at the Institutions during the time that they were in operation.

Commissioner Tidd accepted in evidence that it was crucial that TSAS complied with its own guidelines and governance provisions to ensure that an appropriate and adequate standard of care was provided to children in its care and to protect those children from child sexual abuse and other physical abuse.

Documents which were created at the times that the Institutions were in operation were tendered into evidence. These documents, which are set out more fully below, reveal conduct in breach of the Orders and Regulations and TSAS's knowledge of physical and sexual abuse occurring at the Institutions. The documents also show that, in many instances, where knowledge of physical or sexual abuse was brought to the attention of The Salvation Army, it failed to follow its own Orders and Regulations.

Commissioner Tidd agreed that, in failing to follow its Orders and Regulations, The Salvation Army failed to protect children in its care at each of the Institutions.

Below are examples considered during the public hearing of TSAS failing to comply with its own Orders and Regulations.

Eden Park

During the public hearing the Royal Commission inquired into TSAS's response to documentary evidence revealing concerns about child sexual abuse at Eden Park.

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.

Documents tendered into evidence indicated that, after the Secretary received the 17 July 1963 memorandum from the Supervisor of Institutions, a police inquiry was conducted. In a memorandum dated 8 October 1963 from the 'Field Supervisor' to 'the Chairman', the Field Supervisor reported on the outcome of that police inquiry. He stated that 'a Police enquiry

following memo of Supervisor of Institutions, dated 17.7.63, re certain alleged sexual activities was inconclusive and no further action was to be taken at that time’.

We are satisfied that it is likely that those in charge of Eden Park, and possibly the manager, received a complaint from an employee about violent screams in the night and bloodstained sheets. If the manager received the complaint, the manager of Eden Park should have interviewed staff members and boys and referred the matter to the State Social Services Secretary. For any TSAS 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.

The Royal Commission also received evidence that officers and staff at Eden Park used a ‘lockup room’ to detain and punish children in their care and that ‘Sergeant’ William Ellis (Mr Ellis), who was not an officer of The Salvation Army but an employee, would use a strap to strike children. Brigadier Reginald Lawler, who was the manager of Eden Park, had permitted Sergeant Ellis to use the strap.

In respect of using a small locked storage room to punish children, The Salvation Army’s Orders and Regulations for Social Officers provides that ‘there must not be anything about the Home that unduly suggests restraint. The Institution must be made as homelike as possible in every particular’.

In respect to the use of the strap by Mr Ellis, the commanding officer or manager of the home was the only person under The Salvation Army’s own Orders and Regulations authorised to inflict corporal punishment.

We are satisfied that:

- the manager of Eden Park, Brigadier Lawler, and a staff employee, Mr Ellis, used a lockup room to detain and punish children in breach of The Salvation Army’s Orders and Regulations
- Mr Ellis inflicted physical punishment on children at the home with the permission of Brigadier Lawler. Mr Ellis, in striking and using a strap on children, and Brigadier Lawler, in permitting Mr Ellis to do so, failed to comply with The Salvation Army’s Orders and Regulations
- The Salvation Army did not discipline Mr Ellis or refer Brigadier Lawler to the Territorial Commander for review, as required by the relevant Orders and Regulations. In failing to adequately discipline Mr Ellis and Brigadier Lawler, TSAS failed to protect children in its care.

Nedlands

The Royal Commission received into evidence contemporaneous documents which revealed that TSAS officer Captain Charles Allan Smith failed to comply with various Orders and Regulations throughout his time with TSAS and that his breaches were brought to the attention of senior officers in TSAS.

We are satisfied on the evidence before the Royal Commission that, in respect to Captain Smith, TSAS failed to comply with its own Orders and Regulations and the spirit or purpose of those Orders and Regulations. In particular:

- In 1964 and 1965, after receiving a complaint about Captain Smith's 'unseemly behaviour' with a child, The Salvation Army failed to consider the removal of Captain Smith's name from the Officers' Roll and instead transferred Captain Smith to Nedlands, where he was placed in a position of trust over children.
- In 1974, Captain Smith pleaded guilty to three counts of aggravated assault on children and resigned, or was dismissed, from The Salvation Army. In re-accepting Smith back into The Salvation Army as an envoy in 1979 and then promoting him to the rank of captain in 1980, The Salvation Army defeated one of the purposes of its own Orders and Regulations – namely, to protect children in its care.

We are further satisfied that in 1985, after receiving an allegation that Captain Smith had made sexual advances to a child, TSAS did not refer Captain Smith to a Commission of Inquiry (as was required under its own Orders and Regulations), where his dismissal could be sanctioned. Instead, he was transferred to another position, where he continued to pose a risk to children. In doing this, TSAS failed to comply with its own Orders and Regulations and the spirit or purpose of those Orders and Regulations.

We conclude that, in failing to comply with its own Orders and Regulations in its dealings with Captain Smith, TSAS failed to protect children in its care from any further offending by Captain Smith.

The Royal Commission also received into evidence contemporaneous documents which revealed that two officers of TSAS – Sergeant Nelson and Captain Harold Sanders – did not comply with The Salvation Army's Orders and Regulations. This conduct was also brought to the attention of TSAS.

Based on the evidence before the Royal Commission, we are satisfied that, TSAS staff member Sergeant Nelson and officer Captain Sanders did not comply with The Salvation Army's own Orders and Regulations by physically punishing children in their care. TSAS failed to discipline Sergeant Nelson and did not refer Captain Sanders to a Commission of Inquiry, as was required under its own Orders and Regulations. In failing to sanction both officers, TSAS failed to protect children in its care.

Box Hill

The Royal Commission received into evidence contemporaneous documents which revealed The Salvation Army's knowledge of sexual offending at Box Hill from as early as 1947. In particular, the Royal Commission heard and received evidence about TSAS's knowledge of sexual offending by its officer Captain Arthur Clee.

Based on the documentary evidence and Commissioner Tidd's oral evidence, we are satisfied that:

- TSAS's response to Captain Clee's sexual offending against four boys at Box Hill was to transfer Captain Clee to Bayswater and later place him on sick leave
- in doing this, TSAS did not comply with its own Orders and Regulations, which required it to present Captain Clee for a court martial for immorality.

We are also satisfied that, in failing to comply with its own disciplinary process, TSAS placed other children in its care at risk of sexual abuse by Captain Clee and failed to protect those children.

The Royal Commission also received evidence about the use of unlawful corporal punishment at Box Hill by officers and staff.

In particular, documents were tendered into evidence from which we concluded that Captain Matthew Kop did not comply with The Salvation Army's own Orders and Regulations in respect to physically striking children. TSAS failed to discipline Captain Kop, as was required under its own Orders and Regulations. In failing to do so, TSAS failed to protect children in its care.

Bayswater

The Royal Commission received documentary evidence of sexual and physical abuse of children at Bayswater by TSAS officers Brigadier David Wright and Envoy Clarence Collins.

There was no documentary evidence tendered during the public hearing which indicated that the allegations were brought to the attention of TSAS.

Conclusion

In respect to each of the examples discussed, we also conclude that, in failing to take action against its staff and officers who were breaching Orders and Regulations prohibiting the mistreatment of children, TSAS provided a culture in the Institutions in which:

- children felt afraid to report sexual abuse
- children felt powerless to resist the maltreatment
- the staff and officers whose behaviour was in breach of Orders and Regulations were able to, and did, continue the prohibited behaviour.

Contemporary policies and procedures

Development of a claims process

The Royal Commission also inquired into the contemporary response of TSAS to allegations of child sexual abuse at the Institutions. In particular, the Royal Commission heard extensive evidence about the development of the 'model scheme'.

In or about the early 1990s, The Salvation Army started to receive complaints of child sexual abuse from former residents of the Institutions. The Royal Commission received evidence that, as at the time that TSAS first started to receive complaints from the former care leavers, TSAS did not have in place any policies or procedures for responding to claims of child sexual abuse by former care leavers.

In June 1994 Mr Graham Sapwell, the Employee Relations Director at TSAS, sought advice from an external firm of lawyers, Nevett Ford. This contact with Nevett Ford coincided with the first claims being received by TSAS relating to a care leaver. Mr Sapwell gave evidence that the sole, if not primary, purpose of seeking advice from Nevett Ford was to develop a policy for responding to allegations of child sexual abuse as well as other forms of abuse.

On 24 June 1994, Nevett Ford provided advice to TSAS. Relevantly, Nevett Ford recommended that a policy be developed to deal with complaints. Nevett Ford stated that, in simple terms, the policy ought to:

- clearly outline TSAS's philosophy in dealing with such issues
- nominate appropriate personnel to be responsible for dealing with complaints
- provide for adequate record keeping and a referral network.

Nevett Ford also recommended that TSAS establish an internal advisory committee. It was envisaged that the advisory committee's role would be to develop expertise in these areas so it could:

- advise senior officers of TSAS on the issue generally and on specific complaints
- facilitate counselling and other assistance to victims and offenders.

Despite the legal advice received in June 1994, TSAS did not establish an advisory committee to handle claims or set up a system or procedure which allowed for a systematic way of dealing with allegations of physical or sexual abuse.

By April 1995, Mr Sapwell was dealing with claims by former residents against TSAS on a case-by-case basis. TSAS still had no formal policies and procedures in place for the handling of such claims

and still had not adopted the Nevett Ford recommendation of putting in place a committee to handle any claims received.

In July 1995, Mr Sapwell sought further advice from Nevett Ford about developing an overall strategy for dealing with the claims which TSAS was receiving. On 13 September 1995, a lawyer, Mr Wilson, on behalf of Nevett Ford, provided advice on the development of policies and procedures and also provided a draft manual of policies.

In his advice, Mr Wilson recorded that there had been an increase in the number of complaints against TSAS which included complaints of 'victim abuse, child abuse, assault, sexual assault, sexual harassment and misconduct'. The advice confirmed that Nevett Ford remained of the view that it was better for TSAS to deal with claims through a specialist committee that could develop an appropriate system or model. The recommended committee and draft manual of policy and procedure had several 'essential elements' which were summarised in Nevett Ford's advice and included the following:

- The process for receiving and dealing with complaints ought to be removed from The Salvation Army's current structure.
- The committee should operate with as much freedom and independence as possible.
- The committee should be reflective of the wider community and consist of representatives of The Salvation Army and also lay people, including a retired judge or magistrate and possibly others experienced in social work or counselling.
- The committee ought not to see its role as attempting to protect The Salvation Army from the possibility of litigation but, rather, it should be seen to promote and enhance the airing of complaints. In doing this, complaints that might otherwise lead to litigation might be resolved by mediation, negotiation or counselling and this would ultimately benefit complainants and The Salvation Army.
- An independent panel of counsellors should be established and available as a referral network for complainants.

Nevett Ford advised that the advantage of a centralised committee would be that 'some consistency in approach would develop rather than the ad hoc response to complaints as may currently occur'.

There is no evidence before the Royal Commission which indicates that TSAS adopted or implemented any of these recommendations at that time.

The draft policy was again revised in November 1995. TSAS did not establish an advisory committee.

Until 2000, Nevett Ford was instructed on a case-by-case basis in respect of claims that former residents made against TSAS.

Based on the evidence before the Royal Commission, we are satisfied that, upon receiving claims in the early 1990s from former residents who had been in the care of TSAS and which involved allegations of child sexual abuse, TSAS did not:

- adopt Nevett Ford's advice to establish an advisory committee to resolve claims and develop expertise in child sexual abuse so as to provide advice that was broader than simply legal advice to TSAS in handling and responding to allegations of child sexual abuse
- establish an independent panel of counsellors as a referral network for claimants
- seek to obtain formal expert advice, other than legal advice, on how to handle and respond to allegations of child sexual abuse which might have informed their policies and procedures.

The Model Scheme

As a result of the arrest and conviction of Captain Smith on child sexual abuse offences, in early 1997 TSAS sought advice from a Western Australian legal firm, Parker & Parker, on potential civil litigation involving Captain Smith's victims. TSAS received advice that they were in a position to defend claims of negligence on the basis that the time limitation on bringing complaints had expired.

In April 1997, TSAS advised Parker & Parker they wished to compensate care leavers in some way and requested a draft counselling agreement and some guidelines on how this should be done.

In May 1997, Parker & Parker provided TSAS with a detailed letter setting out a 'model scheme' to compensate the victims of Mr Smith (the Model Scheme). In that letter, Parker & Parker suggested that TSAS adopt a method of assessment used in personal injury cases. The advice was prepared specifically in response to the criminal proceedings against Captain Smith; however, the advice that Parker & Parker gave suggested it was capable of being used more broadly for subsequent allegations of abuse against other officers of The Salvation Army.

In June 1997, Mr Sapwell sought advice from Nevett Ford about Parker & Parker's proposed Model Scheme and whether it could be used as a model for compensating other care leavers who had suffered abuse.

On 16 June 1997, Nevett Ford provided TSAS with advice which approved the Model Scheme but recommended some modifications.

From 1997, TSAS adopted the Model Scheme as modified by the changes that Nevett Ford recommended.

The fact that TSAS did not put in place any policy, procedure or model scheme until 1997 meant that each claim that TSAS received was being dealt with on a case-by-case basis. Mr Sapwell accepted in evidence that, in the absence of the Model Scheme, TSAS's ability to respond in a consistent manner in resolving former residents' claims was undermined.

Therefore, based on the evidence before the Royal Commission we conclude that, before 1997, TSAS's failure to develop a model scheme for resolving former residents' claims undermined its ability to respond to those claims in a consistent manner.

Implementation of the Model Scheme

Between 1997 and 2000, Nevett Ford acted for TSAS in relation to six claims of abuse and was retained on a case-by-case basis for each of those claims.

In 2000, Mr Sapwell issued standing instructions for Nevett Ford to represent TSAS in all claims made by former residents of the Institutions.

Mr Philip Brewin, a Director of Nevett Ford, provided two statements to the Royal Commission and gave evidence at the public hearing. In his first statement to the Royal Commission, Mr Brewin set out the procedural steps of the claims process:

- Nevett Ford or TSAS receives a request from a claimant's lawyer for any records held by TSAS regarding that claimant. The request for records may be accompanied by a letter of demand. TSAS then conducts a search of its records for any relevant information.
- Nevett Ford asks the claimant to provide a statutory declaration or a signed statement setting out the basic facts of their residency at the particular TSAS home, particulars of the abuse they suffered and the impact of the abuse. A claimant also provides a medico-legal report concerning the effect of the abuse.
- Where relevant, Nevett Ford asks that the claimant, either directly or via their lawyer, to request their wardship file from the relevant state government and provide it to Nevett Ford.
- Nevett Ford reviews its database of claims involving TSAS to supplement any records produced by TSAS or the state, which may assist with resolving the claim.
- The parties, by consent, exchange all relevant records.
- Nevett Ford assesses the claim and provides advice to TSAS regarding the claim and an appropriate remedy.
- A settlement conference takes place between the lawyers and the claimant.

Between 1997 and 2005, Nevett Ford opened 106 files relating to claims by former residents at TSAS homes. In 2006, Nevett Ford opened 210 new files. From 2006 to 2008 there was a significant increase in the number of claims that TSAS received in respect to homes that it used to operate in Victoria.

The Royal Commission received evidence that the majority of claimants were, and are, legally represented.

Initial steps in the claims process

The Royal Commission received evidence about the initial steps in the claims process, in which records are obtained and information is exchanged.

We heard evidence that TSAS's records on the operation of their homes during the period generally relevant to claims – namely, 1940 to 1980 – are incomplete. The availability of records is dependent on the home in question.

TSAS holds few or no records for employees who may have worked at TSAS homes over the relevant period.

When TSAS receives a claim, the claimant is able to identify an alleged perpetrator and the perpetrator is an officer who is still alive and their whereabouts is known, Nevett Ford typically seeks instructions from TSAS to contact that person.

Mr Brewin said that, in his experience, officers who are interviewed almost always deny the allegations. In his statement, Mr Brewin said that there was only one occasion where an officer admitted to having touched a boy inappropriately. This officer was Captain David Osborne (as he then was).

Nevett Ford acts for TSAS and an alleged perpetrator

During the public hearing, the Royal Commission heard and received evidence about an admission that former TSAS officer Captain Osborne made about offending against a former resident of Eden Park. This admission was made during Nevett Ford's initial investigation of a number of claims that had been made against TSAS and Captain Osborne.

On 9 December 2008, Mr Brewin and officers of TSAS, including Mr Sapwell, interviewed Captain Osborne about allegations that a number of former residents, including Mr Grant and BMJ, had made. During the interview, Captain Osborne denied Mr Grant's allegations but admitted to indecently touching BMJ. A copy of the file note recording Captain Osborne's admission was tendered into evidence during the public hearing.

Following the 9 December 2008 meeting, Mr Brewin did not disclose to BMJ that Captain Osborne had admitted to indecently touching him. BMJ was not represented by solicitors when making his claim. Mr Brewin gave evidence that, given that he continued to act for both TSAS and Captain Osborne, he could not disclose the admission to a claimant (even on the instructions of TSAS), as to do so would be to act against the interest of Captain Osborne, who was also his client. Ultimately, TSAS settled the claim with BMJ without requiring documentation or psychological assessment. At no point was BMJ informed of Captain Osborne's admission.

Based on the evidence before the Royal Commission, we are satisfied that Nevett Ford should not have continued to act for both Captain Osborne and TSAS after it had received Captain Osborne's admission.

We accept that Mr Brewin was not able to provide Captain Osborne's admission to BMJ because the admission was provided in the context of a solicitor–client relationship and in the context of legal proceedings and was therefore the subject of a claim of legal professional privilege.

However, the Model Scheme contemplates the exchange of information. Claimants would be entitled to assume that this includes admissions by TSAS staff.

In failing to disclose Captain Osborne's admission to Mr Grant and BMJ (and, indeed, other claimants) we are satisfied that Mr Brewin did not provide a full exchange of information potentially relevant to each claimant, particularly BMJ, as envisaged in the development of the TSAS claims process, and in this way disadvantaged the claimants both in the way in which they negotiated the resolution of their claims and in the importance of an acknowledgement or acceptance of the truth of their claim to their prospects of some healing.

Assessment of claims

Under the Model Scheme, the assessment of claims is a two-part process:

- first, there is an initial assessment based on the documentation provided
- secondly, there is an assessment either during or after meeting with the claimant at an informal settlement conference.

TSAS has settled 418 claims since 1996. The total amounts paid to date are discussed further below.

We did not examine the appropriateness of the settlement amounts paid to any individual claims during this public hearing.

In summary, the assessment of claims under the Model Scheme requires the exchange of information, the provision of medical reports and statements and that the claimant attend a 'settlement conference'. The factors which Nevett Ford takes into account when assessing a claim, and which are summarised in Mr Brewin's statement, are akin to those which are relevant when assessing a personal injury claim for financial compensation and include concepts like 'contribution' and 'aggravation'.

Based on the evidence before the Royal Commission, we conclude that the Model Scheme adopted by TSAS was experienced by some claimants as legalistic and failed some claimants because:

- the claims process required the assessment of factors, and provision of medical reports, that a lawyer engaged in personal injuries litigation would usually consider before settling a claim for financial compensation. However, the amounts paid by TSAS did not aim to compensate the claimant but were akin to redress or an ex-gratia payment.
- the generic apologies provided by TSAS before 2013 did not specifically acknowledge and accept that abuse had occurred
- TSAS did not initiate offers of counselling to claimants who were legally represented
- members of TSAS were not routinely present at the settlement conferences and negotiations were conducted by their solicitors. This may have conveyed the impression that TSAS had a lack of interest in the claimant.

Defences pleaded by TSAS and the effect on settlement

Ellis defence

In *Trustees of the Roman Catholic Church for the Archdiocese of Sydney v Ellis* (2007) 70 NSWLR 565 (*Ellis*) the New South Wales Court of Appeal held that an unincorporated body cannot be sued because it has no legal personality.

Between 2008 and 2010, TSAS formally pleaded the defence relied on in *Ellis* (the *Ellis* defence) in relation to a number of claims issued on behalf of former residents against TSAS and the State of Victoria in the County Court of Victoria. However, the TSAS did not rely on the *Ellis* defence during the course of negotiations, and pleading the defence did not prevent those matters from settling at informal settlement conferences. The Royal Commission heard evidence that TSAS has never refused to make a settlement offer on the basis of the *Ellis* defence.

Limitation defence

The Royal Commission also received evidence that limitation defences have been formally pleaded in all proceedings issued in South Australia and Victoria. Mr Brewin gave evidence that TSAS has never refused to resolve a claim due to an expired limitation period. However, TSAS has relied on the limitation defence in an attempt to defeat proceedings – most notably in those proceedings commenced by Mr Rundle.

Vicarious liability

If proceedings are issued, TSAS does not admit that it is vicariously liable for the criminal or illegal acts or omissions of its employees in the course of employment. In such cases, TSAS relies on the decision of the High Court in *New South Wales v Lepore* (2003) 212 CLR 511.

TSAS has settled claims involving employees despite the fact that TSAS formally denied vicarious liability in legal proceedings.

Conclusions

The pleading of technical legal defences such as the Ellis defence, statutes of limitations and vicarious liability principles did not preclude settlement. However, in evidence Commissioner Tidd accepted that, because TSAS formally relied on these defences in issued proceedings, lawyers representing claimants were required to advise their clients that such defences could potentially defeat their claims.

By pleading the technical legal defences, claimants would have been under the impression that if the parties were not able to settle the claim at the informal settlement conference then TSAS would rely on the defences in an attempt to defeat any court proceedings which followed if the claimant did not accept the settlement offer.

We are satisfied that, in relying on technical legal defences such as the Ellis defence, statutes of limitations and vicarious liability principles, TSAS placed claimants at a disadvantage. Claimants may have been prepared to accept a settlement offer that they would not have otherwise accepted.

Amounts paid by TSAS to former residents

The Royal Commission received evidence from TSAS about the total number of claims made against it and amounts paid to the former residents of institutions which TSAS operated.

From 1 January 1995 to 31 December 2010, The Salvation Army received 324 claims and paid approximately \$10 million to former residents of TSAS-operated institutions.

From 1 January 2011 to 30 June 2014, The Salvation Army received 90 claims and paid approximately \$8 million to former residents of TSAS-operated institutions.

From 1 July 2014 until 31 December 2014, TSAS received four claims relating to child sexual abuse and paid \$137,500 to former residents of TSAS-operated institutions.

From 1 January 1995 until 31 December 2014, TSAS has received a total of 418 claims and paid a total amount of almost \$18 million to former residents of TSAS-operated institutions.

The claims made and amounts paid related to those Institutions examined in this public hearing as well as other TSAS-operated institutions.

TSAS's response to the Redress Report and review of claims paid

In a supplementary statement to the Royal Commission, Commissioner Tidd set out TSAS's position on the recommendations contained in the Royal Commission's *Redress and Civil Litigation Report (the Redress Report)*. In summary, the statement says:

- TSAS supports a single national redress scheme for survivors of child sexual abuse.
- TSAS will cooperate with the Commonwealth Government as necessary and comply with any requirements of a national redress scheme as implemented by the Commonwealth, including in relation to such monetary levels of redress as may be prescribed or assessed within the national scheme.

In respect to the Royal Commission's recommendations about interim measures – that is, arrangements between now and the time a national redress scheme might commence operation – Commissioner Tidd said he has instructed the legal firm, Clayton Utz, with the assistance of counsel, to conduct a review of all 418 claims that have been settled between TSAS and survivors since 1996. The review will aim to identify whether comparison payments made in respect of settled claims were assessed fairly and consistently.

Commissioner Tidd gave evidence that he has directed that TSAS's review of settled claims prioritise two categories of cases:

- cases where survivors reached settlements with TSAS without the benefit of their own legal advice
- cases where new factual material has come to light after a claim was settled – for example, where similar claims were subsequently made against the same abuser by other survivors or where abusers who had denied the allegations against them were subsequently arrested and convicted.

The review will also consider whether any survivors were disadvantaged, relative to other survivors who settled with TSAS, because of matters including TSAS relying on technical legal defences such as the Ellis defence, statutes of limitations or vicarious liability principles.

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 who reached settlements with TSAS, Commissioner Tidd anticipates receiving a recommendation to 'reopen' his or her claim and make a further payment, assessed according to the principles identified by the Royal Commission in respect of payments made in the interim period.

A limitation of TSAS's review is its focus on unrepresented claimants. For those survivors who are represented, TSAS does not propose to reopen their claims in the interim period unless new factual material has come to light since the claim settled. Where a survivor is represented, TSAS says that it can be 'confident' that the survivor's interests were protected and that compensation payments were assessed 'fairly and consistently relative to the bulk of the other settled claims'. However, it is unclear how those survivors' legal representation 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 TSAS knew how it had settled the bulk of the other claims made against it.

In particular, the pleading of technical defences disadvantaged both represented and unrepresented claimants. Indeed, a solicitor acting for a claimant would be obliged to advise the claimant on the potential of technical defences to defeat the claim and the risk of costs. For this reason, both represented and unrepresented claimants would have been disadvantaged in the settlement of their claims. Senior Counsel Assisting submitted that there is no justification for TSAS's view that represented claimants who settled their claims at a time when TSAS relied on technical defences should not to be a focus of the review. We agree with that submission.

We conclude that relying upon the technical defences such as the Ellis defence, statutes of limitations and vicarious liability disadvantaged both represented and unrepresented claimants. The TSAS review of settled claims should focus on all claims settled at a time when TSAS relied on technical defences.

Reporting of claimants' allegations to the police

During the public hearing, the Royal Commission received conflicting evidence about whether, before 2014, TSAS had a policy or practice of encouraging or advising claimants to report allegations of sexual abuse to the police. Since 2014, TSAS has changed its practice and procedure about reporting matters to the police. TSAS 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.

The Royal Commission heard evidence about two particular factual circumstances where TSAS did not encourage former residents to report their abuse to the police. These are set out below.

Reporting of Mr Rundle's abuse to the police

In July 2001, Nevett Ford sought counsel's advice as to whether TSAS was obliged to inform police of allegations of sexual abuse when the claimant was an adult at the time TSAS became aware of the allegations. The advice was sought in the context of Mr Rundle's claim against TSAS. Counsel, Mr Paul D'Arcy, advised that TSAS was not obliged to inform the police of such allegations under the relevant legislative provisions given that Mr Rundle was an adult (as opposed to a child) at the time the allegations were brought to the attention of TSAS.

Upon receipt of this advice, Mr Brewin wrote to Mr Sapwell on 18 July 2001 and said:

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.

Reporting of allegations against Captain Osborne and his admissions

As discussed above, on 9 December 2008, Captain Osborne admitted to having indecently touched another male, BMJ. About one month earlier, BMJ had made a claim against TSAS in which he alleged sexual offending by Captain Osborne.

In 2011, TSAS also learned that former Captain Osborne was charged with criminal offending against another former resident, Mr Grant. Mr Grant had already made a claim against TSAS at this point in time.

In evidence, Mr Sapwell said he did not encourage BMJ to report the allegations to police, nor did he give any consideration to reporting the matter to the police himself.

As at the time of the interview in December 2008, Mr Brewin could not refer the matter to the police as he was legally representing both TSAS and Mr Osborne, and to refer the matter to the police would be to act against the interests of his client, Mr Osborne.

Based on the evidence before us, we are satisfied that TSAS and lawyers acting on its behalf did not always encourage claimants to report allegations of abuse to the police. In particular, BMJ and Mr Rundle were not encouraged to report their allegations to police.

We are also satisfied that TSAS did not report to the police in 2008 or 2011 the admission made by Mr Osborne, that he had indecently touched BMJ, despite knowing:

- in 2008 that BMJ had made sexual allegations against Mr Osborne; and
- in 2011 that Mr Osborne had been charged with sexual offences against Mr Steven Grant.

We conclude that TSAS, in failing to always encourage claimants to report their allegations to police, and in not reporting the admission made by Mr Osborne to police, placed other children at risk of sexual abuse.

Other policy developments

TSAS's review of policies and procedure on child protection

Since 2012, TSAS has been engaged in a widespread review and development of policies and procedures in relation to the protection of children. The changes to policies and procedures at TSAS include changes at the level of Orders and Regulations which apply to The Salvation Army worldwide.

In response to this review, TSAS states that it has developed a number of policies in order to ensure, as far as possible, that TSAS is a safe organisation for children and other vulnerable people.

The Walker report

In 2013, after the Victorian Parliament Family and Community Development Committee Inquiry into the Handling of Child Abuse by Religious and Other Organisations, TSAS instructed Mr Walker of The Salvation Army's Professional Standards Unit to investigate and make findings on TSAS's historical responses to child sexual abuse and whether there were cultural, endemic or systemic failings by TSAS as an institution in relation to the sexual abuse that occurred.

Mr Walker delivered his report on 20 August 2015. The report contained specific findings in response to the wider question of whether TSAS's historical responses to child sexual abuse were affected by cultural, endemic or systemic failings of the organisation. A copy of the report was tendered into evidence.

In his statement to the Royal Commission, Commissioner Tidd unreservedly accepted Mr Walker's findings and conclusions.

In evidence, Senior Counsel Assisting asked Commissioner Tidd about Mr Walker's findings. In particular, Senior Counsel Assisting asked questions about the findings that TSAS did not take steps to conceal claims of child sexual abuse and that TSAS did not take steps to protect alleged perpetrators of child sexual abuse.

Commissioner Tidd agreed in evidence that, at the time of the operation of the homes and subsequently, TSAS members received complaints of child sexual abuse which were not passed on to the police. Commissioner Tidd agreed that, in this way, the TSAS had inadvertently taken steps to conceal child sexual abuse and protect alleged perpetrators of child sexual abuse.

TSAS says that, while Commissioner Tidd agreed that TSAS had not always reported child sexual abuse and admitted that the failure to report abuse may have had the effect of protecting alleged perpetrators of child sexual abuse, he was clear that TSAS's conduct was not, in his view, 'concealment' in the sense of the wilful covering-up of misconduct.

We accept that, in the absence of policy or procedure, by not reporting allegations of child sexual abuse to the police, TSAS did not wilfully conceal allegations of child sexual abuse. However, as appropriately conceded by Commissioner Tidd, by not reporting allegations of child sexual abuse to the police it had the effect of concealing child sexual abuse and protecting the alleged perpetrator. In this way, we differ from the conclusion reached in Mr Walker's report.

The Officer Review Board

The Officer Review Board (ORB) was established by IHQ in 1989.

The ORB process is a formal internal process for dealing with officers alleged to have perpetrated abuse, including child sexual abuse. This process is governed by Orders and Regulations relating to the ORB. The Orders and Regulations require that certain matters must be referred to and investigated by the ORB unless the General directs otherwise. Once the ORB has investigated the allegations it then makes recommendations to the Territorial Commander. The Territorial Commander is not bound by the recommendations.

ORB review

In early 2014, Commissioner Tidd directed that the ORB review all current and historical allegations against each officer who had not resigned or had their officership terminated.

Before the ORB commenced its review, TSAS engaged a barrister, Ms Sarah Hinchey (now Judge Hinchey of the County Court of Victoria), to advise on the policies and procedures which govern the ORB process and on the allegations against various officers.

Ms Hinchey provided her advice on 29 August 2014.

In her advice, Ms Hinchey said that, while a number of allegations against officers had been considered in the context of a civil dispute or claim, the matters had not been systematically referred to the ORB. Ms Hinchey concluded that, despite the fact that every one of the matters to which she was referred in the course of providing her advice would have required referral to the ORB, that course of action was only considered on one of the matters.

Ms Hinchey also gave consideration to the various Orders and Regulations that govern TSAS's complaints review and disciplinary structure. In her advice, Ms Hinchey made recommendations for modifications to the system. The Royal Commission received evidence that amending Orders and Regulations involves IHQ and this is an ongoing matter for discussion and consideration with IHQ.

Ms Hinchey also advised that various policies and procedures were not clear enough about when and what matters must be referred to the ORB. This deficiency in some of the policies and procedures is yet to be rectified, but TSAS is working with IHQ to do so.

We are satisfied that before 2014 TSAS did not follow the ORB process in that it failed to refer all officers against whom allegations of child sexual abuse have been made to the ORB.

We are also satisfied that before 2014, in not referring all officers against whom sexual allegations had been made to the ORB, TSAS failed to hold some officers accountable for their actions in sexually abusing children.

These findings are accepted by TSAS.

Commissioner Tidd considers ORB recommendations

After TSAS received Ms Hinchey's advice, four cases against officers were closed and four cases required no further action. The ORB commenced a full review of historical cases against the remaining 17 officers. The ORB process commenced in October 2014 and continued until February 2015. It then made formal recommendations to the Territorial Commander, Commissioner Tidd.

Commissioner Tidd considered ORB's recommendations on three retired officers who were at the Institutions examined in this public hearing. He decided to:

- lift the suspension of Major Colin Leggett
- not terminate Major Kop's officership
- terminate the officership of Major Osborne (as he then was), having decided some of the allegations of physical and sexual abuse against him were substantiated.

The decision that the ORB and Commissioner Tidd made in respect to Major Kop was the subject of evidence during the public hearing.

Commissioner Tidd told the Royal Commission that the case of Major Kop was probably the most difficult case that the ORB considered.

Roundtable 2015

In February 2015, TSAS and The Salvation Army (Eastern Territory) (TSAE) convened a roundtable meeting of experts to examine the question of why significant levels of child sexual abuse occurred in TSAS and TSAE homes during the 1950s to 1970s.

On 29 May 2015, Commissioner James Condon from TSAE sent the Royal Commission a letter that included a summary of the factors that the roundtable considered had contributed to the abuse.

National Professional Standards Council

TSAS and TSAE agreed in late 2014 to convene the National Professional Standards Council (NSPC). The aim of the NSPC is to provide a national perspective on all matters pertaining to issues of child sexual abuse and all other forms of abuse.

The NPSC met for the first time in December 2014. It meets quarterly.

Criminal proceedings

R v Ellis

A number of criminal prosecutions have been brought against TSAS officers and employees in South Australia, Victoria and Western Australia. There are also a number of TSAS officers in respect of whom criminal investigations are ongoing or against whom charges have been laid but the matter has not proceeded to trial.

In particular, the public hearing received extensive evidence about the criminal prosecution of Mr William Ellis, a former employee of TSAS who worked at Eden Park. That evidence was received in part to examine some aspects of the criminal law that govern the prosecution of child sexual offences in South Australia.

The current South Australian DPP, Mr Adam Kimber SC, also provided a statement and gave evidence about the current state of the law in South Australia and what Mr Kimber SC perceives to be the current challenges that the Office of the Director of Public Prosecutions (SA) (ODPP) faces in effectively prosecuting child sexual offences.

The Royal Commission did not examine the forensic legal decisions taken by any of the state DPPs or rulings made by the respective courts in the various prosecutions about which evidence was received during this public hearing.

Other criminal proceedings

The Royal Commission heard and received evidence about numerous criminal prosecutions against former TSAS officers and employees who had been entrusted with the care of children in all four of the Institutions examined in this public hearing. The evidence showed the widespread nature of the sexual offending by TSAS officers and employees against children in those homes over a very long period of time.

In particular, the Royal Commission received material related to criminal proceedings against Captain Smith, Captain Osborne, Mr John Beyer, Mr Norman Poulter and Mr Willem Willemsen.

1 The Salvation Army (Southern Territory)

In Case Study 33, the Royal Commission examined the response of The Salvation Army (Southern Territory) (TSAS) to allegations of child sexual abuse at the children's homes that it operated.

The focus of this public hearing was the following TSAS children's institutions:

- Eden Park Boys' Home (Eden Park)
- Nedlands Boys' Home (later known as Hollywood Children's Village) (Nedlands)
- Bayswater Boys' Home (Bayswater)
- Box Hill Boys' Home (Box Hill).

In this report they are collectively referred to as 'the Institutions'.

During the public hearing, the Royal Commission heard evidence from 13 former residents of the Institutions. They gave evidence of physical and sexual abuse by officers and employees of TSAS, and by other residents, that they suffered while they resided at the Institutions.

The Royal Commission also heard evidence from officers of the various government departments, the current Territorial Commanders of TSAS, a former employee of TSAS who was responsible for responding on behalf of TSAS to complaints of child sexual abuse between 1993 and 2012, the solicitor for TSAS and the South Australian Director of Public Prosecutions (DPP).

1.1 Overview

The Salvation Army was formed in 1865 in London, which is where the International Headquarters (IHQ) remains today.¹ It is a religious and charitable organisation and is generally known as 'The Salvation Army'.²

Internationally, The Salvation Army is broken up into five different zones.³ Each zone is overseen by two Commissioners and is organised into further 'Territories', 'commands' or 'regions'.⁴

In Australia, The Salvation Army is an unincorporated association of natural persons, the membership of which fluctuates from time to time.⁵

The Salvation Army in Australia falls within the South Pacific and East Asia zone. Since 1921 the zone has been divided into two autonomous and distinct Territories: the 'Eastern Territory' and the 'Southern Territory'.⁶

The Southern Territory comprises Victoria, Tasmania, South Australia, Western Australia and the Northern Territory. The Eastern Territory comprises New South Wales, Queensland and

the Australian Capital Territory.⁷ In the Southern Territory, most of the states are more sparsely populated and are each classified as separate divisions. However, Victoria is a more populous state and is therefore broken up into four divisions.⁸

There are Social Services centres in each division of TSAS. These centres are responsible for the provision of various social services, programs and initiatives.⁹

1.2 Governance and oversight

The Salvation Army has a quasi-military command structure.¹⁰

As at the time of the public hearing, The Salvation Army in Australia did not have a national leader. Rather, the two Territories (Southern and Eastern) report directly to the South Pacific and East Asia Office at IHQ.¹¹

However, The Salvation Army in Australia does have a national secretariat which serves the whole of Australia. The national secretariat represents the views of both Australian Territories when dealing with the Commonwealth or as required or requested by both Territorial Commanders.¹²

Each Territory is headed by the Territorial Commander. The Territorial Commander usually has the rank of commissioner or colonel and reports directly to IHQ.¹³ The current Territorial Commander of TSAS is Commissioner Floyd Tidd.¹⁴ Commissioner Tidd attended the public hearing and gave evidence. His evidence is discussed further below.

The Territorial Commander is assisted by a Chief Secretary (normally a colonel) and other departmental secretaries.¹⁵ The Territorial Commander and Chief Secretary are responsible for The Salvation Army's overall operation and mission and they oversee the operation of The Salvation Army's activities throughout the Territory.¹⁶

The General is the international leader of The Salvation Army.¹⁷ The General appoints the Territorial Commander and Chief Secretary. The General also appoints senior executive officers on the recommendation of the Territorial Commander.¹⁸ The Territorial Commander is responsible for appointing all other officers.¹⁹

Clergy in The Salvation Army are known as 'officers' and ordinary members are known as 'soldiers'.²⁰

All officers receive an initial two years of residential training at a Salvation Army Training College. Following this, the new officers undertake off-campus post-commissioning training and engage in further studies.²¹

The Salvation Army also employs a number of lay personnel (church members) throughout its Territories.²² In both the Australian Eastern and Southern Territories, lay personnel are engaged in all aspects of The Salvation Army's work. They can be and are involved in areas such as managing social/aged care centres, Salvos Stores and emergency centres and assisting in the administration functions of The Salvation Army's operations.²³

1.3 Legal structure

TSAS operates under the name 'The Salvation Army' but is not itself an incorporated body.²⁴ Rather, the 'Southern Territory' is simply the broad description given to that Territory within The Salvation Army's organisation structure.²⁵

TSAS does not hold any assets. Rather, the parliaments of each state and territory within the Southern Territory have enacted legislation creating a charitable purpose trust through which the operations and activities are carried out in each state.²⁶

However, there are certain functions that do not involve or concern the property trusts or their trustees.²⁷ One example of this is the appointment of Salvation Army officers. The unincorporated association, not the various property trusts, appoints officers. Officers enter into a 'spirit covenant' with the broader Salvation Army, not an employment contract with a property trust.²⁸

The Salvation Army also engages with soldiers who worship and volunteer with The Salvation Army. These soldiers do not enter into an employment relationship with the property trust. Only the lay people are employed by the property trusts (depending on their specific role).²⁹

1.4 Relationship with the Eastern Territory

TSAS and The Salvation Army (Eastern Territory) (TSAE) operate as distinct Territories. Each has its own internal processes and procedures which are subject to directives given by IHQ.³⁰

Historically, the two Territories have acted largely independently of each other. This includes the operation of children's homes and handling of historical complaints of abuse.³¹

The Royal Commission has previously had two separate public hearings about the institutional response to allegations of sexual abuse at children's homes and orphanages operated by the TSAE. The findings of those case studies are found in the reports of Case Study 5 and Case Study 10.

More recently, TSAS and TSAE jointly convened the National Professional Standards Council (NPSC) to ensure, among other things, that the abuse which occurred in the children's homes run by TSAS and TSAE could never occur again.³²

The Royal Commission received evidence that the NSPC met for the first time in December 2014. The aim of the NPSC is to provide a national perspective on all matters relating to issues of child sexual abuse and other forms of abuse. The role of the NPSC is to coordinate 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 services of TSAS or TSAE.³³

The NPSC will also monitor the work of the Royal Commission to identify lessons to be learned which can be incorporated into national policies and procedures and which may have wider applications to The Salvation Army internationally.³⁴

1.5 Institutional care

Since 1881, The Salvation Army has established many social services across Australia, including many institutions for children.³⁵

Specifically, from 1894 to 1998 the Salvation Army operated children's homes across the Southern Territory. The primary purpose of these homes was to provide a home and education to children.³⁶ In total, TSAS operated 55 separate children's homes between 1894 and 1998. TSAS estimates that more than 3,000 officers and employees were engaged to work at the homes over that period.³⁷

Approximately 15,000 to 17,000 children passed through the homes operated by TSAS.³⁸ Commissioner Tidd gave evidence that the children who resided at these homes were predominantly wards of the state.³⁹ However, some children were privately placed at the homes by parents or non-government organisations.⁴⁰

The governance of the Institutions and the experiences of the former residents are discussed further below.

1.6 Management structure at the Institutions

Commissioner Tidd gave evidence about the management structure that applied at the Institutions during the time that they were in operation. Commissioner Tidd explained that at the apex of the structure was the manager of the home.⁴¹

The manager was appointed by the Territorial Headquarters staff but would be approved by the Territorial Commander.⁴² The manager of the home had the power to appoint the matron,⁴³ who looked after the domestic aspects of the home.⁴⁴ The manager also appointed the assistant manager and any other staff who worked at the home.⁴⁵

In contrast, officers who lived and worked at the home were appointed by Territorial Headquarters.⁴⁶

The manager was responsible to the State Social Services Secretary, who in turn reported to the Territorial Social Program Secretary.⁴⁷ The Territorial Social Program Secretary reported to the Chief Secretary, who would report to the Territorial Commander.⁴⁸

During the life of the Institutions, there were no guidelines, orders and regulations, policies or procedures which regulated the appointment of employees, officers or managers to the homes.⁴⁹ In particular, at the time that the Institutions were in operation, there were no legal or other requirements for specific qualifications⁵⁰ or for police checks.⁵¹

Commissioner Tidd said that the only document which applied during the life of the Institutions and which related to the staff at the Institutions was the Orders and Regulations for Working with Boys.⁵² The way these orders and regulations were applied at the Institutions is discussed separately in this report.

1.7 Previous government inquiries

There have also been a number of Commissions of Inquiry which have made findings in respect of institutions operated by TSAS which were the subject of the public hearing.

Mullighan report

In 2004, the South Australian Parliament established a Commission of Inquiry into Children in State Care (Mullighan inquiry). The Mullighan inquiry was chaired by the Hon. EP Mullighan QC. Later a separate Commission of Inquiry into Children on APY Lands was established.

In broad terms, the focus of the Mullighan inquiry was to inquire into, amongst other things, allegations of sexual abuse of children in the care of the South Australian Government. On 31 March 2008, the Mullighan inquiry presented its final report, *Children in State Care Commission of Inquiry: Allegations of Sexual Abuse and Death from Criminal Conduct* (the Mullighan report) to the Governor of South Australia.

Chapter 3 of the Mullighan report includes a historical overview of Eden Park and a number of de-identified accounts of child sexual abuse. The accounts of abuse given to the inquiry are included in the report. These accounts describe:

- sexual abuse by staff
- peer-on-peer abuse

- abuse by multiple perpetrators
- abuse by unknown persons and visitors to the institution.

The Mullighan report also sets out the South Australian Government's knowledge of the offending conduct at Eden Park.

During the evidence at this public hearing, officers of the South Australian Government accepted the findings of Mullighan inquiry – in particular, that the South Australian Government failed to protect some of the children in its care from sexual abuse and this included children at Eden Park.⁵³

The Mullighan report and the findings contained within it are relied upon for the purposes of this public hearing and report.

Betrayal of Trust report

In 2012 the Victorian Parliament established an inquiry which resulted in the publication of a report entitled *Betrayal of Trust – Inquiry into the Handling of Child Abuse by Religious and Other Non-government Institutions* (the Betrayal of Trust report). This report was delivered in November 2013.

The Betrayal of Trust report and the evidence given to the committee forming the basis of the report are the subject of parliamentary privilege. Consequently, any evidence given before the committee and the findings and recommendations referred to in the report were not received into evidence and are not relied on for the purposes of this public hearing.

2 The Institutions

2.1 Eden Park, South Australia

Establishment and operation

In December 1900, Eden Park was proclaimed by the Governor of South Australia as a private institution which could receive state children. Eden Park opened shortly thereafter.⁵⁴ It remained open until December 1982.⁵⁵

Eden Park was located about 40 kilometres outside Adelaide in the Adelaide Hills near Mount Barker in South Australia.⁵⁶ The property was about 53 hectares in size and was a working farm.⁵⁷ The land was purchased by The Salvation Army in 1900.⁵⁸

During the time that Eden Park was in operation, it was subject to four broad periods of South Australian Government regulation. The admission of boys to Eden Park was somewhat dependent upon the statutory regime which applied at the time. The statutory regimes also provided for the governance and oversight of Eden Park.

The statutory scheme pursuant to which Eden Park operated is discussed further below.

Legislative scheme and oversight

Mr Etienne Scheepers, the Deputy Chief Executive, Child Safety, Department for Education and Child Development in South Australia, provided a statement to the Royal Commission which was tendered into evidence.⁵⁹

The Royal Commission also heard evidence from Mr Scheepers about the legislative scheme that Eden Park operated under. Mr Scheepers told the Royal Commission about the relationship between the South Australian Government and TSAS. He also described the circumstances in which the South Australian Government became aware of allegations of child sexual abuse at Eden Park.

1900 to 1945

On 20 December 1900, Eden Park was proclaimed as a probationary school and an institution for the reception, detention, maintenance, education, employment and training of Protestant boys under section 22 of the *State Children's Act 1895 (SA)*.⁶⁰

In 1926, the State Children's Act was repealed by the *Maintenance Act 1926 (SA)*.⁶¹ The *Maintenance Act 1926* contained similar provisions to the State Children's Act in relation to the establishment and proclamation of institutions,⁶² including Eden Park.

Section 6 of the *Maintenance Act 1926* established the Children’s Welfare and Public Relief Board (CWPRB). The powers of the CWPRB were set out in the Maintenance Act and related to the supervision and governance of proclaimed institutions like Eden Park. From that time, Eden Park was under the control of the CWPRB.⁶³ Mr Scheepers accepted in oral evidence that, while Eden Park was under the governance or supervision of the CWPRB, it was also under the control of the South Australian Government.⁶⁴

The focus of this public hearing was on the period from 1940 to the time that Eden Park closed. Mr Scheepers gave evidence that between 1940 and 1945 Eden Park, as a proclaimed institution, housed a mixture of children – both state wards and privately placed children.⁶⁵

During the period that Eden Park was a proclaimed institution, The Salvation Army received a financial payment from the state government for the children at Eden Park.⁶⁶

In January 1945, following a complaint of child sexual abuse and subsequent investigation,⁶⁷ Eden Park was abolished as a probationary school and as an institution for the reception, detention, maintenance, education, employment and training of state children.⁶⁸

1945 to 1950

After 1945, Eden Park was not authorised to receive state wards.⁶⁹ However, it continued to receive privately placed children.

Because Eden Park was no longer a proclaimed institution and was considered to be a ‘benevolent institution’, the Maintenance Act, as it was at that time, did not apply. As a result, it was not under the governance or control of the CWPRB or the South Australian Government.

During this period there was no evidence of financial payments being made by the South Australian Government to The Salvation Army in respect of Eden Park⁷⁰ and the state had no statutory responsibility at all in relation to Eden Park.⁷¹

1950 to 1965

In 1950, the words ‘benevolent institution’ were deleted from sections 188 and 189 of the *Maintenance Act 1926 (SA)*. Sections 188 and 189 of the *Maintenance Act 1926* set out the statutory powers for oversight and inspection that applied to institutions that housed children. The result of those amendments was that the CWPRB now had limited powers and could inspect Eden Park only if there were children under the age of seven housed there.⁷²

The Royal Commission heard evidence that, based on Mr Scheepers’ review of the relevant documents held by the South Australian Government, Eden Park did house children under seven after 1950.⁷³ Copies of those documents which recorded CWPRB officers inspecting the home at

Eden Park were tendered into evidence. The Royal Commission also received evidence that there may have been other visits which were not documented or for which the documentation had not been located.⁷⁴

Mr Scheepers gave evidence that he could not tell from the documents he reviewed if the children who resided at Eden Park during this period were state wards.⁷⁵

Between 1950 and 1965 there was no evidence of financial payments being made by the South Australian Government to The Salvation Army in respect of the children at Eden Park.⁷⁶

1965 to 1982

In 1965, the *Maintenance Act 1926* was substantially amended and it became known as the *Social Welfare Act 1965* (SA). The provisions which related to the proclamation of institutions under the *Maintenance Act 1926* were repealed.⁷⁷

As a part of the amendments, the CWPRB was abolished⁷⁸ and the Minister of Social Welfare became its successor in title. The Department of Social Welfare was also created at this time.

The *Social Welfare Act 1965* required persons keeping or conducting a children's home to have a licence from the government to run that home if there were more than five children under the age of 12 resident at any time.⁷⁹ The Director of the Department of Social Welfare could grant a licence to any persons approved by the Minister.⁸⁰

All licensed homes were able to be inspected by the Minister, Director or any officer of the Department of Social Welfare.⁸¹

In 1972, the *Community Welfare Act 1972* (SA) repealed the *Social Welfare Act 1965*. The *Community Welfare Act* established a Minister of Community Welfare supported by a Department of Community Welfare.⁸² The *Community Welfare Act 1972* made the licensing conditions more stringent for those who operated institutions within which children resided.⁸³

Institutions were now required to be licensed if they had more than five children under the age of 15.⁸⁴ The relevant person who was licensed under the *Community Welfare Act* was required to keep a register of every child received by them.⁸⁵

The *Community Welfare Act 1972* also allowed for the inspection of any licensed children's home by the Director-General or any officer of the Department of Community Welfare authorised to do so.⁸⁶

The Royal Commission heard evidence from Mr Scheepers that during this period The Salvation Army applied for and received a licence from the South Australian Government to run Eden Park.⁸⁷ The licences were required by the relevant legislation and related to the standards to be observed in the management and operation of Eden Park.⁸⁸ Mr Scheepers gave evidence that he was able to

locate approvals for an application for a licence to operate Eden Park for all years except 1967.⁸⁹ He was unable to locate applications for licences for the years 1976 to 1978.⁹⁰ However, the fact that Mr Scheepers could not find the licences for those years did not mean that they did not exist.⁹¹

The Royal Commission also heard evidence about the inspections carried out at Eden Park during this period. Copies of the records of inspection were also tendered into evidence. The records of inspection that were able to be located did not include any records after 1976. Mr Scheepers said that he was not aware of any inspections of Eden Park after 1976⁹² and he could not find any explanation for that.⁹³

Between 1975 and 1982, the Minister for Community Welfare also entered into ‘agreements’ with the Salvation Army (South Australia) Property Trust in relation to the conduct of Eden Park.⁹⁴ The agreements related to the running and operation of Eden Park⁹⁵ and were entered into in addition to the licences granted under the *Community Welfare Act 1965*. There was no legislative requirement for such agreements to be entered into and the agreements had a different purpose from the licences.

In contrast to the licences, the agreements between the Minister of Community Welfare and The Salvation Army related primarily to the financing and funding arrangements of Eden Park. Financial assistance provided to The Salvation Army was dependent on a series of conditions and requirements being met, as set out in the agreements.⁹⁶

Between 1965 and 1982, the South Australian Government made payments in the form of grants to The Salvation Army in respect to Eden Park.⁹⁷

Policies and procedures

It is not clear, what, if any, policies or procedures applied in relation to or in ‘overseeing’ Eden Park between 1940 and 1980.⁹⁸

We conclude that, during the time that Eden Park was in operation, the South Australian State Children’s Council and, from 1926, its successor, the CWPRB, had a statutory supervisory function in relation to the home until 25 January 1945. From 1950, the CWPRB and later the South Australian Government had limited powers of inspection. The nature and extent of these powers varied from time to time.

Experiences of former residents

During the public hearing, the Royal Commission heard evidence from three former residents of Eden Park: Mr Graham Rundle, Mr Steven Grant and BMB. They gave evidence about the physical and sexual abuse that they suffered at Eden Park. The Royal Commission also heard evidence about the serious impact that the abuse had on their physical and mental health.

Mr Graham Rundle

Mr Rundle was placed in Eden Park by his father in around 1960, when he was about seven years old.⁹⁹

Mr Rundle described Eden Park as a 'very controlled and strict environment' where the officers would inflict corporal punishment.¹⁰⁰ Mr Rundle gave evidence about a small room described as a 'lockup', with no windows and a concrete floor, which was used for punishment.¹⁰¹

Mr Rundle gave evidence that within the first two months after his arrival in Eden Park he was sexually abused by other boys who were resident at the Eden Park.¹⁰² The Royal Commission heard evidence that on the first occasion an older boy anally raped Mr Rundle in the library.¹⁰³ Mr Rundle said that the same boy anally raped him a second time over a year later when he was on wood duty.¹⁰⁴ At that time, Mr Rundle was eight years old.¹⁰⁵

Mr Rundle said that all types of sexual assaults by other boys continued at least twice a week for three or four years.¹⁰⁶ Mr Rundle said that there were between seven and nine boys who would abuse him and that the abuse included intercourse, oral sex and masturbation.¹⁰⁷ Mr Rundle gave evidence that he did not want any of these assaults to occur and he did not give anyone permission to assault him.¹⁰⁸

Following the third occasion of sexual abuse by other boys at Eden Park, Mr Rundle gave evidence that he disclosed the abuse to Mr William John Keith Ellis, an employee at Eden Park, as he had been bleeding badly for several days after the assault.¹⁰⁹

The Royal Commission heard that Mr Ellis then came up behind Mr Rundle and forced him to show him what had happened.¹¹⁰ Mr Ellis then pulled down Mr Rundle's pants and played with his genitals.¹¹¹

Mr Rundle gave evidence that Mr Ellis abused him on a number of occasions after this first occasion of abuse. Mr Rundle said that Mr Ellis would seek him out in the yard or call him to the boiler room or laundry and would touch his genitals.¹¹² Mr Rundle said that on other occasions Mr Ellis would stand behind Mr Rundle as he was changing his sheets and place his hands down Mr Rundle's pants.¹¹³

Mr Rundle also gave evidence that Mr Ellis first anally raped him when he was around 10 years of age.¹¹⁴ Mr Rundle recalled that it occurred in the staff room at Eden Park.¹¹⁵ After this first occasion, Mr Rundle gave evidence that Mr Ellis repeatedly anally raped him 'whenever he had the occasion to'.¹¹⁶ Mr Rundle said that during his time at Eden Park Mr Ellis masturbated or had oral sex with him more than 60 times and had anal sex with him on at least 40 occasions.¹¹⁷ He said that the abuse occurred primarily in places like the laundry, bathrooms and boiler room.¹¹⁸ Mr Rundle gave evidence that on one occasion the abuse occurred at Mr Ellis' mother's house.¹¹⁹

Mr Rundle recalled that, after Mr Ellis would sexually abuse him, Mr Ellis would become aggressive and blame Mr Rundle for the abuse.¹²⁰ Mr Rundle said that sometimes Mr Ellis would become irate and hit him with a strap.¹²¹

The Royal Commission heard that, during the period in which Mr Rundle was resident at Eden Park, he was sexually assaulted at least 200 times.¹²²

Mr Rundle gave evidence about reporting his allegations to the police in April 2004 and the subsequent criminal proceedings.¹²³ Mr Ellis was convicted of his offending against Mr Rundle. The criminal proceedings are discussed later in this report.

Mr Rundle also gave evidence about the impact of the sexual abuse. He said that he still suffers very badly from nightmares and is constantly tired.¹²⁴ He said that the nightmares occur at least every couple of days and that the dreams are so real that he relives the horror over and over again.¹²⁵

Mr Rundle said that the abuse has had an ongoing impact on his ability to work, to trust people and to show emotions.¹²⁶ Mr Rundle also gave evidence about the devastating impact of TSAS's response to his child sexual abuse at Eden Park.

Mr Steven Grant

Mr Grant is 58 years old. He and his brother were placed at Eden Park on 23 September 1968, when he was 11 years old.¹²⁷

Mr Grant gave evidence about the physical abuse that he suffered and the culture at Eden Park. Mr Grant said that he suffered regular physical abuse by Brigadier Reginald Lawler, Captain Matthew Kop and Mr Andrews while at Eden Park.¹²⁸

Mr Grant recalled that the physical abuse would involve officers punching and kicking Mr Grant and that Captain Kop struck him with a broomstick.¹²⁹ Mr Grant recalled that there was a lot of bullying from officers and other residents at Eden Park and described a 'culture of humiliation' at Eden Park.¹³⁰

The Royal Commission heard evidence that when Mr Grant arrived at Eden Park a man called Captain David Osborne lived on the premises in a separate house with his wife and children.¹³¹ The Royal Commission heard evidence that, shortly after his arrival at Eden Park, Captain Osborne began to 'console' him and show him affection.¹³² Mr Grant said that this would usually occur after he had been punished by one of the other officers.¹³³ Mr Grant explained that all of the boys at Eden Park, including himself, craved love and affection.¹³⁴

Mr Grant gave evidence that he would meet Captain Osborne most evenings in the wood workshop area after dark.¹³⁵ Mr Grant could not recall whether it was prearranged or coincidental, but it was usually after his dairy chores and after it was dark. Mr Grant said that he was always crying for his dad because Eden Park was a horrible place and he hated being there.¹³⁶

Mr Grant said that Captain Osborne would console him and tell him that he would take him out of Eden Park. Mr Grant said that Captain Osborne would then pull him hard against the front of his body in a tight hug and would kiss him. He said that it was a long tongue kiss.¹³⁷

Mr Grant said he could not wait to see Captain Osborne because of the attention he got from him. He said that he felt like 'at least someone cared for him'.¹³⁸ Mr Grant said that he also enjoyed other privileges with Captain Osborne, like being able to ride in the front of the truck when it was cold. He was allowed to eat some of the pies and pasties.¹³⁹

The Royal Commission heard evidence that during the early months that Mr Grant was at Eden Park Captain Osborne started to tell him that he was going to Victoria. He promised Mr Grant several times that he would take him with him.¹⁴⁰

In around January 1970, Captain Osborne moved Mr Grant to Victoria with him and Captain Osborne's family. Mr Grant was 12 years old.¹⁴¹ Mr Grant gave evidence that he did not know how such a transfer came to be arranged.¹⁴²

During the public hearing, the Royal Commission received documents into evidence which related to Captain Osborne's removal of Mr Grant to Victoria. A copy of a letter from Captain Osborne to Lieutenant Colonel Stevenson dated 3 March 1970 was tendered into evidence.¹⁴³ In that letter Captain Osborne said that he had brought a 'twelve year old lad (Steven Grant)' with him from Mount Barker. Captain Osborne said that he would be prepared to foster Mr Grant to 'give him the benefit of a home and family, in an endeavour to help him'. Captain Osborne asked for consideration to be given to being provided an allowance for Mr Grant's maintenance and schooling expenses.¹⁴⁴

In response, Lieutenant Colonel Stevenson wrote a letter to Captain Osborne. In it he said that the 'responsibility of the boy will have to be entirely yours and that The Salvation Army will be in no way responsible for him'. He also said:

[I] have also to point out to you that no official application was made by your goodself with respect to bringing and accommodating the boy. Perhaps I can discuss this matter with you when I am at Bayswater next.¹⁴⁵

Mr Grant gave evidence that one evening, shortly after arriving in Victoria, Captain Osborne came into his bedroom and hugged and kissed Mr Grant.¹⁴⁶ On this occasion, Mr Grant recalled that Captain Osborne undid Mr Grant's pyjama pants and touched his genitals. Mr Grant gave evidence that, while Captain Osborne was touching his genitals, Captain Osborne described his genitals in a manner that Mr Grant assumed at the time was 'some sort of sex education'.¹⁴⁷

Mr Grant described two subsequent occasions on which Captain Osborne came into his bedroom at night and touched his genitals.¹⁴⁸ Mr Grant recalled that the third occasion was longer and he became aroused.¹⁴⁹ Mr Grant said that this made him uncomfortable and he asked Captain Osborne to stop. Mr Grant said that Captain Osborne became angry and punched him in the face, causing him to bleed from the nose.¹⁵⁰

Mr Grant gave evidence that following that incident he was put on a bus back to Mount Barker and returned to Eden Park. He said that he did not get to say goodbye to his friends, including a girl that he had been interested in at the time.¹⁵¹

In July 2006, after the Mullighan inquiry, Mr Grant took steps to report his abuse by Captain Osborne to the police.¹⁵² As a result of his complaint, Captain Osborne was charged with offending against Mr Grant. These charges related to Captain Osborne's offending in Victoria only. Captain Osborne was not convicted of these charges.

During the public hearing, Mr Grant gave evidence about his experience as a witness in the criminal proceedings. The Royal Commission also heard evidence from Mr Grant about the impact of his experiences. Mr Grant said that as a result of Captain Osborne sexually abusing him and the physical abuse that he suffered at Eden Park he has had trouble expressing his feelings and showing affection to his children. He said that he now tries to express his feelings better.¹⁵³

The Royal Commission notified Captain Osborne (as he then was) of the public hearing. Captain Osborne did not seek leave to appear at it.

BMB

BMB is 67 years old. BMB was placed at Eden Park in around 1960, when he was 12 or 13 years of age.¹⁵⁴ BMB gave evidence that he believes that he was made a ward of the State of South Australia at this time but that he does not have any documentary evidence of this fact.¹⁵⁵

BMB described a culture of physical abuse at Eden Park.¹⁵⁶ BMB said that he was physically assaulted by staff at Eden Park several times per week.¹⁵⁷ BMB recalled that the physical abuse often involved assaults with a closed fist,¹⁵⁸ kicking¹⁵⁹ and the use of a leather strap.¹⁶⁰ BMB gave evidence of a storeroom, which he knew as the 'dungeons', in which boys were locked for punishment.¹⁶¹

BMB recalled a particular incident of physical abuse when he was returned to Eden Park after he absconded. BMB gave evidence that he was taken into a large room, held down and beaten with a strap while other boys and staff were invited to watch. Following this incident, BMB said that he was locked in the 'dungeon'.¹⁶²

BMB also gave evidence about sexual abuse that he witnessed at Eden Park. BMB said that he saw other boys being sexually abused in the dormitories and bathrooms.¹⁶³ BMB said that he saw boys being forced to perform oral sex in the dormitories at night.¹⁶⁴ BMB gave evidence that the children would be beaten into submission if they refused.¹⁶⁵ BMB also recalled being aware of sexual abuse by staff members occurring during the day.¹⁶⁶

In the past when people have asked BMB if he was sexually abused, he has replied 'no'. BMB said that 'the truth is I have spent 50 years trying to forget my childhood. I believe that I was sexually abused at Eden Park'.¹⁶⁷ BMB said that, despite the many years 'trying to forget', he still experiences flashbacks and fears of public toilets and darkness.¹⁶⁸

The Royal Commission also heard evidence from BMB about the impact of the sexual abuse on his life. He said that Eden Park was the worst thing that ever happened to him.¹⁶⁹ He said that, because of his abuse, the early part of his life was completely messed up and he took a wrong direction with the law. He said that he had learned to push away the memories and to turn his life around in the right direction.¹⁷⁰

BMB explained that he still finds it difficult and that he has a sense of panic when he is home alone. He said that there are some nights when he wakes up crying and shaking and that it is difficult at those times to ‘squash’ down the memories.¹⁷¹

2.2 Nedlands, Western Australia

Establishment and operation

Nedlands operated as a residential care facility between 1918 and 1992. It provided residential care for boys. Later, from 1969, it also provided care for girls.¹⁷² The children at Nedlands were a mixture of state wards, children placed privately by their parents and children referred by non-government agencies.¹⁷³ It was located at Karalla Street, Nedlands, in Western Australia.¹⁷⁴ Over time, the local government boundaries changed and the suburb was variously known as Karrakatta, West Subiaco and Nedlands.¹⁷⁵

Nedlands had different names at different points in time. It was also referred to as:

- Salvation Army Boy’s Home, Hollywood (from May 1957)
- Salvation Army Hollywood Children’s Village (Boys and Girls) (from April 1971)
- Salvation Army Hollywood Children’s Village (from November 1977).

In or around 1965, Nedlands changed from dormitory-style accommodation to a cottage parent model. At this time, it was renamed the Hollywood Children’s Village. Following the transition of the facility to a cottage parent model, it primarily catered for teenage children. The majority of residents were aged between 12 and 15.¹⁷⁶

The cottage model involved children living in separated cottage homes with a family designated as ‘house parents’. Often, the children of house parents would also reside within the cottage. ‘Campus cottage care’ arrangements such as that at the Hollywood Children’s Village were regarded as providing a ‘stable family like’ environment for children.

In 1986, the Hollywood Children’s Village opened an additional cottage, Alinjarra. This cottage was specifically for short-term and emergency care.¹⁷⁷

Legislative scheme and oversight

During the time that Nedlands was in operation, the State of Western Australia had statutory oversight and responsibility over the home. The nature and extent of the exercise of that statutory oversight varied from time to time.

Ms Kathryn Benham, Acting Director General of the Western Australian Department for Child Protection and Family Support, attended the public hearing and gave evidence about the legislative scheme that Nedlands operated under and the degree of oversight and responsibility that Western Australian Government had in respect to Nedlands.

In particular, the Royal Commission received evidence about the two principal pieces of legislation under which Nedlands operated as a children's home: the *Child Welfare Act 1907* (WA) (the 1907 CWA) and the *Child Welfare Act 1947* (WA) (the 1947 CWA).¹⁷⁸

1907 to 1947

The 1907 CWA commenced on 20 December 1907 and was in effect until 10 January 1948.¹⁷⁹ The 1907 CWA permitted the Governor to declare buildings or places to be either a 'Government institution'¹⁸⁰ or a 'subsidised institution'¹⁸¹ for the purposes of that Act.

An 'institution' was any government industrial school, all orphanages, industrial or reformatory schools, receiving depot or shelter established under the Act.¹⁸²

A 'subsidised institution' was an institution maintained wholly or partially by contributions from the Consolidated Revenue Fund.¹⁸³ Declared subsidised institutions were listed in the Second Schedule to the 1907 CWA. Nedlands was a subsidised institution under both the 1907 CWA and the 1947 CWA.¹⁸⁴

As a subsidised institution, children could be admitted to Nedlands through private admissions or as wards of the state.¹⁸⁵ Ms Benham gave evidence that over the life of Nedlands it received both state wards¹⁸⁶ and private admissions.¹⁸⁷

The 1907 CWA defined a 'ward' to be a child who is received into an institution or apprenticed, boarded out or placed out under the provisions of the Act.¹⁸⁸ As a 'subsidised institution' children would be 'placed' or 'detained' at Nedlands. Under the 1907 Act, children would not be apprenticed or boarded out at Nedlands.¹⁸⁹ However, children who were placed or detained at Nedlands could later be apprenticed or boarded out.

Under the 1907 Act, the Secretary of the Child Welfare Department was given the general responsibility 'for the care, management, and control of the persons and property of all wards'¹⁹⁰ and also for 'general supervision over all wards detained in any institution'.¹⁹¹

In 1934, the *Child Welfare Regulations 1934* (WA) (the 1934 Regulations) commenced. Regulation 31 provided that the department may inspect any subsidised institution ‘as often as the occasion may require, and shall do so at least once in every six months’. Pursuant to regulation 31 of the 1934 Regulations, Nedlands was thereafter required to be inspected every six months.¹⁹²

Every ward placed out or apprenticed out was also required to be visited at least once every six months.¹⁹³ This included children who had been placed at or detained at Nedlands and had then been apprenticed out.¹⁹⁴

Before the 1934 Regulations were enacted, the Western Australian Government did not have any power, other than powers ancillary to the general responsibility for supervision, to inspect subsidised institutions such as Nedlands.¹⁹⁵

Copies of some of the inspection records which the department was able to locate were tendered into evidence. These records were limited but were able to give some indication about the nature of the relationship between the state and Nedlands (and also TSAS) under the relevant legislative scheme¹⁹⁶ and also the conditions at Nedlands. Some of these inspection records recorded the state of Nedlands at different times as ‘deplorable’¹⁹⁷ and in ‘need of considerable attention’.¹⁹⁸ At other times, the children were described as in ‘good’ health¹⁹⁹ and dormitories as ‘spotlessly clean’.²⁰⁰

1947 to 1991

The 1907 CWA was amended in 1936²⁰¹ and 1941.²⁰² In 1947, the 1907 CWA was repealed and replaced by the 1947 CWA.

The 1947 CWA operated until the close of the home in 1991.²⁰³ These amendments did not affect the substantive powers and duties outlined above.

However, during the period 1972 to 1991 the department that was responsible for the oversight of state wards changed. On 1 July 1972, the Department of Community Welfare was established. It was an amalgamation of the Child Welfare and Native Welfare departments²⁰⁴ and it became responsible for the oversight of wards under the 1947 CWA.

In 1985, the department changed its name to the Department for Community Services and remained so until 1992.²⁰⁵

Following the establishment of the Department for Community Welfare, a manual entitled the *Department for Community Welfare Manual* was developed. A copy of that manual was tendered into evidence.²⁰⁶

The purpose of the manual was to provide instruction to field officers on a wide range of procedures, including those related to ‘Non-Departmental Institutions’, which included Nedlands.²⁰⁷

In addition to the manual, Staff Circulars and Administrative Instructions were used to make staff aware of current practices and requirements.²⁰⁸ Few of these documents were able to be located.²⁰⁹

Corporal punishment

1934 Regulations

The 1934 Regulations imposed a number of standards regarding the infliction of corporal punishment, requiring that:

- any discipline enforced should be mild and firm, and all degrading and injurious punishments shall be avoided²¹⁰
- ‘corporal punishment’ was restricted to strokes with a cane inflicted on the hands²¹¹
- corporal punishment may be inflicted as a last resort and in the presence of a witness by the manager or by the school master under the direction and on the responsibility of the manager²¹²
- the corporal punishment of girls over the age of 12 was forbidden²¹³
- girls under the age of 12 will not be the subject of corporal punishment except in very extreme circumstances.²¹⁴

The Royal Commission received evidence that on multiple occasions The Salvation Army officers acted in breach of the 1934 Regulations. In some instances, these breaches were notified to the Western Australian Government and to TSAS. The Western Australian regulations on corporal punishment are discussed further in this report in the context of physical punishment inflicted on children at Nedlands by TSAS staff and officers.

Approval of managers

During the time that Nedlands was in operation, the Western Australian Government had the ability to approve the appointment of managers to Nedlands.

Under section 16 of the 1907 CWA or section 94 of the 1947 CWA, the appointment of managers to Nedlands was made by the Child Welfare Division or by the department for the Division.²¹⁵ Ms Benham explained the effect of these provisions was that, if The Salvation Army wanted to appoint a manager and the Western Australian Government did not approve, the government could stop it from happening.²¹⁶

Ms Benham said that she was not aware of any specific statutory powers which the department could use in response to an institution appointing a person as a manager or continuing the employment of a person as a manager where the Western Australian Government had disapproved of that appointment or continuation.²¹⁷ However, Ms Benham accepted that the state government could have stopped sending wards of the state to the institution or could have stopped funding the institution so that it was no longer a subsidised institution.²¹⁸

During the public hearing, Ms Benham was shown copies of correspondence from 1967 between the department and The Salvation Army about the appointment of Captain Harold Sanders as manager of Nedlands.²¹⁹

Ms Benham accepted in evidence that the documents revealed that the Child Welfare Department was concerned about the appointment of Captain Sanders as the manager of Nedlands because there had been allegations of physical abuse by him of some of the boys.²²⁰ Captain Sanders' conduct is discussed further below.

Experience of former resident BMC

During the public hearing, the Royal Commission heard evidence from BMC, a former resident of Nedlands. BMC was 57 years old at the time of the hearing.

BMC and her siblings were removed from the care of her father and stepmother by state welfare officers in around October 1969.²²¹ In around November 1969, BMC and her siblings were placed at Hollywood.²²² At that time, BMC was 11 years of age.

BMC recalled that she was separated from her siblings upon arrival at Hollywood and that one of her brothers, BMO, was moved to a cottage with Captain Charles Allan Smith and his wife.²²³ BMC said that, at the time she was in Hollywood, Captain Smith was 'someone to be afraid of,' though it was not spoken of explicitly.²²⁴

BMC recalled that when she arrived at Hollywood it had cottage style accommodation, with each cottage housing between 10 and 12 children.²²⁵ BMC gave evidence that discipline in the cottage was very strict and that, though she was only punished on rare occasions, when she was punished it was humiliating.²²⁶

BMC gave evidence that she had difficulties with bedwetting from a young age. She said that she hardly ever had a dry night.²²⁷ BMC said that every time her cottage mother found out that she had wet her bed she would rub BMC's face in the wet sheets and force her to stand with her underpants on her head while other children watched.²²⁸

The Royal Commission also heard evidence from BMC about other punishments which she suffered at Hollywood, including being hit with a leather belt²²⁹ and being made to clean the bathroom with a toothbrush.²³⁰

BMC also gave evidence of physical abuse by Captain Smith. In particular, BMC gave evidence about one occasion, in around 1970, when Captain Smith pushed her to the floor and climbed on top of her.²³¹ BMC said that Captain Smith then dragged or carried her outside and threw her into a large skip bin that the residents called the 'pig slop bin'.²³² Captain Smith then said to her that 'this is where garbage like [you] belong and end up'.²³³ BMC said that Captain Smith later took her out of the pig slop bin and locked her in the boiler room of the cottage. BMC recalled that she promised

that she would not tell, so that she was allowed to go. She said that before she was allowed to leave that room Captain Smith told her to stay quiet or else she would see what she would get.²³⁴

During the public hearing, BMC also gave evidence about sexual abuse that she suffered at Hollywood. BMC said that her brother, BMO, sexually abused her while they were at Hollywood. BMC also said that two other residents, BMR and BMQ, attempted to sexually assault her while in the home.²³⁵ On another occasion around Christmas 1971, another of BMC's brothers, BMD, attempted to sexually abuse her while visiting their parents' home.²³⁶

BMC gave evidence that she believes that Captain Smith sexually abused her brother, BMD.²³⁷ Captain Smith pleaded guilty to a number of child sex offences against residents at Hollywood. These charges did not include BMD. The criminal proceedings against Captain Smith are discussed further later in this report.

The Royal Commission heard evidence from BMC that, as an adult, she sees Captain Smith as the puppeteer, making children sexually active with each other so the boys would then perform sexual acts for him more easily.²³⁸

BMC said that she has been diagnosed as suffering from post-traumatic stress disorder and that she has good and bad days. She said that she has trouble with concentration and memory, that she has difficulty remembering certain aspects of the trauma and that she has spent most of her life avoiding talking about it or remembering it.²³⁹

BMC also explained the impact that her abuse has had on her marriage and her children.²⁴⁰

Captain Smith is now deceased.

2.3 Box Hill and Bayswater, Victoria

Establishment and operation

Box Hill

In 1897, the Salvation Army Boys Home was established at Brunswick under the control and management of The Salvation Army. Its location was changed to Box Hill on 12 December 1912.²⁴¹ Box Hill Boys' Home (Box Hill) officially opened in 1913.²⁴²

Box Hill was a private institution which housed a mixture of state wards, children placed privately by their parents and children referred by non-government agencies.²⁴³ From at least 1955, Box Hill had a primary school on the premises run by the Victorian Department of Education.²⁴⁴ Box Hill Technical School was available for boys requiring secondary or technical school.²⁴⁵

In February 1972, the home formerly known as Box Hill became known as Hayville. It consisted of three cottage homes. Each cottage housed eight children, a married couple and a domestic assistant.²⁴⁶ There was another unit of 20 boys with a cottage mother and father²⁴⁷ This transition enabled children who had previously been accommodated at Catherine Booth Children's Home and Kardinia Children's Home to be moved to Box Hill.

Box Hill (or Hayville Home) was officially closed in 1984.²⁴⁸

Bayswater

Also in 1897, a home for children operated by The Salvation Army opened at Bayswater.²⁴⁹ It was originally established as a reformatory school for boys.²⁵⁰

There were originally three Salvation Army homes on the Bayswater site. The home called 'Bayswater No 1' (the No 1 home) was responsible for boys aged over 14 years who had committed serious offences. 'Bayswater No 2' (the No 2 home) was responsible for younger boys. 'Bayswater No 3' (the No 3 home) was responsible for older non-offending boys.²⁵¹ They were collectively referred to until 1957 as 'the Salvation Army Farm and Vocational Training Centre (Bayswater)'.²⁵²

By 1957, the No 1 and No 3 homes had been combined and housed boys aged over 14 years. The No 2 home retained responsibility for boys 14 years and under.²⁵³

In 1962, the approved juvenile school based at the No 1 home was renamed the Bayswater Youth Training Centre (Bayswater YTC) and was formally declared to be a youth training centre.²⁵⁴

Bayswater YTC received young male offenders who were sent to Bayswater YTC between the ages of 15 and 17 with a sentence between three and 36 months.²⁵⁵

The No 2 home was closed in 1980.²⁵⁶ Bayswater YTC closed in 1987.²⁵⁷

Legislative scheme and oversight

During the time that Bayswater and Box Hill were in operation the Victorian Government had statutory oversight of and responsibility for the homes. The nature and extent of the exercise of that statutory oversight and responsibility varied from time to time. These statutory powers included the powers of inspection.

Mr Alan Hall, Director of Performance, Regulation and Reporting at the Victorian Department of Health & Human Services, provided a statement to the Royal Commission and attended the public hearing to give evidence on the legislative scheme under which Box Hill and Bayswater operated and the statutory oversight and responsibility in respect to the homes.

1940 to 1954

Admission and committal of children to Box Hill and Bayswater

Between 1940 and 1954, the Box Hill and Bayswater Homes were privately run by TSAS and were subject only to limited governance and oversight by the Victorian Government.²⁵⁸

During this period, the relevant provisions which governed Box Hill and Bayswater were set out in the *Children's Welfare Act 1928* (Vic) (1928 Act). Under the 1928 Act, private institutions could be approved by the government for taking neglected children.²⁵⁹ Both the Bayswater No 2 home and Box Hill were approved institutions.²⁶⁰ However, Bayswater No 1 home was treated differently because it was declared a reformatory.²⁶¹

Under the 1928 Act, children could come to live at Box Hill or Bayswater in different ways. First, children could be committed to an approved home by a parent or carer. In those circumstances, the manager of the home assumed the guardianship of the child and had the sole right to the custody of the child subject to the provisions of the 1928 Act and the regulations.²⁶² The Children's Welfare Department (as it then was) was not the guardian of the child.²⁶³

Secondly, a child could be committed to Box Hill or the No 2 home by the court.²⁶⁴ In those circumstances, the manager of the home was the guardian of the child.²⁶⁵

Thirdly, children who were state wards could also be placed at Box Hill or the No 2 home.²⁶⁶ In those circumstances, the Secretary of the Children's Welfare Department was the guardian of the children.²⁶⁷

The admission of children to Bayswater No 1 home was slightly different. If a child was 'committed' to the school,²⁶⁸ the department was not the guardian. Instead, the manager of the No 1 home was the guardian.²⁶⁹

Power to inspect the institutions

Under the 1928 Act, both Box Hill and Bayswater, in their capacity as 'approved institutions', were required to permit the inspection of children committed to their care and the place in which those children resided from time to time.²⁷⁰ These inspections were to be undertaken by the Inspector of the Industrial or Probationary Schools or any other person authorised under the regulations.²⁷¹

The *Neglected Children's Regulations 1916* (Vic) (the 1916 Regulations) set out the responsibilities of the inspectors during the inspections. In particular, the 1916 Regulations required that the inspector, or some officer of the department, was required to visit children committed to the care of the institution.²⁷² After the inspection, the inspector or officer was required to report to the Minister 'upon such visit and inspection and upon all matters connected therewith'.²⁷³

Mr Hall gave evidence that, between 1940 and 1954, there were children committed to the care of the department and, accordingly, the department had the power to inspect Box Hill and the Bayswater No 2 home.²⁷⁴ Mr Hall said that the Department of Health & Human Services had searched for any records of such inspection and that no records of inspection could be located.²⁷⁵ Mr Hall accepted in oral evidence that, if there were regular inspections of the homes, he would have expected to have found at least one record of inspection.²⁷⁶

Under the *Crimes Act 1928* (Vic) and in its capacity as a reformatory school, Bayswater No 1 home had to permit the Inspector of Reformatory Schools or other authorised persons to visit wards of the Department for Reformatory Schools and the places in which they resided.²⁷⁷ The inspector was required to visit and inspect every reformatory school ‘as often as occasion may require’ and not less than once in every 12 months.²⁷⁸

The inspector was then required to report to the Minister on the inspection and all matters connected to it. If, upon the report of the inspector, the Governor in Council was dissatisfied with the conditions, management or regulations, he or she could withdraw approval for the school.²⁷⁹

Mr Hall gave evidence that the officers of his department had searched the departmental records for any record of inspections of the Bayswater No 1 home and they were not able to locate any records for the period 1940 to 1954.²⁸⁰

The Royal Commission also heard evidence that the searches had revealed other records and documents which related to the reformatory school at Bayswater No 1 home.²⁸¹ Mr Hall accepted in oral evidence that, if those inspections had been done with any regularity or as required under the legislation, he would have expected to have found at least one record of inspection.²⁸²

Mr Hall also gave evidence that he did not find any record of allegations child sexual abuse at Box Hill, the No 2 home or the reformatory school at Bayswater No 1 home.²⁸³

1954 to 1960

Admission and committal of children to Box Hill and Bayswater

The Victorian Government was required to exercise greater governance and oversight responsibility under the *Children’s Welfare Act 1954* (Vic) (the 1954 Act). The 1954 Act repealed the whole of the 1928 Act.²⁸⁴

Under the 1954 Act, non-government children’s institutions were required to register with the Children’s Welfare Department and to maintain adequate standards of care and welfare of children and young people.²⁸⁵ The Director of Children’s Welfare became the guardian of all children and young persons who were either admitted or committed to the care of the Children’s Welfare Department and he or she remained their guardian following the child’s or young person’s placement at an approved children’s home or juvenile school.²⁸⁶

This is in contrast to the position under the 1928 Act. Under the 1928 Act, the manager or superintendent was the guardian of children who were not wards of the state and who were committed or admitted by their parents or the court.²⁸⁷

Under the 1954 Act, parents could not commit their child to the care of an institution directly. However, they could apply to the Director to have their child admitted to the care and custody of the Children's Welfare Department if their child was 'without sufficient means of support and no available legal proceedings [could] be taken to obtain sufficient means of support for such child'.²⁸⁸

Children who were privately placed at the homes by their parents were not under the guardianship of the Director unless the person in charge of the home subsequently made a successful application.²⁸⁹

In 1954, the Department for Reformatory Schools was also subsumed into the Children's Welfare Department and the children or young persons who had been committed to a reformatory school pursuant to the Crimes Act or to the *Children's Court Act 1928* were deemed for the purposes of the 1954 Act to have been committed to the care of the Children's Welfare Department.²⁹⁰

Power to inspect the institutions

As set out above, under 1954 Act the responsibility of the Victorian Government over Bayswater and Box Hill increased. This included the government's powers of inspection of Box Hill and Bayswater.

Mr Hall gave evidence that under the 1954 Act the department had the power to inspect any approved children's home or juvenile school and that, therefore, included Box Hill and Bayswater.²⁹¹ The inspection could be made by the Director of the Children's Welfare, any authorised officer or any member any member of the Children's Welfare Advisory Council at any time, in respect to any approved children's home or approved juvenile school to 'make such examinations and inspections as appear to be necessary regarding the state and management and the condition and treatment' of the children there.²⁹²

The *Children's Welfare Regulations 1955* (Vic) (1955 Regulations) also allowed for the Director of Children's Welfare to make an 'examination' of any approved children's home or juvenile school. This included Bayswater and Box Hill.²⁹³ Following such an 'examination', the Director was required to report the result to the Minister, together with any comment or recommendation considered appropriate. If the Minister considered it necessary, he or she could refer the report to the Children's Welfare Advisory Council for consideration.²⁹⁴

The Minister could also appoint persons to be 'visitors' to approved children's homes.²⁹⁵ An appointed 'visitor' was required to visit the home to which they were appointed at intervals of not less than six months and to furnish a report to the Director with a report of their observations on the 'adequacy or otherwise of the facilities and amenities provided for the general care and welfare of the inmates'.²⁹⁶ The 'visitor' was also required to report to the Director for further investigation any instance of misconduct by or ill treatment of 'an inmate' at an approved children's home.²⁹⁷

No records of the Director's examination of Bayswater or Box Hill were able to be located.²⁹⁸ No records of report to the Children's Welfare Advisory Council or visitors' reports were able to be located.²⁹⁹ The Royal Commission received evidence that other records of inspection under the legislation were able to be located, but these records were limited. These records are discussed further below.

1960 to 1970

In 1958, the 1954 Act was consolidated by the *Children's Welfare Act 1958* (Vic) (the 1958 Act). The 1958 Act provided that children and young people who were committed to a juvenile school were deemed to have been committed to the care of the Children's Welfare Department.³⁰⁰

The legislative framework that was set out in the 1958 Act continued to apply subject to a number of amendments under the *Social Welfare Act 1960* (Vic) (the 1960 Act). These amendments did not affect the powers of inspection.

The Royal Commission heard evidence that the 1960 Act created a number of new bodies, including the Youth Welfare Branch, which dealt with the maintenance and control of youth training centres.³⁰¹ Previously, youth training centres had been dealt with by a separate department known as the Department for Reformatory Schools.³⁰² Mr Hall explained that by virtue of the 1960 Act amendments there was now one department responsible for both approved institutions and youth training centres.³⁰³

Upon the commencement of the 1960 Act, all approved juvenile schools were deemed to become youth training centres and all children who had been detained in a youth training centre or committed to a juvenile school were deemed to be in the legal custody of the Director-General.³⁰⁴ Children admitted or committed to the care of the Children's Welfare Department were also deemed to be in the custody of Director-General.³⁰⁵

Under the transitional provisions of the 1960 Act, the approved juvenile school based at the No 1 home became the Bayswater YTC.³⁰⁶ On 9 May 1962, the No 1 home was formally declared to be a youth training centre for the purposes of the 1960 Act.³⁰⁷

While Bayswater YTC was privately run, the trainees were nevertheless considered to be in the legal custody of the Director-General for the period of their detention.³⁰⁸

From 1962, the superintendent of Bayswater YTC was required to prepare a manual of instructions relating to any matters concerning the administration of the centre and which were not covered in the regulations. These instructions had to be approved by the Director-General. A copy of the *Manual of Instruction* from around 1982 was located and tendered into evidence.³⁰⁹ Mr Hall gave evidence that his department was unable to locate any earlier version of the manual.³¹⁰

1970 to close

The *Social Welfare Act 1970* (Vic) (the 1970 Act) replaced both the 1958 and the 1960 Acts. Under the 1970 Act, the Social Welfare Branch became the Social Welfare Department.³¹¹ Mr Hall explained that this was simply a change in name and that under the 1970 Act the Director-General remained the guardian of children who had been admitted or committed to care under the 1970 Act or admitted or committed to the care of the Children's Welfare Department before the 1960 Act commenced.³¹² This included all young people detained in a youth training centre.³¹³

The *Community Welfare Services Act 1978* (Vic) (the 1978 Act) amended the 1970 Act. Under the 1978 Act, the Director-General was the guardian of children 'admitted' to the care of the Social Welfare Department. The Director-General was no longer the guardian of any child or young person who was 'committed' before the 1960 Act commenced.

Records of inspection

No records of inspection for Bayswater or Box Hill could be located for the period prior to 1957. In respect to Bayswater (including Bayswater YTC, the reformatory school at Bayswater No 1 home and the No 2 home) only 12 inspection records were located. These related to the period 1957 to 1982.³¹⁴ For Box Hill only 10 inspection records were located. These related to the period 1958 to 1970.³¹⁵ No other inspection records could be located for the period that Bayswater and Box Hill operated.³¹⁶

Mr Hall summarised these inspection records in the statement that he provided to the Royal Commission. In his statement, he described the documents as illustrating 'that inspectors focussed on the physical aspects of the homes, and contained only general observations about the well-being of the residents'.³¹⁷ Mr Hall further stated that 'none of the inspection records identified any complaints or allegations of sexual abuse by Salvation Army staff made by the residents to the inspectors'.³¹⁸ Only one document could be located which recorded a complaint of child sexual abuse at Box Hill. This is discussed later in this report. Several of the inspection records identified a low standard of discipline and the use of corporal punishment in the homes.³¹⁹

Mr Hall accepted in oral evidence that 'the paucity' of records suggests that Bayswater and Box Hill were not inspected with adequate or sufficient regularity.³²⁰

It is clear from the legislation that the purpose of the powers to inspect and/or supervise Box Hill and Bayswater was to ensure that children who were residing there were provided with appropriate care and were not subject to ill treatment or inappropriate behaviour. The lack of regular, thorough inspections increased the risk of child sexual abuse (and other abuse and neglect), as it meant that there was no oversight of the conduct of those working in Bayswater or Box Hill.

We are satisfied that during the time that Bayswater and Box Hill were in operation:

- the Victorian Government had statutory oversight of and responsibility for the homes, and the nature and extent of the exercise of that statutory oversight and responsibility varied from time to time
- the State of Victoria did not inspect those institutions with the frequency required by the relevant legislation
- the records of inspection which could be located focused more on the physical aspects of the home and contained only general observations about the wellbeing of residents.

Experiences of former residents

The Royal Commission heard evidence from six former residents of Box Hill about their experiences. They were:

- Mr Jack Charles
- BML
- Mr Brian Cherrie
- Mr David Wright
- Mr Ross Rogers
- Mr David Reece.

The Royal Commission also heard from three former residents of Bayswater:

- BMS
- Mr Philip Hodges
- BMA (who gave evidence his experiences at Bayswater YTC).

Mr Jack Charles

At the time of the public hearing, Mr Charles was 72 years old. Mr Charles gave evidence that he was made a ward of the State of Victoria when he was around four months old as part of the assimilation program.³²¹ He was first placed at Box Hill when he was aged two and stayed there until he was aged four.³²² He was placed at Box Hill again when he was aged six and stayed until he

was 13 years old.³²³ Mr Charles gave evidence that for most of his time at Box Hill he was the only Aboriginal child in the home.³²⁴ Mr Charles said that he believed that he was especially vulnerable for this reason.³²⁵

The Royal Commission heard evidence from Mr Charles about the physical abuse that he suffered at Box Hill. He said that corporal punishment was commonplace in Box Hill.³²⁶ Mr Charles recalled punishments including being made to fight against a larger resident at Box Hill and being hit with a closed fist and a cane.³²⁷ Mr Charles also recalled that other residents at the home were violent to one another.³²⁸

Mr Charles also gave evidence about having been sexually abused by a Salvation Army employee, Mr Alexander Sangster, and an officer, Major O'Brien.

Mr Charles said that he was sexually abused at Box Hill by Mr Sangster around 20 times.³²⁹ Mr Charles described the sexual abuse. He said it would involve Mr Sangster masturbating Mr Charles' penis and inserting his finger into Mr Charles' anus.³³⁰ Mr Charles also gave evidence about other forms of sexual humiliation perpetrated by Mr Sangster, including measuring how many sixpence boys could place along their erections and watching them while they showered.³³¹

The Royal Commission heard evidence that Mr Charles regularly observed Mr Sangster taking one or two boys into his private room at night.³³² Mr Charles said that he believed all the residents in the dormitory were aware of Mr Sangster's sexual offending.³³³

Mr Charles gave evidence that he was also sexually abused by Major O'Brien at Box Hill.³³⁴ Mr Charles said that the abuse would involve masturbation, oral sex and anal penetration.³³⁵

Mr Charles also gave evidence of sexual abuse by other residents at Box Hill.³³⁶ Mr Charles described the abuse as consisting primarily of masturbation, but he recalled five occasions on which he was anally raped by other residents.³³⁷ Mr Charles said that most of the abuse would happen in the dormitories. The other boys would threaten Mr Charles with beatings if he did not do what they wanted.³³⁸ Mr Charles also said that on one occasion Mr Sangster saw the other residents sexually abusing Mr Charles.³³⁹

Mr Charles gave evidence about the difficulties in coming forward and speaking about his abuse.³⁴⁰ He explained the effect that the abuse has had on his sexual identity. He said that he grew up thinking that sexual abuse was normal. He did not understand the difference between consensual and non-consensual sex.³⁴¹

Mr Charles also gave evidence about the effect on his mental health,³⁴² his addiction to heroin³⁴³ and feelings of inferiority throughout his life.³⁴⁴

Mr Sangster is deceased and was not convicted of his offending.

BML

BML was 68 years old at the time of the public hearing. He gave evidence that on or around 18 May 1960 he was made a ward of the State of Victoria following an application by his father.³⁴⁵ BML was sent to Box Hill.³⁴⁶

BML described witnessing violence, abuse and cruelty by officers at Box Hill.³⁴⁷ BML gave evidence that Lieutenant Stan Exeter and Major Harold Sanders inflicted corporal punishment on him, which would typically involve being struck around the ears or with a strap.³⁴⁸ BML said that he witnessed regular cruelty towards other residents in the 'Bed Wetters Dorm'.³⁴⁹

BML also gave evidence that he was repeatedly sexually abused by a staff member at Box Hill whom he knew as 'the Boot man'.³⁵⁰ BML said that on one occasion the Boot man caught him stealing potatoes and threatened to tell Lieutenant Exeter if BML did not do what he asked. The Boot man then touched BML on his genitals and made BML touch him.³⁵¹

The Royal Commission heard evidence that the Boot man would take BML into his room, which was like an annexe of the dormitory. BML said that the first time the Boot man took BML to his room he tried to anally rape him. BML said that he screamed because it hurt so badly and the Boot man stopped.³⁵² BML gave evidence that the Boot man proceeded to turn BML over and masturbate onto him. BML said that the Boot man then slapped BML's face with his penis and testicles.³⁵³

The Royal Commission heard evidence that after this occasion the Boot man would regularly take BML into his room and assault him. BML said that he was terrified that the other boys would find out. He explained to the Royal Commission that he kept his 'shame and disgust and hatred of him' to himself.³⁵⁴

In 2014, BML gave a statement about his child sexual abuse at Box Hill to a police officer. BML gave evidence that at that time he was informed that the 'Boot man' had been identified as Mr David Ferguson and that he was deceased.³⁵⁵

During the public hearing, BML also told the Royal Commission about the impact that the abuse has had on his mental health. He said that his life has been burdened with tremendous sorrow, guilt and anger.³⁵⁶

Mr Brian Cherrie

Mr Cherrie was born in 1952. At the age of 11, he was declared an 'uncontrollable child' and made a ward of the State of Victoria.³⁵⁷ At this time, Mr Cherrie was placed at Box Hill.³⁵⁸

Mr Cherrie gave evidence that Box Hill was full of violence and that he could remember always being cold and hungry.³⁵⁹

Mr Cherrie gave evidence that while he was at Box Hill he was sexually abused by Mr Willem Willemson in the 'treatment room' at Box Hill.³⁶⁰ Mr Cherrie knew Mr Willemson as 'Black Willie'.³⁶¹ Mr Cherrie said that while 'examining' him Mr Willemson fondled his genitals.³⁶²

Mr Cherrie gave evidence that Mr Willemson would take children out of the home for rides in his small car and that he was an employee of The Salvation Army. Mr Cherrie said that Mr Willemson worked at the home looking after the boys and was given the 'rank' of Sergeant.³⁶³

Mr Cherrie said that he was aware that Mr Willemson had sexually abused other residents at Box Hill.³⁶⁴ Mr Cherrie also gave evidence that he was sexually abused by another staff member at Box Hill.

The Royal Commission also heard evidence about the significant effect of the abuse on Mr Cherrie's life.³⁶⁵ Mr Cherrie gave evidence about the effect on his capacity to form relationships³⁶⁶ and the impact on his education³⁶⁷ and mental health.³⁶⁸

Mr Cherrie gave evidence that the effects of his abuse had been significant. He said that at the age of 17 years he began to use drugs and alcohol to cope with what had happened to him.³⁶⁹

The Royal Commission heard that he had no opportunity to get an education and he struggled to work and support his family. Mr Cherrie said that he left school in form 3, but he did not learn much even when he was attending school. He said that he was so damaged that he could not think and could not learn. He said that he still cannot read books.³⁷⁰

The Royal Commission heard that since leaving Box Hill Mr Cherrie has suffered from severe depression and at times he has continued to have thoughts of suicide. He said that he has been diagnosed with post-traumatic stress disorder and is on a disability support pension for his psychological injuries. Mr Cherrie said that he has never been able to sleep the whole night without waking during the night and taking a long time to go back to sleep.³⁷¹

Mr David Wright

During the public hearing, Mr Wright's statement was read into evidence. Mr Wright was going to attend the public hearing to give evidence; however, sadly, Mr Wright passed away before he was able to do so.

Mr Wright was nine years old when he was privately placed at Box Hill.³⁷² In his statement, Mr Wright described the 'constant physical punishment' at Box Hill.³⁷³ Mr Wright described physical abuse by Colonel Stevenson, a senior ranking officer, who was a strict and cruel man and who would violently beat the boys with the handle of a broom or any object within his reach.³⁷⁴ Mr Wright also recalled Lieutenant Bull striking him with a cane.³⁷⁵

In his statement, Mr Wright also described physical punishments by Sergeant Alexander Sangster, a supervisor, as 'emotionally abusive'. He said that Sergeant Sangster would humiliate you and this

would occur in situations where you were left vulnerable and powerless.³⁷⁶ Mr Wright said that the culture of punishment and fear at Box Hill was horrific and that he constantly lived in fear.³⁷⁷

Mr Wright gave evidence of his sexual abuse at Box Hill by Sergeant Sangster.³⁷⁸ Mr Wright said that, about two or three months after his arrival at Box Hill, Sergeant Sangster began coming into his bedroom to cuddle and touch him on his chest or inside his pants.³⁷⁹ Mr Wright said that, when Sergeant Sangster would come into his bed to cuddle him, he would often, but not always, give him a drink of something which he later learned to be whiskey or bourbon.³⁸⁰ Mr Wright gave evidence that after a while he realised that on the nights Sergeant Sangster was not in Mr Wright's bed he was in another boy's bed.³⁸¹

Mr Wright said that other residents at Box Hill would get into other boys' beds.³⁸² Mr Wright said that on several occasions older boys attempted to get into his bed at night and they would want you to do things to them. Mr Wright said that if you kicked up enough of a fuss and began to make a scene they would leave you alone. Mr Wright said that he was never abused by any of the other boys in Box Hill.³⁸³

Mr Wright said in his statement that he never reported the abuse by Sergeant Sangster to the police because it did not occur to him and he had tried to live his life without having the abuse hanging over him. He said that he was also too ashamed and embarrassed to tell anyone, including the police.³⁸⁴

Mr Wright described in his statement the long-term physical and emotional impact that his abuse at Box Hill had had on his life.³⁸⁵

A note from Mr Wright's family was also read into evidence. The author of the note, Mr Wright's son, explained the profound impact that his father's abuse had had on each member of his family.³⁸⁶

Mr Ross Rogers

Mr Rogers was aged 61 years at the time of the public hearing. At the age of 11, Mr Rogers was placed at Box Hill by his adoptive father.³⁸⁷

The Royal Commission heard evidence from Mr Rogers that while he lived at Box Hill he was sexually abused by 'Sergeant' Willemson.³⁸⁸ Mr Rogers said that the first instance of abuse occurred between six and 10 months after his arrival at Box Hill, when he went to the bathrooms in the middle of the night.³⁸⁹ Mr Rogers said that Sergeant Willemson told Mr Rogers to go to his room, where he removed his clothes and got into bed with Mr Rogers.³⁹⁰ Mr Rogers recalled that Sergeant Willemson then lay on top of Mr Rogers, rubbed himself against Mr Rogers and kissed Mr Rogers on the mouth.³⁹¹

The Royal Commission also heard evidence that Sergeant Willemson also anally penetrated Mr Rogers. This happened on more than one occasion.³⁹²

Mr Rogers recalled that the abuse continued in this manner over the subsequent months. Mr Rogers said that Sergeant Willemson would threaten him not to tell anyone what they were doing and on more than one occasion Sergeant Willemson held a knife to Mr Rogers' throat.³⁹³

Mr Rogers also gave evidence that Sergeant Willemson sexually abused him in the truck on a number of occasions while he was transporting boys from Box Hill to local high schools³⁹⁴ as well as in the infirmary³⁹⁵ and in the vegetable and wood sheds.³⁹⁶

Mr Rogers gave evidence about reporting his abuse to the police in April 1994. As a result of his complaint, Sergeant Willemson was charged with a number of offences relating to his offending against Mr Rogers. Sergeant Willemson admitted to these charges and was subsequently convicted of his offending against Mr Rogers at Box Hill.³⁹⁷

Mr Rogers described the physical and emotional impact that his abuse has had on him.³⁹⁸ He said that for most of his life he has repressed many childhood memories, including the memories of abuse at Box Hill.³⁹⁹ Mr Rogers explained that he continues to suffer flashbacks of his abuse, which have become more frequent, and that certain smells can trigger the flashbacks, which are intrusive and distressing.⁴⁰⁰

Mr David Reece

The Royal Commission heard evidence from Mr Reece, who was 61 years old at the time of the hearing. At the age of nine, he was placed in a juvenile detention centre and made a ward of the state. He was then transferred with his brothers to Box Hill.⁴⁰¹ At Box Hill, Mr Reece was separated from his brothers. He recalled feeling small and scared.⁴⁰²

Mr Reece described physical and emotional assault that he suffered at Box Hill.⁴⁰³ He said that The Salvation Army officers were brutal⁴⁰⁴ and that the boys used to call Box Hill 'Hell's-ville' because it was a 'complete hell' to them.⁴⁰⁵ Mr Reece gave evidence that 'there was no reprieve' from the abuse when he went to school.⁴⁰⁶

The Royal Commission heard evidence from Mr Reece of being physically and sexually abused by Sergeant Willemson, who was known as 'Black Willie'.⁴⁰⁷ Mr Reece gave evidence about one occasion when Sergeant Willemson took him into the gymnasium, pulled out his erect penis and told Mr Reece to suck it. Mr Reece said that when he refused he was threatened and then was physically beaten on a daily basis.⁴⁰⁸

Mr Reece said that after the sexual assault Sergeant Willemson would single him out more than any others for daily beatings. Mr Reece also said that Sergeant Willemson would punish him even if he was not misbehaving. Mr Reece said that he believed that this was because he had refused to play with or suck his genitals.⁴⁰⁹

Mr Reece also gave evidence about Sergeant David Ferguson. He said that Sergeant Ferguson would sit in the showers and would watch him and the other boys. Mr Reece recalled that Sergeant Ferguson wore an elevated shoe.⁴¹⁰

Mr Reece said he was also sexually abused by Mr Morton at Box Hill. Mr Morton was a staff member who would select boys to take to drive-in movies. Mr Reece gave evidence that Mr Morton placed him on his knee and tried to play with his genitals.⁴¹¹ Mr Reece also described sexual abuse by another staff member at Box Hill.⁴¹²

Mr Reece gave evidence that he had recently reported his abuse to the police and he understood that they were investigating the offenders.⁴¹³

The Royal Commission heard from Mr Reece about the effect of the abuse he received at Box Hill. He said that he 'carried a lot of guilt and blamed [him]self' and felt that the abuse was not something that he could talk about.⁴¹⁴ Mr Reece said that the abuse has haunted him his entire life. He said that he had spent lot of his time trying to help other victims. He said that he has difficulty forming long-term relationships and trusting people.⁴¹⁵ Mr Reece also gave evidence about how he had dealt with his experiences.⁴¹⁶

Sergeant Willemson has admitted,⁴¹⁷ and been convicted of, offending at Box Hill against other former residents.⁴¹⁸ Sergeant Ferguson is deceased.

BMS

BMS is 72 years old. When he was 10 years old he was found by police wandering the streets. He was made a ward of the state and was sent to the Turana detention facility in Victoria.⁴¹⁹ At the age of 11, he was moved to Bayswater No 2 home, where he stayed until he was 15 years old.⁴²⁰

During the public hearing, BMS gave evidence that he suffered 'significant physical abuse' at Bayswater.⁴²¹ BMS said that he was physically abused by Matron Fleming, Major Francis and Lieutenant Heywood.⁴²² This physical abuse included Major Francis striking BMS with a cane.⁴²³

BMS also gave evidence that he suffered persistent and regular sexual abuse at Bayswater.⁴²⁴ He said that when he was around 14 years old Lieutenant Heywood took him to his bedroom and anally penetrated him.⁴²⁵

When he was 15 years old, BMS was moved into 'dormitory three'. BMS gave evidence that around six weeks after he was moved into 'dormitory three', Envoy Collins called him into his bedroom and anally penetrated him.⁴²⁶ BMS recalled that after Envoy Collins raped him he would give BMS a packet of chips and tell him not to tell anyone else. BMS said that this abuse happened once every four to five weeks and occurred a total of three or four times.⁴²⁷

BMS said that he saw Envoy Collins take other boys to his bedroom.⁴²⁸ BMS said that he felt 'terribly guilty', as he did not feel like he could do anything to help them.⁴²⁹ He said that he felt that Bayswater was 'full of dirt bags'.⁴³⁰

BMS described how the abuse has affected his life. BMS explained that he tries to keep information about his abuse to himself and that the only time he speaks about it is when he sees his psychologist.⁴³¹ BMS also gave evidence that he has been a loner and he has never wanted to marry or have a family because of what he went through.⁴³² BMS said that sometimes he gets very upset when he sees people with families because he knows what he has lost.⁴³³ He has friends, but he never lets them get too close.

BMS also gave evidence about the physical impact that his abuse has had on him.⁴³⁴ He described a serious stomach complaint which he attributes to the stress that he has endured reliving the trauma that he suffered.⁴³⁵

Lieutenant Heywood and Envoy Collins are both deceased. Neither of the men were convicted of these offences.

Mr Philip Hodges

Mr Hodges was made a ward of the State of Victoria when he was 11 years old, after he was found walking alone, running away from home and not attending school.⁴³⁶ After a short period of time in another home, he was transferred to Bayswater No 2 home.⁴³⁷

Mr Hodges gave evidence that he was physically abused by officers at Bayswater on a number of occasions.⁴³⁸ He described being knocked unconscious a couple of times from being hit, and going to hospital. Mr Hodges said that the abuse would range from being hit over the ears to being hit with a belt or cane.⁴³⁹ Mr Hodges recalled that on one occasion he was speared in the foot by a staff member.⁴⁴⁰ Mr Hodges also described a time when he was hit by a captain, collapsed and had a status seizure.⁴⁴¹

Mr Hodges gave evidence that he was first sexually abused by staff at Bayswater within a couple of weeks of his arrival.⁴⁴² Mr Hodges recalled that officers took him from his bed to the 'sleep-over room' and played with his genitals.⁴⁴³ Mr Hodges said that he thought one was an envoy and the other was a young captain.⁴⁴⁴ Mr Hodges said that he triggered a seizure on this occasion, collapsed and woke up in his bed. Mr Hodges said that the abuse 'eased off' after this incident but that he was abused three or four more times.⁴⁴⁵

Mr Hodges described Major Francis as the worst of the officers who abused him.⁴⁴⁶ Mr Hodges gave evidence that every time Major Francis attempted to penetrate him Mr Hodges would induce a seizure so that Major Francis had to stop.⁴⁴⁷

Mr Hodges also said that whenever someone new arrived at Bayswater it would not be long before 'we'd notice it happening to them'. Mr Hodges gave evidence that the officers would come into the dormitory between 9 and 10 pm, grab a boy and take them into the sleep-over room. Mr Hodges said that about 10 minutes later you would hear the boy crying.⁴⁴⁸

The Royal Commission also heard evidence about the impact of the physical and sexual abuse on Mr Hodges, including on his hearing⁴⁴⁹, his education⁴⁵⁰ and his immediate family.⁴⁵¹ Mr Hodges said that the abuse at Bayswater took all of his confidence away and he has not been able to get it back. He explained that he gets worried before applying for jobs and doubts himself and his abilities.⁴⁵² Mr Hodges said his lack of confidence was made worse by his lack of education at Bayswater.⁴⁵³

Mr Hodges said that he has learned how to withhold frustration and to put negative memories to the back of his mind. He said that his time at Bayswater has also had an effect on his immediate family and as a result he does not have a close relationship with them.⁴⁵⁴

Major Francis is deceased and was not convicted of these offences.

BMA

BMA is now 66 years old. When he was 16 years old, he was transferred from Turana to Bayswater YTC.⁴⁵⁵ He stayed at Bayswater YTC for three months.⁴⁵⁶

BMA gave evidence that he was regularly punished during his time at Bayswater.⁴⁵⁷ BMA said that punishments involved being beaten and hit with a leather strap. BMA also gave evidence about the use of a 'punishment room,' which he described as a small room with no windows in which residents were locked.⁴⁵⁸

BMA recalled one occasion on which he threatened to tell the police about the physical abuse and Major Charles Hewitson grabbed BMA on his testicles and squeezed them until he fainted.⁴⁵⁹ BMA also gave evidence that older boys at Bayswater were used to carry out punishments on younger boys.⁴⁶⁰ He described one occasion when he was taken to the dairy and two older boys tried to get the cow to kick him. He also described being forced to fight in the boxing ring several times with much bigger, older boys as punishment.⁴⁶¹

The Royal Commission also heard evidence from BMA that he was sexually abused by Mr Norman Poulter at Bayswater.⁴⁶² BMA said that Mr Poulter approached BMA a few days after he arrived at the home and showed him affection after the physical abuse he was suffering from other officers.⁴⁶³ BMA said that, after Mr Poulter had come to BMA's room to speak to him several times, Mr Poulter began sexually offending against him.⁴⁶⁴ BMA recalled that over the coming weeks, after the first occasion, the sexual abuse became 'more and more serious'.⁴⁶⁵ BMA said that Mr Poulter would force him to perform oral sex on him, that he would perform oral sex on BMA and that he anally raped him a number of times.⁴⁶⁶ BMA gave evidence that the abuse continued until he left Bayswater.⁴⁶⁷

BMA also gave evidence that, on the occasions when he was sexually abused, Mr Poulter would tell BMA that if he did not let Mr Poulter abuse him then other boys and officers would abuse him.⁴⁶⁸ BMA gave evidence that he witnessed such abuse by the older boys at Bayswater. BMA also recalled seeing other officers, including Major Hewitson, walk into other boys' bedrooms at night.⁴⁶⁹ BMA said that he would often hear boys younger than him crying and moaning after officers went into their bedrooms. He said that he was so terrified of the physical punishment that he had previously endured and the possible sexual abuse from others that he did not try to stop Mr Poulter.⁴⁷⁰

BMA told the Royal Commission that in 2007 he went to the police station and made a formal complaint.⁴⁷¹ In May 2008, Mr Poulter was charged with offences against BMA and also, in respect to other former residents. Mr Poulter was ultimately acquitted of these offences. BMA gave evidence that he was deeply disappointed about the outcome of the trial.⁴⁷²

The Royal Commission heard evidence from BMA that because of the physical and sexual abuse that he suffered at Bayswater he has had a hard life. BMA said that 'especially' because of his sexual abuse he hated the world and was robbed of his chance to turn his life around.⁴⁷³

During the public hearing, BMA described the anger that he felt about his abuse.⁴⁷⁴ He said that as a result of his abuse he stopped caring about everything and everyone. He described how he had learned to box so that he could defend himself and so no-one could abuse him again.⁴⁷⁵

BMA also gave evidence about the support that he had received from his wife and how he believes that it is now important to tell his 'story, so others can tell theirs'.⁴⁷⁶

Mr Poulter was given notice of the public hearing but did not respond.

3 Reporting of abuse

3.1 Difficulties in reporting at the time

Many of the former residents gave evidence that they did not tell anyone about the sexual abuse at the time that it was occurring.⁴⁷⁷ Some said that this was because they did not think that there was anyone to tell.⁴⁷⁸ Others said that they did not tell anyone because they did not think that they would be believed.⁴⁷⁹

BMA gave evidence that he could not bring himself to tell anybody about his sexual abuse at the time that it was occurring.⁴⁸⁰ Mr Charles said that at no time when he was a resident at Box Hill did he believe that he could report the sexual abuse that was inflicted upon him to anyone at the home or to the police. Mr Charles explained that the boys believed that if anyone spoke up they would be sent to Bayswater, which was worse than Box Hill.⁴⁸¹

Mr Grant gave evidence that when he was living in Eden Park and Victoria he did not tell anyone about Captain Osborne sexually abusing him. He did not report it to the authorities. Mr Grant said that because he did not get to see much of his father there was no-one to speak to about the sexual abuse.⁴⁸²

The Royal Commission heard from BMS that he was only visited once by a children's welfare officer during his time at Bayswater. He said that he did not bother telling him about what was going on because he thought that the officer would just tell BMS that he was a liar.⁴⁸³

Threatened with physical harm

Some of the former residents gave evidence that they were threatened with physical harm if they did report their abuse. Mr Rogers recalled that on more than one occasion 'Sergeant' Willemson threatened to 'get him' if he ever told anybody about the abuse.⁴⁸⁴ Mr Rogers gave evidence that he never reported the abuse by Sergeant Willemson to anybody at Box Hill because he was scared by the threats that Sergeant Willemson had made.⁴⁸⁵

Mr Reece gave evidence that he approached Brigadier Van Kralingen and Major Hewitson about Sergeant Willemson abusing him.⁴⁸⁶ Mr Reece said that they did not listen to him and told him to go back to the dormitory.⁴⁸⁷ Mr Reece stopped reporting to them because he was afraid he would be beaten even more and forced to do more duties around Box Hill.⁴⁸⁸

Accused of telling lies

Some former residents gave evidence that they attempted to report their abuse to the officers and employees of The Salvation Army but they were not believed and accused of telling lies.

Mr Wright gave evidence that one morning at Box Hill a matron asked him why his bed was wet.⁴⁸⁹

Mr Wright said that he told the matron that he did not wet his bed but that Mr Sangster had been in bed with him the previous night.⁴⁹⁰ Mr Wright said that the matron was initially shocked but that he was never subsequently asked about his disclosure.⁴⁹¹

Mr Wright said that two days following this incident Colonel Stevenson physically abused him and called him a 'liar'.⁴⁹² Mr Wright gave evidence that he believed that Colonel Stevenson was referring to his disclosure to the matron about Mr Sangster.⁴⁹³

BMS recalled that on one occasion he attempted to disclose his abuse at Bayswater to his father, but his father did not believe him.⁴⁹⁴

Physical punishment

The Royal Commission also heard evidence that some of the former residents were physically punished after telling officers or employees of The Salvation Army about their abuse. Mr Reece said that when he made a report to Captain Frank Swift at Box Hill he was punched in the head, causing him headaches and dizziness.⁴⁹⁵

Mr Hodges gave evidence that he complained to Major John Kirkham about 'the Captain' sexually abusing him.⁴⁹⁶ Major Kirkham then took Mr Hodges into the dining room with the captain, who denied the allegations.⁴⁹⁷ Following this disclosure of abuse, Mr Hodges said that Major Kirkham locked him in the fire escape stairwell for a number of days.⁴⁹⁸ After this incident, Mr Hodges did not disclose any further incidents of sexual abuse.⁴⁹⁹

We are satisfied that many former residents of the Institutions run by TSAS did not report their complaints of sexual abuse at the time it was occurring because:

- they did not think there was anyone to tell
- they did not think they would be believed
- they were threatened with physical harm
- when they did attempt to report the sexual abuse they were accused of telling lies.

We are also satisfied 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.

4 The Salvation Army orders, regulations, policies and procedures

4.1 Orders and Regulations

The Royal Commission received evidence about The Salvation Army's internal orders and regulations, which applied at the time that the Institutions were in operation and which governed the conduct of staff, officers and soldiers of The Salvation Army, including in the Institutions which were examined in the public hearing.

The *Orders and Regulations for Soldiers of The Salvation Army* is a manual of operations for The Salvation Army worldwide, issued by IHQ.⁵⁰⁰ It applies to all officers and soldiers throughout the world, regardless of rank, appointment or Territory.⁵⁰¹

The primary volume of regulations, from which all others are said to derive their 'spirit and character', is *Orders and Regulations for Soldiers of The Salvation Army*.⁵⁰² In addition to the *Orders and Regulations for Soldiers of The Salvation Army*, there are a number of ancillary volumes of regulations which apply to different facets of the work of The Salvation Army. These include the:

- Orders and Regulations for Staff Officers⁵⁰³
- Orders and Regulations for Soldiers⁵⁰⁴
- Orders and Regulations for Social Officers (Men)⁵⁰⁵
- Orders and Regulations for Corps Officers⁵⁰⁶
- Orders and Regulations for Work Among Young People.⁵⁰⁷

Collectively, these are referred to in this report as the Orders and Regulations.

The Salvation Army Orders and Regulations have previously been considered in Case Study 10. Relevant volumes of the Orders and Regulations were updated in 1997 and in 2003.⁵⁰⁸

4.2 Other policies and procedures

Before 1990, apart from the Orders and Regulations, TSAS had no practice of maintaining written policies and procedures for its social welfare programs. In particular, the Royal Commission heard evidence that between 1940 and 1990 TSAS did not have any specific policies or procedures for responding to complaints of sexual abuse in any of the homes it operated.⁵⁰⁹

We are satisfied that before 1990 TSAS had no policies or procedures which governed how to handle and respond to complaints of sexual abuse received in respect to its institutions.

4.3 Disciplinary action against officers

Basis for disciplinary action

Since at least 1895, The Salvation Army has had in place Orders and Regulations dealing with the discipline of officers and appropriate conduct in respect to children.⁵¹⁰ The iterations of the Orders and Regulations provide different bases for disciplinary action against an officer, soldier or employee of The Salvation Army. From at least 1895, under each of the ancillary volumes of regulations, any physical or sexual abuse of a child within the care of The Salvation Army would have constituted a sufficient basis for disciplinary action.

Copies of the relevant Orders and Regulations were tendered into evidence. In particular, Orders and Regulations for Staff Officers (1895) provides that a court martial may be instituted for charges of:⁵¹¹

- immorality
- false doctrine
- disobedience
- disloyalty
- breach of promise of marriage.

The Orders and Regulations for Soldiers (1899) provides for the 'purity and uprightness of outward conduct'.⁵¹² In particular, this document details a prohibition against 'sexual impurity' and says that 'The Salvation Soldier should be saved from all unnatural, and, therefore, unlawful gratification of the sexual appetites'.⁵¹³

The Orders and Regulations for Social Officers (Men) (1915) provides primarily for the administrative regulation for the conduct of children's homes operated by The Salvation Army.⁵¹⁴ Relevant provisions of this document include:

- that 'there must not be anything about the Home that unduly suggests restraint. The Institution must be made as homelike as possible in every particular'.⁵¹⁵
- that 'It must be distinctly understood that no Officer or Orderly shall strike an inmate of the Home; the Commanding Officer only is authorised to inflict corporal punishment. ... Minor transgressions must not be made occasions for punishment'.⁵¹⁶

The Orders and Regulations for Corps Officers (1937) defines 'improper conduct' as including 'falsehood, dishonesty, bigamy, adultery or sexual uncleanness or irregularity'.⁵¹⁷

Disciplinary process

The earliest iteration of the disciplinary process provided to the Royal Commission is that contained within Orders and Regulations for Staff Officers (1895)⁵¹⁸ and the latest iteration of the disciplinary process is that contained within the *Orders and Regulations for Officers of the Salvation Army (1974)*.⁵¹⁹

The aims of disciplinary action are said to be to:⁵²⁰

- lead to the repentance and restoration of the offender
- discourage a repetition of the offence
- hinder others from acting similarly.

The *Orders and Regulations for Officers of the Salvation Army* specifies which officer is to be responsible for the discipline of another according to their rank. A Divisional Commander will be responsible for the officers, local officers and soldiers of his division.⁵²¹ The individual conducting the investigation and determination set out in the Orders and Regulations is referred to as the 'officer responsible for discipline'.⁵²²

Upon receipt of an accusation of a breach of the Orders and Regulations, the officer responsible for discipline is required to:⁵²³

- make discreet and careful inquiries as to the exact nature and the truth of the information received
- require the person making the allegations to put them in writing
- meet directly with the person implicated in the allegations
- where there is no ground for the allegations made, inform the person implicated and all persons who may be aware of the allegations that the incident is closed
- if there is a 'sufficient ground for suspicion of guilt,' prepare a statement of charges
- in the case of serious breaches, refer the matter to their 'immediate leader' for instruction
- ensure that all confessions are made in writing and signed
- if the person implicated in the allegations maintains their innocence but there is 'serious doubt on the part of those who may have become familiar with the charge', refer the matter to a Commission of Inquiry.

The Orders and Regulations do not impose time frames on the officer responsible for discipline in the performance of their responsibilities. The Orders and Regulations are not explicit about what order the steps in the process are to be taken in. One of the potential outcomes from a Commission of Inquiry is the dismissal of the officer.

The Orders and Regulations for Social Officers (1915) provides that, in cases of disobedience on the part of employees, the commanding officer must:⁵²⁴

- caution and remonstrate with the offender
- inflict some reasonable penalty should the offence be repeated, such as depriving the offender of free time
- report incorrigible offenders for dismissal.

From 1895 until 1990, there were no policies or guidelines which supplemented the abovementioned Orders and Regulations.⁵²⁵

The *Orders and Regulations for Officers of The Salvation Army* was updated in 1997 and in 2003.⁵²⁶ Following earlier Royal Commission hearings on the response of TSAE to allegations of child sexual abuse in the homes that it operated, on 19 May 2014 a number of new Minutes were issued which further updated the Orders and Regulations worldwide.⁵²⁷

5 The Salvation Army's historical compliance with its Orders and Regulations

The Royal Commission heard extensive evidence and received documentary material during the public hearing about the extent to which TSAS complied with its own Orders and Regulations in their treatment of children and their response to allegations of physical and sexual abuse at the Institutions during the time that they were in operation.

Commissioner Tidd accepted in evidence that it was crucial that TSAS complied with its own guidelines and governance provisions to ensure that an appropriate and adequate standard of care was provided to children in its care⁵²⁸ and to protect those children from child sexual abuse and other physical abuse.⁵²⁹

Documents which were created at the times that the Institutions were in operation were tendered into evidence. As is set out more fully below, these documents reveal conduct in breach of the Orders and Regulations and knowledge by TSAS of allegations of physical and sexual abuse occurring at the Institutions. The documents also show that, in many instances, where knowledge of physical or sexual abuse was brought to the attention of TSAS, it failed to follow its own Orders and Regulations.

Commissioner Tidd agreed that, in failing to follow its Orders and Regulations, The Salvation Army failed to protect children in their care at each of the Institutions.⁵³⁰

Following the hearing, TSAS provided written submissions about the current Orders and Regulations and how those Orders and Regulations would require The Salvation Army to respond.⁵³¹ It is clear from the submissions provided to the Royal Commission that the Orders and Regulations have been substantially amended since TSAS operated the Institutions.

The current Orders and Regulations require a different response to that which was the subject of evidence before the Royal Commission and which is discussed below. Of course, what is relevant for the purposes of this public hearing are those Orders and Regulations which existed at the time that the Institutions were in operation and whether these Orders and Regulations were complied with (or not) by The Salvation Army as part of its historical institutional response.

Below are examples considered during the public hearing of TSAS failing to comply with its own Orders and Regulations.

5.1 Eden Park

Sexual abuse

During the public hearing the Royal Commission inquired into the response of TSAS to documentary evidence revealing concerns about child sexual abuse at Eden Park.

In a memorandum dated 17 July 1963, from the ‘Supervisor of Institutions’ to ‘the Secretary’, the supervisor wrote:⁵³²

[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.

The author further wrote that:⁵³³

[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.

Commissioner Tidd gave evidence that, in 1963, according to the standards and regulations that existed at the time, he would have expected that the manager would review the claim and would interview the other staff members and the boys involved in the home and also that the manager would refer it to the State Social Services Program.⁵³⁴ He also said that the State Social Program Secretary⁵³⁵ should refer it through the Territorial Social Program Secretary.⁵³⁶ He gave evidence that he would expect that the line of communication would reach the Territorial Commander.⁵³⁷

Commissioner Tidd agreed that to simply dismiss those allegations as ‘nightmares’ was an inappropriate and inadequate response by his own standards and The Salvation Army’s standards in 1963.⁵³⁸

Documents were tendered into evidence that indicated that, following receipt of the 17 July 1963 memorandum from the Supervisor of Institutes, a police inquiry was conducted. In a memorandum dated 8 October 1963 from the ‘Field Supervisor’ to ‘the Chairman’, the Field Supervisor reported on the outcome of that police inquiry. He stated that ‘a Police enquiry following memo of Supervisor of Institutions, dated 17.7.63, re certain alleged sexual activities was inconclusive and no further action was to be taken at that time’.⁵³⁹

It was not clear from that document whether the outcome of the police inquiry was raised with The Salvation Army manager of Eden Park.⁵⁴⁰ However, Commissioner Tidd accepted in evidence that, if police did conduct an inquiry, the officer would also have a record of that or information would be provided to his State Social Program Secretary indicating that an allegation had been made and an inquiry undertaken.⁵⁴¹

However, it is clear from the memorandum dated 17 July 1963 that the ‘live-in domestic’ had complained to ‘those in charge’ and therefore that The Salvation Army, through its officers or employees at Eden Park, had knowledge of the complaints raised. Based on the documents before

the Royal Commission, we cannot conclude whether the live-in domestic's complaint was reported to the manager or some other person in a position of authority at Eden Park.

Accordingly, we are satisfied that it is likely that those in charge of Eden Park, 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. For any TSAS 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.

The use of a 'lockup room'

The Royal Commission also received evidence that officers and staff at Eden Park used a 'lockup room' to detain and punish children in their care.

On 20 August 1959, a departmental child welfare officer reported about an inspection of Eden Park.⁵⁴² The child welfare officer asked the manager of the home, 'Do you lock the boys in that room?' – pointing to a so called recreation room which is described as a dark dingy room, but very large, with little in it for recreational purposes'. The manager is reported to have said, 'The windows do not lock' and 'If any parent is complaining, I wish they would come to me personally'. The child welfare officer is reported to have said, 'I don't know of any definite complaint'.⁵⁴³

On 19 May 1970, solicitors on behalf of Mr Tunks, an assistant to a social worker at Eden Park, wrote to the Minister of Social Welfare and complained about the administration of Eden Park – in particular, about a 'lockup room' and the use of a leather strap on children at the home by an assistant 'as a matter of routine'.⁵⁴⁴ The offending assistant was later identified in correspondence as Mr Ellis.⁵⁴⁵ Consistent with these documents, the Royal Commission heard evidence from Mr Rundle and BMB about being hit with a leather strap.⁵⁴⁶

In the solicitor's letter, the lockup room is described as about three feet, six inches, by five feet, six inches, with an uncovered cement floor, no windows and one door with a lock on the outside of the door.⁵⁴⁷ The solicitors, on behalf of the assistant, alleged that 'three children, whose ages range from 8 to 13 years have been locked in this room for periods ranging from 2 to 4 hours. In the case of one child aged about 10 years he was locked in this room from 9pm until 11pm'.⁵⁴⁸

Following receipt of this letter, the Department of Social Welfare arranged for a senior officer of the department to investigate the complaint and meet with a senior officer from The Salvation Army.⁵⁴⁹

On 28 May 1970, an assistant senior welfare officer prepared a report entitled 'Report on Arrangements for investigation of complaints made through solicitors Johnston & Johnston, dated 19/5/70'. In it, the assistant senior welfare officer described having spoken with Brigadier Semmens (the State Secretary for the Salvation Army Social Services) and having met with his assistant, Brigadier Findlay.⁵⁵⁰ The assistant senior welfare officer also reported having visited Eden Park.⁵⁵¹

On that same day, presumably the same assistant senior welfare officer prepared a memorandum to the deputy director regarding the complaints made about 'ill-treatment of the boys' at Eden Park. The assistant senior welfare officer wrote:⁵⁵²

The Manager of the Home [Brigadier Lawler] confirmed that a storage room had been used to hold a boy on rare occasions ... it seemed to [me] that it would be most inappropriate and unsuitable for any child to be placed in the room for holding purposes or for punishment.

...

The Manager confirmed that one of his male assistants, Sergeant Ellis, does have his approval to use a strap when he feels that such discipline is necessary. He vigorously denied that the strap was carried as a matter of routine, or that it was used regularly. Sergeant Ellis ... is held in high respect by the Manager, who feels he can rely completely on his responsible management of the boys.

The departmental officer also remarked in his memorandum that he was under the impression that the administrative staff at 'the Salvation Army Headquarters' had not been sensitive to and were unaware of many of the activities of the home.⁵⁵³ Brigadier Findlay (Assistant State Secretary for the Salvation Army Social Services) 'without directly confirming this, expressed his intention to attempt to obtain a closer liaison with the Home'.⁵⁵⁴ The memorandum also referred to the unsatisfactory procedure by which staff were selected because 'officers from anywhere in Australia could be appointed to the Home'.⁵⁵⁵

Both complaints by Mr Tunks were considered by the assistant senior welfare officer to be 'in essence' substantiated by the investigation⁵⁵⁶ but were said to have been exaggerated and taken out of the context of the general relationship of the staff to the home.⁵⁵⁷ The complaint that a strap was used in 'a routine way' was found to be exaggerated and untrue.⁵⁵⁸ However, the author ultimately expressed the opinion that 'the Home in its present condition, needs careful reassessment and reorganisation by the central administration of the Salvation Army in South Australia'.⁵⁵⁹

On 1 July 1970, Lieutenant Colonel Stevenson, the Territorial Men's Social Secretary, wrote to the Department of Social Welfare about the complaints made by Mr Tunks. Lieutenant Colonel Stevenson said he had further looked into the administration of Eden Park and relevantly gave the following assurances to the department:⁵⁶⁰

(b) Punishment Record. It has always been our policy, especially in recent years, to obviate the necessity of corporal punishment by a well defined system of awards, and I was a little surprised to find that this was still in vogue at this Home. Assurance has now been given to me, that if used in extreme cases, a proper record will be kept with the name of the offender, the offence, the extent of the punishment and the name of the witness. This will only be given by the Manager or his Assistant and not by any other member of the staff.

(c) Detention. This will not be tolerated in any circumstances and I am assured that this unfortunate episode was an isolated case to protect an emotionally disturbed boy from his own foolishness.

...

In respect of using a small locked storage room to punish children, The Salvation Army's Orders and Regulations for Social Officers provides that 'there must not be anything about the Home that unduly suggests restraint. The Institution must be made as homelike as possible in every particular'.⁵⁶¹

Commissioner Tidd said in evidence that locking a boy in a storage room was in breach of this regulation even in circumstances where it was thought that the boy was about to abscond.⁵⁶²

The commanding officer or manager of the home was the only person under The Salvation Army's own Orders and Regulations authorised to inflict corporal punishment.⁵⁶³

'Sergeant' Ellis was not an officer of The Salvation Army but an employee.⁵⁶⁴ Commissioner Tidd said in evidence that, in using a strap to strike children, Mr Ellis was in breach of the relevant Orders and Regulations.⁵⁶⁵ He said the appropriate action to be taken against Mr Ellis by TSAS was to terminate his employment.⁵⁶⁶ However, Mr Ellis continued to work at Eden Park until about 1971.

During the public hearing Senior Counsel Assisting put to Commissioner Tidd that, in not dismissing Mr Ellis from his employment, TSAS failed to comply with its own disciplinary process and placed other children at Eden Park at risk of harm.⁵⁶⁷ Commissioner Tidd agreed that TSAS had failed to comply and in so doing had placed other children at Eden Park at risk of harm.

Commissioner Tidd also accepted that the conduct of Brigadier Lawler, in giving 'Sergeant' Ellis permission to use a strap on the boys or to strike the boys, also did not comply with The Salvation Army's own Orders and Regulations – namely, that he alone as the manager of Eden Park was authorised to strike a child in prescribed circumstances and there was no provision which allowed him to authorise an employee to strike a child.⁵⁶⁸

Commissioner Tidd said that Brigadier Lawler's conduct in permitting Mr Ellis to use the strap should have been referred through the State Social Program Secretary to the Territorial Office for review and Brigadier Lawler should have been asked to explain his actions.⁵⁶⁹ The review could, in turn, lead to a court martial which could potentially lead to the termination of Brigadier Lawler's officership.⁵⁷⁰ There was no documentation which suggested there had been a review of Brigadier Lawler's conduct. Commissioner Tidd agreed that, if there had been no such review, TSAS had failed to comply with its own disciplinary process.⁵⁷¹

Commissioner Tidd agreed in evidence that it was essential that officers and employees of TSAS complied with its own Orders and Regulations and The Salvation Army followed its own disciplinary process to ensure the protection of children within its Institutions.⁵⁷² Commissioner Tidd also agreed

that, in failing to comply with its Orders and Regulations, TSAS failed to protect the children in each of the Institutions.⁵⁷³

We are satisfied that:

- the manager of Eden Park, Brigadier Lawler, and a staff employee, Mr Ellis, used a lockup room to detain and punish children in breach of The Salvation Army's Orders and Regulations
- Mr Ellis inflicted physical punishment on children at the home, with the permission of Brigadier Lawler. Mr Ellis, in striking and using a strap on children, and Brigadier Lawler, in permitting Mr Ellis to do so, failed to comply with The Salvation Army's Orders and Regulations
- The Salvation Army did not discipline Mr Ellis or refer Brigadier Lawler to the Territorial Officer for Review, as required by the Orders and Regulations. In failing to adequately discipline Mr Ellis and Brigadier Lawler, TSAS failed to protect children in its care.

5.2 Nedlands

Captain Charles Allan Smith

The Royal Commission received into evidence contemporaneous documents which revealed that TSAS officer Captain Smith failed to comply with various Orders and Regulations throughout his time with TSAS and that his breaches were brought to the attention of senior officers in TSAS.

'Unseemly' behaviour in 1964

In 1964, Captain Smith was a corps officer at Rivervale Corps, Western Australia. At that time he was reported to have engaged in 'unseemly behaviour' with a young bandsman.⁵⁷⁴ The exact conduct that constituted such behaviour is unknown except that it involved the removal of Captain Smith's clothing and Captain Smith making 'improper gestures' to the young bandsman.⁵⁷⁵

On 8 June 1964, Lieutenant Colonel Myrtle Watson wrote to the Divisional Commander, Lieutenant Colonel Hewitt, about Captain Smith and said that 'the Commissioner feels that his case warrants firm action, and states that he should be given a strong reprimand by yourself, with the transfer to another appointment when such becomes possible'.⁵⁷⁶ Lieutenant Colonel Watson also said in the letter that Captain Smith 'lacks firmness and decision of character'.⁵⁷⁷

In 1965, Captain Smith was transferred to Nedlands and worked there from 1965 until 1966.⁵⁷⁸

At the public hearing, Commissioner Tidd gave evidence that, if there was a clear understanding of the conduct which constituted the ‘unseemly behaviour’, the Orders and Regulations required that Captain Smith be removed from the Officers’ Roll.⁵⁷⁹ Commissioner Tidd agreed that there was no documentary evidence which suggested that The Salvation Army considered removing Captain Smith’s name from the roll.⁵⁸⁰

Commissioner Tidd agreed in evidence that, after The Salvation Army had received the complaint about Captain Smith’s ‘unseemly behaviour’ with a child, it was not appropriate for The Salvation Army to transfer Captain Smith to another role which placed him in a position of trust over children.⁵⁸¹ He said that, if there had been a clear understanding of what conduct constituted the ‘unseemly behaviour’, serious consideration should have been given to Captain Smith’s dismissal.⁵⁸²

Commissioner Tidd agreed that, in not removing Captain Smith’s name from the roll and transferring Captain Smith to Nedlands, The Salvation Army did not comply with its own disciplinary process and its response was a significant failure which placed other children at risk of sexual abuse by Captain Smith.⁵⁸³

In 1969, Captain Smith resigned from The Salvation Army. He was re-accepted as a captain in 1970 and appointed to the Rivervale Corps, Western Australia.⁵⁸⁴

Guilty pleas to aggravated assault in 1974

In January 1974, Captain Smith pleaded guilty to three counts of aggravated assault on three boys who were ‘band lads’ in the Rivervale Corps.⁵⁸⁵ The assaults took place in the last three months of 1973. The first charge related to an allegation that Captain Smith touched a boy on his private parts and then pulled out his own penis and wanted the boy to play with it.⁵⁸⁶ The boy refused. Captain Smith grabbed the boy’s hand, placed it on his penis and masturbated until he ejaculated.⁵⁸⁷

The second charge involved Captain Smith taking two boys to his home and one of the boys into his bedroom. Captain Smith touched the boy on his private parts and then pulled out his own penis and wanted the boy to play with it.⁵⁸⁸ The boy refused. Captain Smith grabbed the boy’s hand, placed it on his penis and masturbated himself.⁵⁸⁹ The third charge related to repeated offending (which was not described) against BMF⁵⁹⁰ – a boy who had been staying with Captain Smith for three and a half years.⁵⁹¹

A letter from Lieutenant Colonel Preston (Divisional Commander) to Colonel R Beasy (Field Secretary) set out The Salvation Army’s response to the legal proceedings against Captain Smith.⁵⁹² He said:

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.

...

Prior to the court case on Tuesday, 8 January, I got in touch with Senior Det. Sgt Markham who read to me the statements from the three lads and I could see by these that the Captain had broken the sacred trust of Officership and possibly by his action corrupted the three band lads.

...

I have suspended the Captain and he is not to take any public part in any meetings until we have a decision from our Leaders.

The Captain and his wife are very keen to remain on as Officers at Rivervale and the parents, of the children involved, are also anxious for them to remain but, of course, this is totally out of the question. Even IF a Corps was available in another state they would not be prepared to leave Perth. Taking into consideration all of the aspects of the situation, I feel that we cannot do other than to accept the resignation of the Captain. The Captain has worked very hard at Rivervale and there are some extenuating circumstances associated with the happening. [Emphasis original.]

Commissioner Tidd gave evidence that, as at 1974, the Orders and Regulations for Staff Officers (1895) would have applied to Captain Smith⁵⁹³ and those regulations provided that disciplinary action should be taken in respect to 'immorality'.⁵⁹⁴ Commissioner Tidd accepted in evidence that the conduct described in Lieutenant Colonel Preston's letter fell within those regulations as 'immoral conduct'.⁵⁹⁵

It is unclear from the documentary material before the Royal Commission whether Captain Smith resigned or was dismissed from The Salvation Army in 1974. In a letter dated 19 January 1974, Territorial Commander Commissioner Warren wrote to Captain Smith and said, 'When accepting your resignation, I am obliged to say we have no alternative'.⁵⁹⁶ However, Captain Smith's officer card records that he was dismissed on 31 January 1974.⁵⁹⁷

By 1979, Smith was re-accepted back in The Salvation Army with the officer rank of envoy and positioned at Seaforth Adult Rehabilitation Centre in Western Australia.⁵⁹⁸ On 3 November 1980, Smith was promoted to the officer rank of captain.⁵⁹⁹

In evidence, Commissioner Tidd agreed that, if an officer was dismissed rather than resigned, it would be more difficult for that person to return to the ranks of officer within The Salvation Army.⁶⁰⁰ However, Commissioner Tidd said that all of the conditions associated with an officer's resignation should be on the file for any future consideration.⁶⁰¹

The Royal Commission received evidence which showed that The Salvation Army not only accepted Captain Smith back into their ranks but also promoted him even though The Salvation Army was aware of two lots of separate allegations made against Captain Smith, the second lot which he had pleaded guilty to and been sentenced on.⁶⁰²

Commissioner Tidd agreed that accepting Captain Smith back and promoting him did not accord with the spirit of the Orders and Regulations.⁶⁰³ Commissioner Tidd also agreed in evidence that the purpose of The Salvation Army's Orders and Regulations, which provide for the dismissal of staff officers, was defeated in the case of Captain Smith in that, after he resigned or was dismissed in 1974, he was re-accepted back into the officer ranks of The Salvation Army in 1979 and promoted to captain in 1980.⁶⁰⁴

Commissioner Tidd agreed that in this instance The Salvation Army did not act in compliance with the Orders and Regulations.⁶⁰⁵

Allegations of inappropriate conduct with a child in 1985

From 13 January 1982 until 16 January 1986, Captain Smith was positioned at the Open Door Rehabilitation Hostel, Western Australia. The hostel provided services for persons who suffered from alcoholism. In 1985, Major Russell Adams, the manager of the hostel, received a report that Captain Smith had made 'homosexual advances' to a 16-year-old boy who had been referred to the hostel.⁶⁰⁶

In a letter dated 28 November 1985, Major Adams wrote to Lieutenant Colonel Pilley, the State Social Services Secretary, and said that Captain Smith denied having touched the boy.⁶⁰⁷ He instructed Captain Smith to have no further contact with the boy or parents of the boy in any way at all.⁶⁰⁸ Major Russell also said:⁶⁰⁹

Captain Smith was on late duty and decided to take the lad back to Carinya. On the way he stopped the bus and had a 'frank and open question and answer session with [REDACTED]'.

...

I immediately contacted Major Les Duck and advised him of all these details. He supported my actions and we decided to let the matter rest pending any further developments.

Captain Smith was interviewed by Lieutenant Colonel Fischer about the matter on 4 December 1985.⁶¹⁰ In a summary of the interview, signed by Captain Smith, Lieutenant Colonel Fisher noted that:⁶¹¹

Captain denied any such advances. He explained the kind of question he had raised while in the car with [REDACTED] on the night following a group session at the Centre. ... These questions explored sexual areas and in this dialogue Captain admitted a friendship with a lad in the past.

... He confessed to having acted in a very foolish and indiscreet manner and was very sorry.

Lieutenant Colonel Fischer noted that ‘In consequence, his officership was placed on a “probation status” for a period of 6 months, i.e. December 1985 – May 1986. Captain was to report to me on a regular basis during this period’.⁶¹² Probation was imposed on Captain Smith for the ‘indiscretions’ with the 16-year-old boy as well as other indiscretions, including a ‘serious failure in the handling of the Salvation Army’s money’.⁶¹³

In oral evidence, Commissioner Tidd agreed that Orders and Regulations for Officers (1974) sets out the disciplinary process that would apply to Captain Smith’s conduct in 1985.⁶¹⁴ Commissioner Tidd gave evidence that, in light of Captain Smith’s denials of any ‘homosexual advances’ to the child and his known offending history, the correct procedure was for the matter to be referred to a Commission of Inquiry.⁶¹⁵ Commissioner Tidd gave evidence that the appropriate sanction to be imposed by a Commission of Inquiry was Captain Smith’s dismissal.⁶¹⁶

Captain Smith was to assume a posting at Bayswater YTC. He was instead made the Assistant Officer at the Anchorage, where he remained until 1990, at which time he took up a role at Launceston Home College in Tasmania.⁶¹⁷ Commissioner Tidd agreed that Captain Smith continued to pose a risk to other children. He also agreed that, in not complying with The Salvation Army’s own disciplinary process and allowing Captain Smith to continue as an officer in The Salvation Army after 1986, TSAS failed to protect other children.⁶¹⁸

We are satisfied on the evidence before the Royal Commission that, in respect of Captain Smith, TSAS failed to comply with its own Orders and Regulations and the spirit or purpose of those Orders and Regulations. In particular:

- In 1964 and 1965, after receiving a complaint about Captain Smith’s ‘unseemly behaviour’ with a child, The Salvation Army failed to consider removing Captain Smith’s name from the Officers’ Roll and instead transferred Captain Smith to Nedlands, where he was placed in a position of trust over children.
- In 1974, Smith pleaded guilty to three counts of aggravated assault on children and resigned, or was dismissed, from The Salvation Army. In re-accepting Smith back into The Salvation Army as an envoy in 1979 and then promoting him to the rank of captain in 1980, The Salvation Army defeated one of the purposes of its own Orders and Regulations – namely, to protect children in its care.

We are also satisfied that, in 1985, after receiving an allegation that Captain Smith had made sexual advances to a child, TSAS did not refer Captain Smith to a Commission of Inquiry, where his dismissal could be sanctioned. Instead, he was transferred to another position where he continued to pose a risk to children. In doing this, TSAS failed to comply with its own Orders and Regulations and the spirit or purpose of those Orders and Regulations.

We conclude that, in failing to comply with its own Orders and Regulations in its dealings with Captain Smith, TSAS failed to protect children in its care from any further offending by Captain Smith.

Corporal punishment at Nedlands

The Royal Commission also received into evidence contemporaneous documents which revealed that Sergeant Nelson and Captain Sanders did not comply with The Salvation Army's Orders and Regulations. This conduct was brought to the attention of The Salvation Army.

Sergeant Nelson, 1955

On 10 October 1955, the Director of Child Welfare Division wrote to the State Social Services Secretary of The Salvation Army about a boy having absconded from Nedlands after having been 'struck about the face' by Sergeant Nelson.⁶¹⁹ In the letter, the Director referred to a state regulation which required that the 'discipline enforced should be mild and firm. All degrading and injurious punishments shall be avoided. The "boxing" of children's ears is strictly forbidden'.⁶²⁰ The Director asked for 'immediate reassurance that there will be no repetition of such conduct on the part of your staff'.⁶²¹

On 2 November 1955, the State Men's Social Secretary wrote to the Director and said that he had contacted the manager of Nedlands, Major Hicks, and had been provided with an assurance that there would be no repetition of such conduct on behalf of his staff.⁶²²

In evidence, Commissioner Tidd agreed that Sergeant Nelson had not complied with the Orders and Regulations for Social Officers (1915), which governed the use of corporal punishment in the home.⁶²³ Under the regulations, the commanding officer alone (in the case of Nedlands, the manager of the home) is permitted to inflict corporal punishment⁶²⁴ and only in prescribed circumstances.⁶²⁵ Major Hicks was the manager of Nedlands at the relevant time.⁶²⁶ Commissioner Tidd said that it was a breach of The Salvation Army's own regulations for Sergeant Nelson to strike a child at the home.⁶²⁷

The Orders and Regulations for Social Officers (1915) provides a disciplinary process for breaches of discipline by officers.⁶²⁸ There was no documentary evidence which suggested that Sergeant Nelson had been disciplined by The Salvation Army for striking the child. Commissioner Tidd agreed that any failure to discipline Sergeant Nelson would have been in breach of The Salvation Army's own Orders and Regulations.⁶²⁹

Captain Sanders, 1967

On 21 July 1967, the Acting Institute Officer wrote to the Director of the Child Welfare Division about a complaint⁶³⁰ made about Captain Sanders,⁶³¹ the deputy manager of Nedlands. He wrote:⁶³²

This matter has been discussed with Major Sumsion, the Manager of the home who conducted an enquiry into the allegations made in the presence of the boys and Captain

Saunders [sic]. The boys repeated the allegations made against Captain Saunders [sic], which were denied by him.

Major Sumsion has confessed to me privately on many occasions that in his opinion Captain Saunders [sic] is quite unsuitable in the management of a boys institution. It is his opinion that in many instances the punishment he inflicted is quite unfair but on the otherhand is quite adamant that it does not amount to gross cruelty.

A departmental file note dated 28 July 1967 referred to two separate incidents where Captain Sanders is alleged to have beaten a boy with a piece of wood in the shower room because the boy wore someone else's boots and had belted another boy in the TV room.⁶³³ The file note records Major Sumsion said he had been spoken with Captain Sanders and that Major Sumsion said 'his job was most difficult because he had no say in the selection of his staff'.⁶³⁴

In evidence, Commissioner Tidd agreed that both incidents described in the file note were in contravention of the Orders and Regulations for Social Officers (1915)⁶³⁵ – the requirements that only the commanding officer or manager of the home was permitted to impose corporal punishment⁶³⁶ and that minor transgressions must not be used as occasions for punishment.⁶³⁷ Commissioner Tidd agreed that neither incident justified corporal punishment.⁶³⁸

Given Captain Sanders had been reported for physically punishing children at Nedlands on three occasions, Commissioner Tidd said that he would expect the cases to be reported to the State Social Services Secretary for comment and review and perhaps to be referred to a Commission of Inquiry.⁶³⁹

Commissioner Tidd agreed that, by committing physical assaults on children, The Salvation Army staff member Sergeant Nelson and officer Captain Sanders at Nedlands did not comply with The Salvation Army's own Orders and Regulations.⁶⁴⁰ Commissioner Tidd also agreed that, in failing to sanction those officers in accordance with its own disciplinary process, The Salvation Army failed to protect children from physical and sexual abuse.⁶⁴¹

We are therefore satisfied that, by physically punishing children in their care, TSAS staff member Sergeant Nelson and officer Captain Sanders did not comply with The Salvation Army's own Orders and Regulations. TSAS failed to discipline Sergeant Nelson and did not refer Captain Sanders to a Commission of Inquiry, as was required under its own Orders and Regulations. In failing to sanction both officers, TSAS failed to protect children in its care.

5.3 Box Hill

The Royal Commission received contemporaneous documents into evidence which revealed knowledge by The Salvation Army of sexual offending occurring at Box Hill from as early as 1947.

Sexual offending by Captain Arthur Clee

On 29th March 1950, Brigadier Leggett, the superintendent of Bayswater, wrote to Colonel RS Harewood, the chief secretary, Melbourne. Brigadier Leggett wrote that Captain Arthur Clee had been unwell and confessed to 'irregular conduct' with some of the boys at Box Hill four months earlier.⁶⁴² Brigadier Leggett further stated that 'I did all could to help him, and could see that nothing short of a full confession could clear his mind and restore his health'.⁶⁴³

On 29 March 1950, Colonel Harewood prepared a file note for 'various people' about Captain Clee. In summary, Colonel Harewood wrote that:⁶⁴⁴

- Captain Clee mentioned in his confession to Brigadier Leggett that his familiarity with certain boys had been reported to Senior Captain Berry by another lad and that Major Jessop had dealt with the matter. No action had been taken beyond a change of appointment.
- Colonel Harewood had spoken with Major Jessop, who reported that the first allegation of misconduct had been made nearly three years previously, with one boy reporting to his parents about the captain and another boy. An investigation was made but the captain and the boy both denied the charges, no evidence could be secured and it was felt that the charge was without foundation.
- Major Jessop reported that, in the previous October a boy reported similar offences to Senior Captain Berry, who passed it on to Major Jessop (then the manager of Box Hill). On investigation, Major Jessop found that Captain Clee had on several occasions gone to boys after lights out and handled their private parts. Four boys were involved, with 'suggestions' having been made to two other boys. Another boy had been blackmailing Captain Clee.
- Major Jessop said: '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. The matter was reported but only verbally, to Lt. Colonel Marion. Major Jessop believed there had been no recurrence of the evil at Box Hill, nor any suggestion at Bayswater. ... Major Jessop had expected that the change for the Captain would have involved a change to other work.'
- Colonel Harewood spoke with Captain Clee, who admitted on one occasion only there had been 'exposure of his own organs', there had never been any suggestion of sodomy and no incident had occurred at Bayswater.

- Captain Clee said his breakdown had been brought about by distress at the Bayswater appointment, self-condemnation and dread that boys from Box Hill would talk and create scandal.
- Colonel Harewood told Captain Clee that he 'could not say what the Commissioner's decision would be regarding the possible continuance of Officership, but it was obvious he was not in a position to continue at present'.

Then, in a letter dated 30 March 1950, Colonel Harewood wrote to Brigadier Leggett that he had seen Captain Clee the previous night and that he 'will probably let the matter stand over for a week or two, and then give it further consideration. The Captain will remain on Sick Furlough for the time being'.⁶⁴⁵

It is clear from the correspondence before the Royal Commission that in October 1949⁶⁴⁶ Major Jessop found that Captain Clee had indecently touched four boys. The response of TSAS was to transfer Captain Clee to another home, where he was placed in a position of trust with other boys. From 29 March 1950, Colonel Harewood was also aware of 'irregular conduct' by Captain Clee and that Captain Clee had exposed 'his own organs'.⁶⁴⁷ Knowing that Captain Clee had indecently touched four boys and exposed 'his own organs', Colonel Harewood's response was to place Captain Clee on sick leave.⁶⁴⁸

The contemporaneous records reveal that TSAS was on notice that child sexual abuse was occurring at the Institutions which it operated and that there was a need to adopt policies, procedures or guidelines to ensure that this conduct was not occurring in children's homes that it was operating. There is no evidence before the Royal Commission that TSAS took any steps in response to these allegations.

In evidence, Commissioner Tidd said that TSAS's response to Captain Clee's offending conduct was far from adequate.⁶⁴⁹ He said that under the Orders and Regulations for Staff Officers (1895), which would have been applicable, Captain Clee should have been presented for a court martial for immorality and his dismissal given serious consideration.⁶⁵⁰ In failing to do so, Commissioner Tidd agreed that TSAS placed other children in its care at risk of sexual abuse by Captain Clee and that TSAS had failed to protect the children from sexual abuse.⁶⁵¹

Based on the documentary evidence and Commissioner Tidd's oral evidence, we are satisfied that:

- TSAS's response to Captain Clee's sexual offending against four boys at Box Hill was to transfer Captain Clee to Bayswater and later place him on sick leave
- in doing this, TSAS did not comply with its own Orders and Regulations in not presenting Captain Clee for a court martial for immorality.

We are also satisfied that, in failing to comply with its own disciplinary process, TSAS placed other children in its care at risk of sexual abuse by Captain Clee and failed to protect those children.

Corporal punishment

The Royal Commission also received evidence about the use of unlawful corporal punishment at Box Hill by officers and staff.

In a departmental record dated 17 April 1968, D Jaggs (a social worker at the Children's Homes Section) and W Hughes (the officer in charge of the Children's Homes Section) referred to complaints made by four boys living at Box Hill.⁶⁵² The boys said they had been 'strapped' by either Major Sumsion (the acting manager of the home) or Captain Kop or both. One boy said he had been struck by the headmaster of the departmental school associated with the home. The boys had absconded from the home and complained to police, who in turn referred the complaints to the departmental officer in charge.⁶⁵³

On 11 April 1968, a meeting was held at the home of departmental staff and Salvation Army officers, including Colonel Stevenson of the Salvation Army Social Services, Major Sumsion (acting manager of Box Hill) and Captain Kop.⁶⁵⁴ During the meeting, departmental officers referred to the state regulations which provided that 'no corporal punishment by strapping shall be administered in approved children's homes, except with the express written permission of the Director-General'.⁶⁵⁵

The documents show that in the meeting Major Sumsion agreed that he had strapped a boy.⁶⁵⁶ He said that he did not realise the Victorian regulations prohibited strapping in the absence of approval by the Director-General because he had only recently arrived from Western Australia. Major Sumsion said that, when he was in his position in Western Australia, Major Broadstock directed him to use the strap.⁶⁵⁷ Captain Kop did not recall any incidents in detail but admitted he gave boys a 'clip on the ear every now and then' and produced his strap, a 'well-worn piece of leather', at the meeting.⁶⁵⁸

In a memorandum dated 17 April 1968 by the departmental officer in charge (Mr Hughes), under a heading 'Future Action', it was noted that both straps would be destroyed, strapping would be forbidden at the home and regular staff meetings would be held at which staff would be reminded of government regulations relevant to running approved children's homes.⁶⁵⁹ Colonel Stevenson said he would personally attend the first of these meetings. Mr Hughes noted: 'The discussion was a profitable one. Colonel Stevenson was in entire agreement with the Division's approach and I do not think there will be a similar occurrence at Box Hill.'⁶⁶⁰

Under The Salvation Army's Orders and Regulations for Social Officers (Men), it was permissible for Major Sumsion, as the manager of Box Hill, to inflict corporal punishment.⁶⁶¹ However, under the state regulations, he was not permitted to do so without the approval of the Director-General.

In evidence, Commissioner Tidd agreed that The Salvation Army's Orders and Regulations (which are created to apply internationally) can be in conflict with state legislation. Where such conflict exists, The Salvation Army will respond to the state legislation.⁶⁶²

In strapping boys or clipping a boy over the ears, Captain Kop did not comply with either the state regulations or The Salvation Army's own Orders and Regulations.

In particular, Captain Kop failed to comply with the Orders and Regulations for Social Officers (1915), which provided that 'no Officer or Orderly shall strike an inmate at the Home; the Commanding Officer alone is authorised to inflict corporal punishment'.⁶⁶³

Commissioner Tidd said that, upon receiving a report from the department about Captain Kop, he would expect to see an investigation by TSAS's State Social Services Secretary so that Captain Kop would be appropriately disciplined.⁶⁶⁴ He said a failure to investigate and discipline Captain Kop was in breach of The Salvation Army's own Orders and Regulations.⁶⁶⁵

We conclude that, in respect to evidence we received about physically striking children, Captain Kop did not comply with The Salvation Army's own Orders and Regulations. TSAS failed to discipline Captain Kop, as was required under its own Orders and Regulations. In failing to do so, TSAS failed to protect children in its care.

5.4 Bayswater

The Royal Commission received documentary evidence of allegations of sexual and physical abuse of children at Bayswater by TSAS officers Brigadier Wright and Envoy Collins.

In a departmental record dated 9 April 1971, Mr Ivan Beringer, the Officer in Charge of the Baltara Home (a government-run institution for boys), wrote of serious allegations made by boys against the superintendent of the Bayswater, Brigadier Wright.⁶⁶⁶

Mr Beringer wrote that, in October 1970, Brigadier Wright was seen by four boys (all still living at Bayswater) in a compromising position in the boiler house at Bayswater. One of the boys alleged that he saw another boy with his trousers and underpants down while Brigadier Wright was pulling up the zipper of his own trousers.⁶⁶⁷

Mr Beringer noted that a boy also made allegations against Envoy Collins, who was said to have asked boys to kiss him, was seen playing with his dog's penis, patted boys on the buttocks during showers and used a cane to inflict corporal punishment.⁶⁶⁸

The four boys were interviewed by departmental staff. One boy maintained the allegations against Envoy Collins.⁶⁶⁹ However, another boy, who was said to have been seen with Brigadier Wright in the boiler room, said:⁶⁷⁰

all that happened in the boiler room was that Brigadier Wright had shown him how to pump a handle on the boiler. He said lots of boys made up stories at Bayswater. He did not offer any information about Envoy Collins sexual habits and seemed genuinely confused when I tried to bring up the subject.

The boy did say that Envoy Collins carried and used a strap.⁶⁷¹

The departmental officer in charge concluded that ‘in view of the flimsiness of the evidence I have decided to take no action at present’ and to ‘please let me know if you receive any other complaints about Envoy Collins’.⁶⁷²

There was no documentary evidence which indicated that the allegations were brought to the attention of TSAS.

Commissioner Tidd agreed in evidence that the alleged conduct of Envoy Collins in using a strap on the boys, indecently touching boys in the shower, asking them to kiss him and indecently touching his dog’s penis in the boys’ presence was in breach of the Orders and Regulations for Social Officers (1915).⁶⁷³ Commissioner Tidd also agreed that the allegations made against Brigadier Wright, if true, were also in breach of the same Orders and Regulations.⁶⁷⁴

Commissioner Tidd said that, in respect of each of the officers, if that material was brought to the attention of TSAS, he would expect to see an investigation of the conduct that would likely lead to a Commission of Inquiry.⁶⁷⁵ If no such investigation took place, Commissioner Tidd agreed that would be a significant failure by TSAS in complying with its own disciplinary process.⁶⁷⁶

5.5 Conclusion

In respect to each of the examples discussed, we also conclude that, in failing to take action against its staff and officers who were breaching Orders and Regulations prohibiting the mistreatment of children, TSAS provided a culture in the Institutions in which:

- children felt afraid to report sexual abuse
- children felt powerless to resist the maltreatment
- the staff and officers whose behaviour was in breach of the Orders and Regulations were able to, and did, continue the prohibited behaviour.

6 Contemporary response

6.1 Development of a claims process

Advice from Nevett Ford in 1994

From 1993 until March 2012, TSAS employed Mr Graham Sapwell as the Employee Relations Director.⁶⁷⁷ His role was originally to handle conflict resolution involving employees, to ensure that employees and TSAS complied with policies and procedures and to develop policies and processes relating to employment awards.⁶⁷⁸

In or about the early 1990s, The Salvation Army started to receive complaints of child sexual abuse from former residents of the Institutions. The Royal Commission received evidence that, as at the time that TSAS first started to receive complaints from the former care leavers, TSAS did not have in place any policies or procedures for responding to claims of child sexual abuse by former care leavers.⁶⁷⁹

At the public hearing Mr Sapwell gave evidence that he was given the task of handling and later overseeing those complaints and claims.⁶⁸⁰ He said that, as at that time, he did not have any formal training or experience in dealing with claims of child sexual abuse.⁶⁸¹

In June 1994, Mr Sapwell, sought advice from an external firm of lawyers, Nevett Ford. This contact with Nevett Ford occurred at the same time that TSAS received the first claims relating to a care leaver.⁶⁸² Mr Sapwell gave evidence that the sole, if not primary, purpose of seeking advice from Nevett Ford was to develop a policy for responding to allegations of child sexual abuse as well as other forms of abuse.⁶⁸³

On 24 June 1994, Nevett Ford provided advice to TSAS.⁶⁸⁴ Relevantly, Nevett Ford recommended that a policy be developed to deal with complaints. Nevett Ford stated that, in simple terms, the policy ought to:

- clearly outline TSAS's philosophy in dealing with such issues
- nominate appropriate personnel to be responsible for dealing with complaints
- provide for adequate record keeping
- establish a referral network.⁶⁸⁵

Nevett Ford also recommended that TSAS establish an internal advisory committee. It was envisaged that the advisory committee's role would be to:

- develop expertise in these areas so that it could advise senior officers of TSAS on the issue generally and on specific complaints

- facilitate counselling and other assistance for victims and offenders.⁶⁸⁶

Nevett Ford advised:⁶⁸⁷

[We] would imagine that the committee would also develop a range of internal services and referral sources. In appropriate cases, it would also receive legal advice on complaints and make recommendations as to appropriate settlement or compensation if claimed.

Despite the legal advice received in June 1994, TSAS did not establish an advisory committee to handle claims⁶⁸⁸ or set up a system or procedure which allowed for a systematic way of dealing with allegations of physical or sexual abuse.⁶⁸⁹

Mr Sapwell gave evidence that, after he received the Nevett Ford advice in June 1994, he did not give any consideration to obtaining formal external advice about child sexual abuse from social workers or other people who were educated in appropriate policies in detecting and responding to child sexual abuse.⁶⁹⁰ Mr Sapwell said that he did speak with managers of Westcare and Eastcare, who were employees of The Salvation Army and who were responsible for the residential care of children.⁶⁹¹ However, Mr Sapwell accepted in evidence that he would have been assisted by seeking advice from experts on detecting and responding to child sexual abuse and not simply seeking formal advice from Nevett Ford, a law firm.⁶⁹²

Advice from Nevett Ford in 1995

By April 1995, Mr Sapwell was dealing with claims by former residents against TSAS on a case-by-case basis. TSAS still had no formal policies and procedures in place for the handling of these claims⁶⁹³ and still had not adopted the Nevett Ford recommendation of putting in place a committee to handle any claims received.

In July 1995, Mr Sapwell sought further advice from Nevett Ford about developing an overall strategy for dealing with the claims which TSAS was receiving.⁶⁹⁴ On 13 September 1995, a lawyer, Mr Wilson, on behalf of Nevett Ford, provided advice on the development of policies and procedures and also provided a draft manual of policies.⁶⁹⁵

In his advice, Mr Wilson recorded that there had been an increase in the number of complaints against TSAS which included complaints of 'victim abuse, child abuse, assault, sexual assault, sexual harassment and misconduct'. Mr Wilson summarised a number of issues which had emerged from his conference with Mr Sapwell. These included:⁶⁹⁶

- the need to establish guidelines and protocol for staff as to how to deal with complaints
- education of staff generally with respect to complaints, abuse and mandatory notification in the case of child sexual abuse

- the establishment of a committee charged with the responsibility of investigating complaints and taking action to resolve them
- the composition of such a committee
- the importance of the committee developing 'expertise' over a period so that it could give broader advice to The Salvation Army
- the need for the community to see that The Salvation Army had policies and procedures in place to deal with complaints and the need for those procedures to be distributed to Salvation Army personnel and to the wider community.

The advice confirmed that Nevett Ford remained of the view that it was better for TSAS to deal with claims through a specialist committee that could develop an appropriate system or model.⁶⁹⁷ The recommended committee and draft manual of policy and procedure had several 'essential elements', which were summarised in Nevett Ford's advice and included the following:⁶⁹⁸

- The process whereby complaints are received and dealt with ought to be removed from The Salvation Army's current structure.
- The committee should operate with as much freedom and independence as possible.
- The committee should be reflective of the wider community and consist of representatives of The Salvation Army and also lay people, including a retired judge or magistrate and possibly others experienced in social work or counselling.
- The committee ought not to see its role as attempting to protect The Salvation Army from the possibility of litigation but, rather, be seen to promote and enhance the airing of complaints and in so doing complaints that might otherwise lead to litigation might be resolved by mediation, negotiation or counselling to the ultimate benefit of the complainant and The Salvation Army.
- An independent panel of counsellors should be established and available as a referral network for complainants.

Nevett Ford advised that the advantage of a centralised committee would be that 'some consistency in approach would develop rather than the ad hoc response to complaints as may currently occur'.⁶⁹⁹

There is no evidence before the Royal Commission which indicates that TSAS adopted or implemented any of these recommendations at that time.

The draft policy was again revised in November 1995.⁷⁰⁰ Mr Sapwell gave evidence that he understood that the revised policy provided that the committees were only to consist of Salvation Army personnel and would no longer include any lay people.⁷⁰¹ Mr Sapwell said in his statement that

he thought that the change was because of perceived difficulties in organising committees which included lay persons.⁷⁰²

TSAS did not establish an advisory committee.⁷⁰³

In evidence, Mr Sapwell said he was not in favour of establishing an advisory committee because he was concerned that each state would have its own committee, resulting in inconsistent approaches. He said he was concerned TSAS officers would have no training in handling claims and there could be a perception of bias if the claims were dealt with 'in house'.⁷⁰⁴ Mr Sapwell said for these reasons he and TSAS preferred for claims to be dealt with externally.⁷⁰⁵

Until 2000, Nevett Ford was instructed on a case-by-case basis in respect of former residents' claims against TSAS.⁷⁰⁶

As TSAS had not set up an advisory committee, TSAS had no established 'expertise' to draw on in developing policies and procedures for detecting and responding more broadly to allegations of child sexual abuse. Further, Mr Sapwell said he sought no advice from experts in the area of child sexual abuse to formulate such policies.⁷⁰⁷ Therefore, TSAS's response to claims involving child sexual abuse was confined to obtaining legal advice on how to respond to the legal claims.

Based on the evidence before the Royal Commission, we are satisfied that, upon receiving claims in the early 1990s from former residents who had been in the care of TSAS which involved allegations of child sexual abuse, TSAS, did not:

- adopt Nevett Ford's advice to establish an advisory committee to resolve claims and develop expertise in child sexual abuse, so as to provide advice that was broader than simply legal advice to The Salvation Army in handling and responding to allegations of child sexual abuse
- establish an independent panel of counsellors as a referral network for claimants
- seek to obtain formal expert advice, other than legal advice, on how to handle and respond to allegations of child sexual abuse which might have informed their policies and procedures.

6.2 The Model Scheme

Arrest of Captain Charles Allan Smith

In April 1996, Captain Smith was arrested in relation to offending against BMG.⁷⁰⁸ Captain Smith had already been convicted of sexual offences in 1974.⁷⁰⁹

On 2 May 1996, TSAS suspended Captain Smith's officership.⁷¹⁰

On 26 February 1997, Mr Smith was charged with:⁷¹¹

- 46 charges of indecent dealing with a child under 14 years
- 16 charges of indecent assault of a male
- one charge of permitting carnal knowledge against the order of nature
- nine charges of carnal knowledge against the order of nature
- four charges of gross indecency.

Mr Smith⁷¹² pleaded guilty to all charges⁷¹³ and was sentenced to 15 years imprisonment.⁷¹⁴

On 29 April 1997, Mr Smith was dismissed from The Salvation Army.⁷¹⁵

Development of the Model Scheme

Advice from Parker & Parker in 1997

As a result of the arrest and conviction of Mr Smith in early 1997, as noted above, TSAS sought advice from a Western Australian legal firm, Parker & Parker, in respect to potential civil litigation involving Mr Smith's victims.⁷¹⁶ TSAS received advice that they were in a position to defend claims of negligence on the basis that the time limitation had expired.⁷¹⁷

In April 1997, TSAS advised Parker & Parker they wished to compensate care leavers in some way and requested a draft counselling agreement and some guidelines on how this should be done.⁷¹⁸

In May 1997, Parker & Parker provided TSAS with a detailed letter setting out a 'model scheme' to compensate the victims of Mr Smith (the Model Scheme).⁷¹⁹ In that letter, Parker & Parker suggested that TSAS adopt a method of assessment used in personal injury cases. The advice was prepared specifically in response to the criminal proceedings involving the Smith case; however, the advice that Parker & Parker provided suggested that it could be used more broadly for subsequent allegations of abuse in respect to other officers of The Salvation Army.⁷²⁰

Advice from Nevett Ford in 1997

In June 1997, Mr Sapwell sought advice from Nevett Ford about Parker & Parker's proposed scheme and whether it could be used as a model for compensating other care leavers who had suffered abuse.

On 16 June 1997, Nevett Ford provided TSAS with advice which approved the Model Scheme but recommended some modifications. The advice recorded that the advice was also sought in light of the current County Court proceedings by Mr Rogers. The solicitors advised that the County Court in Victoria provides a framework that does enable disputes to be resolved, essentially in accordance with the model proposed by Parker & Parker. The solicitors advised that the rules of the Court provide for the disclosure of documents, compulsory exchange of medical reports, an early directions hearing and compulsory mediation of disputes prior to court hearing. It also generally enables appropriate assessments to be made with a view to resolving claims either directly with the claimants or as an outcome of the mediation.⁷²¹ The accuracy of this advice was not considered during this public hearing.

Nevett Ford recommended that an appropriate approach to compensation ought to be one that dealt with claims in stages:

- Stage 1 – Direct Negotiation
- Stage 2 – Mediation
- Stage 3 – Arbitration.

Nevett Ford provided an overview of the proposed approach in the following terms:⁷²²

The resolution of any claim against the Salvation Army ought first be attempted by way of direct negotiation. A victim through his legal representatives can be asked to provide copies of all relevant medical records, reports and any other documents intended to be relied upon. At some stage the victim's lawyer can be asked to give an intended indication of the amount of compensation sought and it may be that there is no necessity to have a victim examined by an independent psychiatrist or counsellor unless the matter is unable to be resolved by direct negotiation and proceeds to the mediation stage.

...

Accordingly, in our opinion the proposed model of Parker & Parker is appropriate for the resolution of compensation claims but an emphasis should first be placed upon negotiating settlement of claims direct with a claimant's lawyers prior to obtaining independent reports and/or proceeding to arbitration.

Adoption of the Model Scheme

From 1997, TSAS adopted the Model Scheme as modified by the changes that Nevett Ford recommended.⁷²³

Senior Counsel Assisting submitted that it was open for the Royal Commission to make a finding that before 1997 TSAS's failure to develop a model scheme for resolving claims made by former residents undermined its ability to respond to those claims in a consistent manner.

TSAS does not accept that such a finding is available on the evidence. It relies on the differences in the claims made between 1994 and 1997 and says that there is no evidence that it was appropriate to treat those 'three claims in a consistent manner' given the considerable differences in the nature of the allegations and the action that the complainants sought.⁷²⁴

In addition to the three claims that TSAS identified in its submissions, the evidence indicates that by 1997 TSAS was aware that it was likely that the survivors who had been abused by Mr Smith and of whom TSAS became aware through the criminal proceedings were likely to make claims against TSAS. Mr Rogers had also commenced proceedings in the County Court in Victoria.

It is clear that by 1997 there was an increasing number of former residents coming forward with claims of physical and sexual abuse by officers and employees of The Salvation Army at the institutions which it used to operate.⁷²⁵ Despite having receiving advice about a framework for dealing with claims of child sexual abuse in 1994 and 1995 from Nevett Ford, TSAS did not have in place any policies or procedures for responding to allegations of child sexual abuse. There was a clear need to establish guidelines and protocols for staff who were dealing with complaints.

It follows that the need to establish guidelines and protocols was, in part, to ensure that TSAS was responding in a consistent manner to the allegations and complaints of child sexual abuse that it was receiving.⁷²⁶ The fact that TSAS did not put in place any policy, procedure or model scheme until 1997 meant that each claim received by TSAS was being dealt with on a case-by-case basis.⁷²⁷ Mr Sapwell accepted in evidence that, in the absence of the Model Scheme, TSAS's ability to respond in a consistent manner in resolving former residents' claims was undermined.⁷²⁸

Therefore, based on the evidence before the Royal Commission, we conclude that before 1997 TSAS's failure to develop a model scheme for resolving former residents' claims undermined its ability to respond to those claims in a consistent manner.

The Monitoring Task Force

In or around 1997, the Territorial Finance Council established the Monitoring Task Force (the Task Force) specifically in response to the cases from Western Australia involving Mr Smith.⁷²⁹

The Task Force engaged in investigatory work in relation to the Smith case and advised TSAS on its responses in the context of that case.⁷³⁰ On the basis of Parker & Parker's advice, the Task Force considered and supported the implementation of an internal assessment process in the Southern Territory.⁷³¹ The Task Force held only six meetings.⁷³²

The Pastoral Response Unit

On 27 February 1997, TSAS also established the Pastoral Response Unit.⁷³³ A leaflet was distributed to care leavers who had been the victims of Captain Smith and to their families.⁷³⁴ Care leavers were encouraged to contact named members of the Pastoral Response Unit.

The Pastoral Response Unit was only established in Western Australia, despite TSAS being aware of other significant criminal proceedings against former TSAS officers and employees in other states.⁷³⁵ TSAS did not establish a Pastoral Response Unit in any other state.⁷³⁶

Implementation of the Model Scheme

Between 1997 and 2000, Nevett Ford acted for TSAS in relation to six claims of abuse and was retained on a case-by-case basis for each of those claims.⁷³⁷

In 2000, Mr Sapwell issued standing instructions for Nevett Ford to represent TSAS in all claims made by former residents of the Institutions.⁷³⁸ Mr Sapwell said that having Nevett Ford handle the claims ensured centralisation of the claims handling process, which had the objective of ensuring consistency in application and outcomes.⁷³⁹

In his statement, Mr Sapwell also stated that, once the policy of assessing care leavers' claims medically and legally was in place, the handling of each claim followed a similar process.⁷⁴⁰

Mr Philip Brewin, a director of Nevett Ford, provided two statements to the Royal Commission and gave evidence at the public hearing. In his first statement, Mr Brewin set out the procedural steps of the claims process, which he described as follows:⁷⁴¹

- Nevett Ford or TSAS receives a request from a claimant's lawyer for any records held by TSAS regarding that claimant. The request for records may be accompanied by a letter of demand. TSAS then conducts a search of its records for any relevant information.
- Nevett Ford asks the claimant to provide a statutory declaration or a signed statement setting out the basic facts of their residency at the particular TSAS home, particulars of the abuse they suffered and the impact of the abuse. A claimant also provides a medico-legal report concerning the effect of the abuse.
- Where relevant, Nevett Ford asks that the claimant, either directly or via their lawyer, to request their wardship file from the relevant state government and provide it to Nevett Ford.
- Nevett Ford reviews its database of claims involving TSAS to supplement any records produced by TSAS or the state, which may assist with resolving the claim.

- The parties, by consent, exchange all relevant records.
- Nevett Ford assesses the claim and provides advice to TSAS regarding the claim and an appropriate remedy.
- A settlement conference takes place between the lawyers and the claimant.

Between 1997 and 2005, Nevett Ford opened 106 files on claims by former residents at TSAS homes.⁷⁴² In 2006, Nevett Ford opened 210 new files.⁷⁴³ From 2006 to 2008 there was a significant increase in the number of claims received by TSAS in respect to homes that it used to operate in Victoria.⁷⁴⁴

The Royal Commission received evidence that the majority of claimants were, and are, legally represented.

Until 2007, Mr Sapwell provided instructions to Mr Brewin. From 2007 until 2010, and again on a part-time basis in 2012, TSAS engaged Mr Geoff Webb to provide instructions to Nevett Ford.⁷⁴⁵ Mr Brewin said in his statement to the Royal Commission that in his experience Mr Webb took a more regimented approach to the handling and assessment of the claims than Mr Sapwell. This was as a result of the increase in the number of claims and concerns about TSAS being able to fund the claims.⁷⁴⁶

The Royal Commission received evidence that Mr Webb instructed Nevett Ford to draw TSAS's attention to any inconsistencies or troubling aspects of the claim and, where necessary, request further documents from the claimant, such as additional medical records and reports, and any criminal records or documents from associated criminal proceedings.⁷⁴⁷

Further, before September 2008, TSAS accepted medico-legal reports from a claimant's treating counsellor in support of a claim. However, from September 2008, Mr Webb instructed Nevett Ford that TSAS would only accept reports from psychologists or psychiatrists on the effect of the abuse and where the claimant required future treatment.⁷⁴⁸

Initial steps in the claims process

Records and the exchange of information

The Royal Commission received evidence about the initial steps in the claims process involving the obtaining of records and exchange of information.

Mr Brewin said in his statement that, in addition to the exchange of information between the claimant or the claimant's solicitor and Nevett Ford, TSAS also undertakes a search for any records relevant to the claimant.⁷⁴⁹

We heard evidence that TSAS holds incomplete records relating to the operation of its homes during the period generally relevant to claims – namely, 1940 to 1980.⁷⁵⁰ The availability of records is dependent on the home in question.⁷⁵¹ Records are obtained from various sources, including:

- admission and discharge records of the relevant home⁷⁵² or associated government-run school⁷⁵³
- wardship files held by the relevant government department⁷⁵⁴
- ‘disposition of forces’ records for TSAS homes⁷⁵⁵ (which indicate the names of officers placed at each home)
- the career cards of each TSAS officer.⁷⁵⁶

Nevett Ford has also obtained information from other residents, past officers and employees of the homes as well as historical records and newspaper clippings.⁷⁵⁷

TSAS holds few or no records for employees who may have worked at TSAS homes over the relevant period.⁷⁵⁸

The Royal Commission received evidence that Nevett Ford maintains a database of all claims that TSAS has received.⁷⁵⁹ Mr Brewin said in his statement to the Royal Commission that Nevett Ford has been able to develop timelines which indicate the likely years some employees were at a particular home and cross-reference allegations against officers to their career cards and ‘disposition of forces’ records for each year.⁷⁶⁰ In doing so, Mr Brewin said that Nevett Ford has a knowledge base which at times allows the law firm to identify perpetrators when the claimant is unable to do so.⁷⁶¹ Mr Brewin also said in his statement that Nevett Ford maintains a hard copy of each individual’s file and these files are revisited or referenced from time to time as new claims or allegations emerge.⁷⁶²

However, Mr Brewin conceded in evidence that once a claim is denied, and in the absence of a reiterated complaint, Nevett Ford (and TSAS) have no practice of going back through denied claims, cross-referencing those claims against new information and then reconsidering those claims in light of the new information.⁷⁶³

Contact with the alleged perpetrator

When TSAS receives a claim, the claimant is able to identify an alleged perpetrator and the perpetrator is an officer who is still alive and whose whereabouts is known, Nevett Ford typically seeks instructions from TSAS to contact that person.⁷⁶⁴ Mr Brewin said in his statement that, if the accused officer is unwell or elderly or refuses to assist an investigation, the request to contact them may be refused.⁷⁶⁵

Mr Brewin said that, in his experience, officers who are interviewed almost always deny the allegations.⁷⁶⁶ Mr Brewin said that if an officer denies allegations this does not mean that TSAS cannot make an offer of compensation to the claimant. Many claimants have been paid compensation despite the allegations having been denied by the officers in question.⁷⁶⁷

Mr Brewin said that, if the alleged perpetrator is not an officer, it can be difficult to identify or locate that person because TSAS has almost no employment records from the home.⁷⁶⁸

In his statement, Mr Brewin said that there was only one occasion where an officer admitted to having touched a boy inappropriately.⁷⁶⁹ That officer was Captain Osborne. This evidence is discussed below.

Nevett Ford acts for TSAS and an alleged perpetrator

During the public hearing, the Royal Commission heard and received evidence about an admission by Captain Osborne of offending against a former resident of Eden Park. Captain Osborne (as he then was) made this admission during Nevett Ford's initial investigation of a number of claims that had been made against TSAS and Captain Osborne.

In 2007, Mr Grant had commenced legal proceedings against TSAS in respect to alleged offending by Captain Osborne and Captain Kop at Eden Park.⁷⁷⁰ At that time, Nevett Ford acted for both TSAS and Captain Osborne in respect to Mr Grant's proceedings.⁷⁷¹

Around that same time, a former resident of Eden Park, BMJ, also made a claim against TSAS involving physical and sexual abuse that he suffered at Eden Park. On 24 November 2008, BMJ provided Nevett Ford with a statutory declaration in support of his claim. In it, BMJ said that he was 99 per cent sure that it was Captain Osborne who had sexually abused him.⁷⁷²

On 9 December 2008, Mr Brewin and officers of TSAS, including Mr Sapwell, interviewed former TSAS officer Captain Osborne about allegations made by a number of former residents, including Mr Grant and BMJ.⁷⁷³ During the interview, while denying Mr Grant's allegations, Captain Osborne admitted to indecently touching another former resident, BMJ.⁷⁷⁴ A copy of the file note recording Captain Osborne's admission was tendered into evidence during the public hearing.

Following the 9 December 2008 meeting, Mr Brewin did not disclose to BMJ that Captain Osborne had admitted indecently touching him.⁷⁷⁵ BMJ was not represented by solicitors in respect to his claim. Mr Brewin gave evidence that, given that he continued to act for both TSAS and Captain Osborne,⁷⁷⁶ he could not disclose the admission to a claimant (even on the instructions of TSAS), as to do so would be to act against the interest of Captain Osborne, who was also his client.⁷⁷⁷ Ultimately, TSAS settled the claim with BMJ without requiring documentation or psychological assessment. At no point was BMJ informed of Captain Osborne's admission.

Mr Brewin conceded in evidence that he was concerned about his 'invidious position' in acting for both TSAS and Captain Osborne.⁷⁷⁸ He said he had 'raised it with the client'.⁷⁷⁹ Mr Brewin said he understood that Mr Sapwell would raise the matter with the Territorial Commander and he did not receive a response one way or the other.⁷⁸⁰ Mr Brewin said he had no standing instructions about how to respond if an alleged perpetrator admitted to offending during an interview with him.⁷⁸¹

During the public hearing Mr Brewin accepted in evidence that there was a conflict in relation to acting for Captain Osborne on Mr Grant's matter and acting for TSAS on BMJ's claim.⁷⁸² Later in the public hearing, in response to questions put by Senior Counsel Assisting, Mr Brewin would not accept that there was a legal conflict in continuing to act for TSAS and also Captain Osborne. In evidence, Mr Brewin said that he did not consider that there was a legal conflict and that 'it was more that [I] was in an invidious position ... [s]o certainly I was in an invidious position, but it wasn't as though there was a conflict in a pure legal sense'.⁷⁸³

It is unclear what Mr Brewin meant when he described the 'invidious position' in which he found himself following Captain Osborne's admission. What is clear, and what Mr Brewin accepted, is that BMJ was not provided with information of Captain Osborne's admission of offending against him. Mr Brewin accepted in evidence that, if BMJ had known of Captain Osborne's admission, this could have affected BMJ's approach to the claim.⁷⁸⁴

Based on the evidence before the Royal Commission, we are satisfied that Nevett Ford should not have continued to act for both Captain Osborne and TSAS after it had received Captain Osborne's admission.

We accept that Mr Brewin was not able to provide Captain Osborne's admissions to BMJ because it was provided in the context of a solicitor-client relationship and in the context of legal proceedings and was therefore the subject of a claim of legal professional privilege. However, in failing to give that information to BMJ, Mr Brewin did not provide a full exchange of information with BMJ. This exchange of information was expressly contemplated as being an integral step in the Model Scheme that would allow his client, TSAS, to resolve claims informally.

TSAS disagrees with the conclusion that, because it failed to provide claimants with all information relevant to the settlement of their claims, the claimants were disadvantaged. TSAS relies on Mr Brewin's evidence that most of the matters that were dealt with under the claims process were dealt with on the basis that Nevett Ford and TSAS accepted that the abuse took place, with TSAS then looking for consistency amongst like claims.⁷⁸⁵ We do not accept that this approach somehow makes Captain Osborne's admission any less relevant to BMJ or Mr Grant.

The Model Scheme provides for the exchange of information. Claimants would be entitled to assume that this includes admissions by TSAS staff.

In failing to disclose Captain Osborne's admission to Mr Grant and BMJ (and, indeed, other claimants) we are satisfied that Mr Brewin did not provide a full exchange of information potentially relevant to each claimant, particularly BMJ, as envisaged in the development of the TSAS claims process. In this way Mr Brewin disadvantaged the claimants both in the way in which they negotiated the resolution of their claims and given the importance of an acknowledgement or acceptance of the truth of their claim to their prospects of some healing.

Commissioner Tidd agreed that an important part of any apology was an acknowledgement that the abuse had occurred.⁷⁸⁶

Further, neither TSAS nor Mr Brewin, on behalf of TSAS, disclosed Captain Osborne's admission to the Victoria Police. This is discussed further below.

On 5 January 2009, the TSAS Secretary for Personnel wrote to Captain Osborne to inform him that his officership was suspended 'as a result of the admission made by [you]' and that the suspension would continue until the various complaints and legal proceedings against him of which he was aware concluded.⁷⁸⁷

Assessment of claims

Initial assessment and subsequent assessment

Under the Model Scheme, the assessment of claims is a two-part process:⁷⁸⁸

- first, there is an initial assessment based on the documentation provided
- secondly, there is a subsequent assessment either during or after meeting with the claimant at an informal settlement conference.⁷⁸⁹

The initial assessment involves a review of the claimant's documents, including the claimant's statement, any medico-legal report, any wardship file obtained from the claimant and any files held by TSAS.⁷⁹⁰ Sometimes TSAS may request further documents or records from the claimant.⁷⁹¹ Nevett Ford prepares a report for TSAS which summarises the claim and presents the information obtained regarding the abuse. The report concludes with a recommendation that the matter be settled up to a certain figure or in a certain range.⁷⁹²

If new information emerges during or after the conference, a subsequent assessment may take place. In those circumstances Nevett Ford will prepare a written second assessment of the claim for TSAS or, alternatively, obtain oral instructions to alter the initial assessment and offer.⁷⁹³

Settlement

Settlement conferences

Nevett Ford conducts informal settlement conferences to meet with the claimants (and their solicitor if they are represented) and discuss their allegations. The conferences are usually held at the offices of the plaintiff's legal representative.⁷⁹⁴ However, if the legal representative does not have the facilities for settlement discussions or prefers to conduct the conference at the Nevett Ford offices then that is what occurs.⁷⁹⁵

At the commencement of the conference, the claimant is told that the discussions held are on a 'without prejudice' basis and the meaning of this is explained in the presence of their lawyer.⁷⁹⁶

A TSAS representative is not usually present at the settlement conference. Mr Brewin said in his statement that his experience is that this often enables the claimant to feel more comfortable speaking about their criticisms of TSAS and their abuse.⁷⁹⁷ Mr Brewin said that on a small number of occasions a claimant has asked that a TSAS representative be present and this has been accommodated.⁷⁹⁸

Some former residents who gave evidence at the public hearing said that they would have liked to have a TSAS representative present to hear their experience and they were upset that no TSAS representative participated in the settlement conference.⁷⁹⁹ TSAS says that this is a criticism that it has taken on board and will address going forward.⁸⁰⁰

Mr Brewin said in his statement that, in those matters in which he has been instructed, the rates of settlement at the conference are extremely high: about 70 per cent of claims resolve at the conference or shortly after.⁸⁰¹ Since 1997, TSAS has instructed Nevett Ford to defend 28 claims.⁸⁰²

Deeds of release

Upon settlement of a claim, TSAS requires all claimants to sign a deed of release.⁸⁰³

Resolution of the claims and compensation

The Royal Commission heard evidence that under the Model Scheme Mr Sapwell and Mr Webb were authorised to settle matters up to \$50,000 without needing the approval of the board of TSAS.⁸⁰⁴ However, if Nevett Ford recommended 'compensation' exceeding \$50,000, TSAS board approval was required.⁸⁰⁵ In evidence, neither Mr Sapwell nor Mr Brewin could explain why \$50,000 was nominated as the figure above which board approval was required. In his statement, Mr Sapwell said that in 1994 he had heard that the Catholic Church was paying care leavers \$50,000 and 'that a person alleging abuse would walk in with a claim of \$50,000 and walk out with a payment of \$50,000'.⁸⁰⁶

Until 2014, the majority of claims settled inclusive of legal costs. However, over the past year an amount for legal costs has been included in the recommendation by Nevett Ford to TSAS and claimants' lawyers have been asked to give Nevett Ford the amount of their clients' legal costs.⁸⁰⁷

The majority of claims settle inclusive of future medical costs.⁸⁰⁸

Claims do not generally include a component for economic loss or medical expenses. Mr Brewin says in his statement that this rarely forms part of a claim.⁸⁰⁹ He also said a claim for economic loss and medical expenses is more commonly included if legal proceedings have been commenced.⁸¹⁰

In his statement, Mr Brewin set out the factors which Nevett Ford takes into account in assessing a claim.⁸¹¹ They are:

- the extent of abuse suffered
- the extent of injury suffered at the time the claimant presents to Nevett Ford, as set out in the medico-legal report
- length of residency in the home
- whether a contemporaneous claim was made to someone at the home. This is considered an ‘aggravating’ factor, as it demonstrates knowledge by those in charge at the home that abuse was taking place
- whether the perpetrator has been identified and, if so, any previous allegations made against him or her
- expected future costs for medical treatment.

Mr Brewin also referred in his statement to three other factors that have an impact on Nevett Ford’s recommendations as to quantum.⁸¹² They are:

- the fact that TSAS board approval was required for settlement amounts above \$50,000 meant that Nevett Ford did not generally recommend settlements above \$50,000
- where there are multiple defendants, Nevett Ford estimates TSAS’s contribution as either a lump sum or a percentage based on the medical reports, the abuse alleged and an assessment of the liability of each party, and then makes a recommendation on what TSAS should contribute to a total settlement figure
- where the claimant has received a payment from a state redress scheme, that amount is taken into account and an additional amount calculated to provide consistency with the settlement of other claims by TSAS.

TSAS has settled 418 claims since 1996.⁸¹³

In his statement, Mr Brewin stated that:

- claims for physical abuse, mistreatment and verbal abuse settle within a range of \$5,000 to \$35,000
- claims involving incidents of sexual abuse will generally settle for up to \$50,000⁸¹⁴
- the average amount of compensation that TSAS has paid to claimants alleging sexual abuse is \$44,000
- approximately 70 per cent of claims that TSAS has received have included an element of sexual abuse.⁸¹⁵

There have been 29 claims against TSAS which have settled for \$50,000 or more. In respect of most of these claims, proceedings have been issued.⁸¹⁶

However, two claims settled for \$50,000 and \$60,000, respectively, in circumstances where proceedings had not been issued.⁸¹⁷

TSAS has denied 27⁸¹⁸ claims,⁸¹⁹ usually in circumstances where it is said that there are 'strong doubts about the veracity of a claim'.⁸²⁰ It is unclear if these are the same 28 claims which TSAS defended and which are referred to above.

In evidence, Mr Brewin agreed that Nevett Ford's claim process required the assessment of factors that a lawyer engaged in personal injuries litigation would usually consider before settling a claim for financial compensation.⁸²¹ However, the amounts that TSAS paid did not aim to compensate the claimant but were instead akin to redress or an ex-gratia payment.⁸²² Consistent with that, the settlement amount did not include a component for economic loss or medical expenses⁸²³ and, until a year ago, settlement amounts were inclusive of legal fees. A claimant was also required (on the instructions from Mr Webb) to provide a psychological or psychiatric report, rather than a counsellor's report, in support of a claim.

In evidence, Commissioner Tidd acknowledged that some former residents saw the claims process that Nevett Ford implemented as legalistic. He accepted that for some claimants the process failed them.⁸²⁴

We did not examine the appropriateness of the settlement amounts paid for any individual claims during this public hearing.

Apologies

After TSAS has settled a claim with a former resident, a written apology is provided to the former resident if they request it.⁸²⁵ In their evidence at the public hearing, some former residents criticised TSAS about the generic nature of the apology.⁸²⁶ In particular, criticisms were made that the generic apology used the phrase 'what you say happened, should not have happened'.⁸²⁷

In evidence, Commissioner Tidd acknowledged that the generic apologies that The Salvation Army provided to former residents did not satisfactorily acknowledge their abuse.⁸²⁸ Commissioner Tidd agreed that an important part of any apology was The Salvation Army's acknowledgment of the abuse.⁸²⁹

Since the Victorian Parliament Family and Community Development Committee inquiry in 2012, TSAS has developed a new written apology. Commissioner Tidd also said in his statement that in recent times he has met with former residents and has drafted a personal apology after their meeting to reflect the person's particular experience in a way that showed he had 'listened and understood their pain and suffering'.⁸³⁰

Counselling

In his statement to the Royal Commission, Mr Brewin said that, where a claimant is not legally represented, TSAS generally offers counselling sessions to the claimant. Further, TSAS will also pay for reasonable costs of counselling where a claimant is legally represented and requests counselling.⁸³¹

Mr Brewin said that few claimants have accepted the offer of counselling and some claimants (or their lawyers) have told him that they do not see the benefit of future counselling.⁸³² He said that occasionally a claimant's lawyer has requested that TSAS pay for initial counselling before the matter is assessed and settled and TSAS usually accommodates these requests.⁸³³

At the public hearing several former residents said that the topic of counselling was never raised with them and TSAS never offered them counselling.⁸³⁴

In its submissions, TSAS does not accept that it is accurate to describe the Model Scheme adopted by TSAS as legalistic. TSAS says that to do so ignores other evidence before the Royal Commission.⁸³⁵ In particular, TSAS relies on the evidence received by the Royal Commission that:⁸³⁶

- the Model Scheme ultimately adopted by TSAS was not as formal or detailed as the scheme originally proposed by Parker & Parker
- despite the clear advice from Parker & Parker in 1997, then Commissioner Howe made it very clear that he wanted TSAS to be responsive to such claims rather than engaging in protracted and technical legal arguments
- the intention in adopting the Model Scheme was to show care leavers that TSAS was listening to them and it cared.

TSAS submits that the Model Scheme adopted by it has involved almost all claims being dealt with by way of settlement conference at which the care leaver's allegations of abuse are accepted which is hardly indicative of a 'legalistic' approach.⁸³⁷

We do not accept this submission in its entirety.

The advice provided by Parker & Parker was provided specifically in response to the criminal proceedings involving Captain Smith and the foreshadowed civil proceedings.⁸³⁸ It was later provided to Nevett Ford to advise on, including whether it could be used as a model for compensating other care leavers who had suffered abuse.

On 16 June 1997, Nevett Ford provided TSAS with advice which approved 'the model scheme' but recommended some modifications. The advice recorded that the advice was also sought in light of the current County Court proceedings by Mr Rogers. Nevett Ford advised that the County Court in

Victoria provides a framework that enables disputes to be resolved, essentially in accordance with the model proposed by Parker & Parker. This advice can be contrasted with the approach proposed by Nevett Ford in its 1994 and 1995 advice.

The ‘model scheme’ requires the exchange of information, the provision of medical reports and statements and that the claimant attend at a ‘settlement conference’. The factors which Nevett Ford takes into account when assessing a claim, and which are summarised in Mr Brewin’s statement, are akin to those which are relevant when assessing a personal injury claim for compensation and include concepts like ‘contribution’ and ‘aggravation’.

Based on the evidence before the Royal Commission, we conclude that the Model Scheme adopted by TSAS was experienced by some claimants as legalistic and failed some claimants because:

- the claims process required the assessment of factors and provision of medical reports that a lawyer engaged in personal injuries litigation would usually consider before settling a claim for financial compensation. However, the amounts that TSAS paid did not aim to compensate the claimant but were akin to redress or an ex-gratia payment
- the generic apologies that TSAS provided before 2013 did not specifically acknowledge and accept that abuse had occurred
- TSAS did not initiate offers of counselling to claimants who were legally represented
- TSAS members were not routinely present at the settlement conferences and negotiations were conducted by their solicitors. That may have conveyed the impression that TSAS had a lack of interest in the claimant.

6.3 Defences pleaded by TSAS and the effect on settlement

Ellis defence

In *Trustees of the Roman Catholic Church for the Archdiocese of Sydney v Ellis* (2007) 70 NSWLR 565 (Ellis) the New South Wales Court of Appeal held that an unincorporated body cannot be sued because it has no legal personality.

Between 2008 and 2010, TSAS formally pleaded the defence relied on in *Ellis* (the Ellis defence) in a number of claims issued on behalf of former residents against TSAS and the State of Victoria in the County Court of Victoria.⁸³⁹ However, TSAS did not rely on the Ellis defence during the course of negotiations, and pleading the defence did not prevent those matters from settling at informal settlement conferences.⁸⁴⁰ The Royal Commission heard evidence that TSAS has never refused to make a settlement offer on the basis of the Ellis defence.⁸⁴¹

In evidence, Commissioner Tidd accepted that claimants may have been disadvantaged by TSAS having pleaded the Ellis defence in that claimants were prepared to accept a settlement which they may not have otherwise been prepared to accept because:⁸⁴²

- they believed the Ellis defence would be successful and they could end up with nothing
- they were concerned about the risk of having to pay both their own and TSAS's legal costs after a trial.

In 2010, TSAS made a policy decision that it would not seek to defend any claim by a former resident of the Institutions using the Ellis defence and it would admit that TSAS Property Trusts in the relevant states ran the Institutions and employed those within them.⁸⁴³

In evidence, Commissioner Tidd said TSAS has a moral obligation not to plead the Ellis defence.⁸⁴⁴ The change in TSAS's position regarding the Ellis defence was in part because of the view that pleading the defence was not in keeping with TSAS's responsibility for those who had previously been in their care.⁸⁴⁵ Commissioner Tidd also expressed the view that, from a moral perspective, the Ellis defence should not have been pleaded between 2008 and 2010.⁸⁴⁶

Limitation periods

Limitation defences have been formally pleaded in all proceedings issued in South Australia and Victoria.⁸⁴⁷ Each of these proceedings has resolved without the relevant court ruling on the issue. In May 2005, Nevett Ford advised TSAS that it was important for TSAS to reserve its position with respect to limitation periods so that it may argue this defence in appropriate circumstances where a substantial delay is likely to prejudice TSAS's ability to have a fair trial.⁸⁴⁸

Mr Brewin gave evidence that TSAS has never refused to resolve a claim due to an expired limitation period.⁸⁴⁹ However, TSAS has relied on the limitation defence to defeat proceedings – most notably in those proceedings commenced by Mr Rundle.

In evidence, Commissioner Tidd accepted that claimants may have been disadvantaged by TSAS having pleaded the limitation defence in that claimants were prepared to accept a settlement which they may not have otherwise been prepared to accept because:⁸⁵⁰

- they believed TSAS would be successful in relying on the limitation defence
- they were concerned about the risk of having to pay both their own and TSAS's legal costs after a trial.

Vicarious liability

If proceedings are issued, TSAS does not admit that it is vicariously liable for the criminal or illegal acts or omissions of its employees in the course of employment.⁸⁵¹ In such cases, TSAS relies on the decision of the High Court in *New South Wales v Lepore* (2003) 212 CLR 511⁸⁵² (*Lepore*).

TSAS has settled claims involving employees even though TSAS has formally denied vicarious liability in legal proceedings.⁸⁵³

Nevett Ford has also provided advice to TSAS that there is a degree of uncertainty on how the High Court might apply *Lepore* in matters involving institutional settings and it is arguable that institutional abuse claims could be distinguished from *Lepore* on the facts.⁸⁵⁴

Commissioner Tidd said in his statement that he expects that ‘other than in exceptional circumstances, TSAS would not rely on precepts of vicarious liability to escape responsibility’.⁸⁵⁵

Effect on claimants

The fact that TSAS pleaded technical legal defences such as the Ellis defence, statutes of limitations and vicarious liability principles did not prevent it from settling with claimants. However, in evidence, Commissioner Tidd accepted that, because TSAS formally relied on these defences in issued proceedings, lawyers representing claimants were required to advise their clients that those defences could potentially defeat their claims.⁸⁵⁶ Lawyers for clients would be required to give that advice regardless of whether a particular claimant had issued proceedings, particularly where it was known to claimants’ solicitors that TSAS would rely on these defences given many of the claimants were represented by the same legal firms in Victoria and South Australia. However, TSAS says that most claimants were legally represented and their lawyers were in a position to advise on the strength or otherwise of defences, including the limitation defence.⁸⁵⁷

In keeping with that, Mr Brewin gave evidence that he did not place a great deal of weight on the statutes of limitation in situations where perpetrators were alive but that, nevertheless, the TSAS would generally plead the statute of limitations defence where proceedings were issued in order to preserve the position of TSAS to enable it to investigate the matter and properly ascertain whether or not it was suffering prejudice.⁸⁵⁸

However, for survivors like Mr Rundle, who were unable to settle their claim at the informal settlement conference, TSAS relied on the limitation defence in the legal proceedings which followed, despite any inherent weaknesses. In fact, not only did TSAS rely on the technical defence but also it appealed a decision allowing Mr Rundle an extension of time within which to bring his claim.

It follows that, by pleading the technical legal defences, claimants would have been under the impression that if the parties were not able to settle the claim at the informal settlement conference

and the claimant did not accept the settlement offer then TSAS would rely on the various defences in an attempt to defeat any court proceedings which followed. It is not to the point that TSAS may ultimately not have succeeded in its reliance on the legal defences or that the defences were inherently weak⁸⁵⁹ as a question of law; rather, the relevant point was the effect that these defences may have had on the claimants in reaching a settlement of their claim.

Mr Cherrie, Mr Rogers, Mr Hodges, BML and BMS submit that there is overwhelming evidence before the Royal Commission that victims of child sexual abuse, as a class, are likely to be ‘fearful, damaged and vulnerable’ and the prospect of ‘taking on’ large religious and other organisations who had been responsible for their abuse can be a daunting task.⁸⁶⁰ They submit that the combination of these factors and the technical legal defences available to TSAS would have been overwhelming to the claimants. This submission is consistent with the evidence that the Royal Commission has received in this public hearing and in others.⁸⁶¹

Commissioner Tidd accepted in evidence that the effect of this advice *may* be that claimants accepted a settlement offer they would not otherwise have been prepared to accept if TSAS did not routinely plead the defences.⁸⁶²

However, we are satisfied that, in relying on technical legal defences such as the Ellis defence, statutes of limitations and vicarious liability principles, TSAS placed claimants at a disadvantage. Claimants may have been prepared to accept a settlement offer that they would not have otherwise accepted.

6.4 Amounts paid by The Salvation Army to former residents

The Royal Commission received evidence from TSAS about the total number of claims made against it and amounts paid to the former residents of institutions which TSAS operated.

From 1 January 1995 to 31 December 2010, The Salvation Army received 324 claims and paid approximately \$10 million to former residents of s institutions.⁸⁶³

From 1 January 2011 to 30 June 2014, The Salvation Army received 90 claims and paid approximately \$8 million to former residents of TSAS-operated institutions.⁸⁶⁴

From 1 July 2014 until 31 December 2014, The Salvation Army received four claims relating to child sexual abuse and paid \$137,500 to former residents of TSAS-operated institutions.⁸⁶⁵

From 1 January 1995 until 31 December 2014, The Salvation Army has received a total of 418 claims and paid a total amount of almost \$18 million to former residents of TSAS-operated institutions.⁸⁶⁶

The claims made and amounts paid related to the Institutions that were examined in this public hearing as well as other TSAS-operated institutions.

TSAS's response to the Royal Commission's Redress Report and review of claims paid

In a supplementary statement to the Royal Commission, Commissioner Tidd set out TSAS's position on the recommendations contained in the Royal Commission's *Redress and Civil Litigation Report* (the Redress Report).⁸⁶⁷ In summary, the statement says:

- TSAS supports a single national redress scheme for survivors of child sexual abuse.⁸⁶⁸
- TSAS will cooperate with the Commonwealth Government as necessary and comply with any requirements of a national redress scheme as implemented by the Commonwealth, including monetary levels of redress that may be prescribed or assessed within the national scheme.⁸⁶⁹

In respect to the Royal Commission's recommendations about interim measures – that is, arrangements between now and the time a national redress scheme might commence operation – Commissioner Tidd said that:

- TSAS will, in the interim period, assess any new claims for redress by reference to the guiding principles set out in the Redress Report.⁸⁷⁰
- Commissioner Tidd has instructed Clayton Utz, with the assistance of counsel, to conduct a review of all 418 claims that have been settled between TSAS and survivors since 1996. The purpose of the review is to identify whether comparison payments made in respect of settled claims were assessed fairly and consistently.⁸⁷¹
- If, as a result of the review, any claims are identified that were not assessed fairly and consistently relative to the bulk of other settled claims, TSAS will 'reopen' those claims (including by making 'top-up' payments) in the interim period between now and when a national redress scheme commences operation.⁸⁷²
- However, where claims were assessed fairly and consistently relative to the bulk of other settled claims, they will not be eligible for 'reopening' in the interim period.⁸⁷³
- Most survivors who reached settlements with TSAS were represented by lawyers and reached settlements that were negotiated on their behalf. In those cases, TSAS feels that it can generally be confident that survivors' interests were protected and that compensation payments were assessed fairly and consistently relative to the bulk of other settled claims. Such claims will therefore generally not be eligible for reopening in the interim period.⁸⁷⁴

In light of these matters, Commissioner Tidd gave evidence that he has directed that TSAS's review of settled claims prioritise two categories of cases:⁸⁷⁵

- cases where survivors reached settlements with TSAS without the benefit of their own legal advice

- cases where new factual material has come to light after a claim was settled – for example, where other survivors subsequently made similar claims against the same abuser or where abusers who had denied the allegations against them were subsequently arrested and convicted.

The review will also consider whether any survivors were disadvantaged, relative to other survivors who settled with TSAS, because of matters including TSAS relying on technical legal defences such as the Ellis defence, statutes of limitations or vicarious liability principles.⁸⁷⁶

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 who reached settlements with TSAS, Commissioner Tidd anticipates receiving a recommendation to ‘reopen’ that claim and make a further payment, assessed according to the principles that the Royal Commission identified in respect of payments made in the interim period.⁸⁷⁷

It is clear from Commissioner Tidd’s supplementary statement and the evidence received by the Royal Commission that TSAS’s position on past settled claims is that their review will focus on claims made by unrepresented claimants and claims where new information has come to light.⁸⁷⁸ The review will consider whether those claims in particular were assessed fairly and consistently relative to the bulk of other claims made against TSAS.⁸⁷⁹

A limitation of TSAS’s review is its focus on unrepresented claimants. TSAS does not propose to reopen the claims of represented claimants in the interim period unless new information has come to light after a claim has settled.⁸⁸⁰ TSAS says that it can be ‘confident’ that the represented survivors’ interests were protected and that compensation payments were assessed ‘fairly and consistently relative to the bulk of the other settled claims’.⁸⁸¹ However, it is unclear how represented survivors’ legal representation would have been able to ensure that their claims was assessed ‘fairly and consistently relative to the bulk of the other settled claims’, as only TSAS knew how it had settled the bulk of the other claims made against it.

In particular, the pleading of technical defences disadvantaged both represented and unrepresented claimants. Indeed, the potential of technical defences to defeat the claim, and the risk of costs, are matters about which a solicitor acting for a claimant would be obliged to provide advice. For this reason, both represented and unrepresented claimants would have been disadvantaged in the settlement of their claims. We agree with Senior Counsel Assisting’s submission that there is no justification for not reviewing the claims of represented claimants who settled their claims at a time when technical defences were pleaded.

We conclude that relying upon the technical defences such as the Ellis defence, statutes of limitations and vicarious liability disadvantaged both represented and unrepresented claimants. TSAS’s review of settled claims should focus on all claims settled at a time when TSAS relied on those technical defences.

6.5 Reporting of claimants' allegations to police

During the public hearing, the Royal Commission received conflicting evidence about whether, until 2014, TSAS had a policy or practice of encouraging or advising claimants to report allegations of sexual abuse to police.

Mr Sapwell gave evidence that during his employment with TSAS he was not aware of any TSAS policy of encouraging claimants to report allegations of sexual abuse to police.⁸⁸²

Mr Brewin said in his statement that 'it is TSAS's position, based on advice from Nevett Ford, that if an alleged perpetrator is alive, the claimant is advised to make a complaint to the police about the abuse'.⁸⁸³ In his evidence before the Royal Commission, Mr Brewin said that to the best of his recollection TSAS gave him instructions to encourage claimants to go to the police and 'certainly that's what I did'.⁸⁸⁴ In response to questions put by Senior Counsel Assisting during the public hearing in respect to Mr Brewin's instructions, Mr Brewin gave evidence that he would not put his instructions as highly as to 'encourage' survivors to report matters to police⁸⁸⁵ but that he had instructions to advise or suggest to people that, if they wished to have the complaint dealt with where there was someone still alive and they wanted to take the matter further, they should refer it to the police.⁸⁸⁶

The Royal Commission heard evidence from some former residents that, during the claims process and throughout their contact with TSAS, neither TSAS nor lawyers from Nevett Ford encouraged or advised them to report their allegations to police. In particular, BMB, Mr Rundle and Mr Grant all gave evidence to that effect.⁸⁸⁷ This is discussed below.

For completeness we note that in recent years TSAS has changed its practice and procedure about reporting matters to the police. The Royal Commission heard evidence that TSAS and Nevett Ford have learned through this Royal Commission that, regardless of whether care leavers had any reluctance to report matters to the police, it is important that the police have a complete database. As a result of this, TSAS will now report all allegations of abuse current or historical, to the police regardless of their legal obligation to do so.⁸⁸⁸ Failure to do so is considered to be serious misconduct and may result in dismissal or termination of appointment or employment.⁸⁸⁹

Reporting of Mr Rundle's abuse to the police

In July 2001, Nevett Ford sought counsel's advice as to whether TSAS had an obligation to inform police of allegations of sexual abuse where the claimant was an adult at the time TSAS became aware of the allegations. The advice was sought in the context of Mr Rundle's claim against TSAS.⁸⁹⁰ Counsel, Mr Paul D'Arcy, advised that TSAS was not obliged to inform the police of those allegations under the relevant legislative provisions given that Mr Rundle was an adult (as opposed to a child) at the time the allegations were brought to the attention of TSAS.⁸⁹¹

After Mr Brewin received this advice, on 18 July 2001 he wrote to Mr Sapwell and said:

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.⁸⁹²

In evidence, Mr Brewin said he could not recall why, in his letter to Mr Sapwell, he wrote that it was better to deal with the Rundle matter on an informal basis without encouraging Mr Rundle to make a complaint to the police.⁸⁹³ Mr Brewin said that, while he did not encourage Mr Rundle to report the matter to police, when Mr Rundle wanted to know what TSAS were doing about Mr Ellis, Mr Brewin told him that ‘he should take [it] up with the South Australia Police’.⁸⁹⁴

Reporting of allegations against Captain Osborne and his admission

As previously set out in some detail, on 9 December 2008 Mr Brewin and Mr Sapwell interviewed TSAS officer, Captain Osborne, against whom a number of former residents had made allegations of sexual abuse. Captain Osborne denied the allegations, but during the interview he admitted to having indecently touched another male, BMJ.⁸⁹⁵ About one month earlier, BMJ had made a claim against TSAS in which he alleged sexual offending by Captain Osborne.⁸⁹⁶

In 2011, TSAS also learned that Captain Osborne was charged with criminal offending against another former resident, Mr Grant.⁸⁹⁷ Mr Grant had already made a claim against TSAS at that time.

In evidence, Mr Sapwell said he did not encourage BMJ to report the allegations to police and did not consider reporting the matter to the police himself.⁸⁹⁸

As at the time of the interview in December 2008, Mr Brewin could not refer the matter to the police, as he was legally representing both TSAS and Captain Osborne. To refer the matter to the police would be to act against the interests of his client, Captain Osborne.

Mr Sapwell gave evidence that he was not aware of any TSAS policies or procedures in relation to circumstances where an alleged perpetrator makes admissions to sexual offending during the claims process.⁸⁹⁹ Mr Sapwell said that he had relied on Nevelt Ford to advise TSAS of any legal obligation to report the admission to police (such as by way of mandatory reporting.)⁹⁰⁰

In evidence, Commissioner Tidd agreed that there was no evidence that any person, on behalf of TSAS, encouraged BMJ to report his allegations to the police.⁹⁰¹ Both Mr Sapwell and Mr Brewin gave evidence that they did not encourage BMJ to go to the police. Further, there is no evidence to suggest any person on behalf of TSAS reported Captain Osborne’s admission to police.⁹⁰² Commissioner Tidd gave evidence that BMJ should have been encouraged to go to the police⁹⁰³ and TSAS should have reported the admission to the police.⁹⁰⁴

The Royal Commission also heard evidence from Commissioner Tidd that there were those within TSAS 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.⁹⁰⁵

Commissioner Tidd also gave oral evidence that, in not encouraging all claimants to report allegations to the police, TSAS failed to protect other children by allowing alleged perpetrators to remain in the community undetected.⁹⁰⁶

Conclusions

Commissioner Tidd accepted that, in failing to encourage BMJ to report the matter to the police and in failing to report Captain Osborne's admission to police, TSAS placed other children with whom Captain Osborne might have contact at risk of sexual abuse.⁹⁰⁷

Commissioner Tidd said that all files/claims had now been provided to the South Australia Police and Victoria Police.⁹⁰⁸

We are satisfied, based on the evidence before us, that TSAS and lawyers acting on behalf of TSAS did not always encourage claimants to report allegations of abuse to the police. In particular, BMJ and Mr Rundle were not encouraged to report their allegations to police.

We are also satisfied that TSAS did not report to the police in 2008 or 2011 Captain Osborne's admission that he had indecently touched BMJ, despite knowing:

- in 2008 that BMJ had made sexual abuse allegations against Captain Osborne
- in 2011 that Captain Osborne had been charged with sexual offences against Mr Grant.

We conclude that, in failing to always encourage claimants to report their allegations to police and in not reporting Captain Osborne's admission to police, TSAS placed other children at risk of sexual abuse.

6.6 Other policy developments since 2012

TSAS's review of policies and procedures on child protection

Since 2012, TSAS has been engaged in a widespread review and development of policies and procedures on the protection of children. The changes to policies and procedures at TSAS include changes at the level of Orders and Regulations which apply to The Salvation Army worldwide.⁹⁰⁹

In response to this review, TSAS states that it has developed a number of policies to ensure, as far as possible, that TSAS is a safe organisation for children and other vulnerable people. In his statement to the Royal Commission at paragraphs 197 to 281, Commissioner Tidd sets out in detail the development of policies and procedures in the areas of:

- integrity checking framework
- risk assessment procedures and reporting notifications
- operational matters
- legislative requirements
- training.

Copies of some of these policies were tendered into evidence. However, these policies were not the subject of inquiry during this public hearing.

In his statement, Commissioner Tidd also said:⁹¹⁰

TSAS fully accepts that it has historically failed children in its care. TSAS is fully committed to working to develop the best practices, policies and procedures to ensure that children coming into contact TSAS are protected from all forms of abuse and that adequate reporting structures are in place to handle any allegations of abuse.

The Walker report

In 2013, after the Victorian Parliament Family and Community Development Committee Inquiry into the Handling of Child Abuse by Religious and Other Organisations, TSAS instructed Mr Trevor Walker of The Salvation Army's Professional Standards Unit to investigate and make findings on TSAS's historical responses to child sexual abuse and whether there were cultural, endemic or systemic failings by TSAS as an institution in relation to the sexual abuse that occurred.⁹¹¹

Mr Walker's report was delivered on 20 August 2015. Mr Walker's report contained specific findings in response to the wider question of whether TSAS's historical responses to child sexual abuse were affected by cultural, endemic or systemic failings of the organisation.⁹¹²

Mr Walker noted in the general observations to his report that:⁹¹³

investigating sexual abuse issues, specifically in relation to failings of a systemic or cultural kind, is difficult in a historic context, especially bearing in mind the decades that have passed. It is a completely different process than investigating specific claims of sexual and/or physical abuse by a victim or victims against alleged offenders.

The executive summary of Mr Walker's report concludes that:⁹¹⁴

- TSAS failed to implement, and failed to adequately implement, policies, practices and procedures to protect children from child sexual abuse. The failure was systemic (that is, it affected the organisation or network as a whole rather than just individual members or units)
- TSAS failed to identify situations in which children were at risk of being victims of child sexual abuse. This failure was systemic
- TSAS failed to fully explore and investigate claims of child sexual abuse. This was both a systemic and a cultural failing
- TSAS failed to appropriately respond to claims child sexual abuse. This was both a systemic and a cultural failing
- TSAS failed to make provision in its organisational structure for an appropriately qualified and experienced person, or persons, to deal with claims of child sexual abuse. This was both a systemic and a cultural failing
- TSAS did not take steps to conceal claims of child sexual abuse
- TSAS did not take steps to protect alleged perpetrators of child sexual abuse
- TSAS implemented a practice that inadvertently, but not deliberately, facilitated the incidence or concealment of child sexual abuse. This specifically related to the practice of allowing TSAS members to take children to their own residences for short periods of time without properly vetting these persons, thereby allowing these persons (such as Mr John Beyer) to commit child sexual abuse. This failure occurred particularly at Bayswater No 2 home and was a cultural failing of the organisation
- TSAS did not take steps or implement policies, practices or procedures that, whether deliberately or inadvertently, discouraged persons from disclosing that they or someone they knew had been the victim of child sexual abuse
- TSAS did not operate children's homes at which there existed a 'cluster of paedophiles'.

In the report, Mr Walker also referred to a definite lack of training, policies and procedures in past practices in the way children's homes were operated.⁹¹⁵ Mr Walker 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.⁹¹⁶ Mr Walker also noted the effects of the physical abuse that the former residents suffered⁹¹⁷ and the consequence of children not reporting because they were apprehensive that they would not be believed – that is, the opportunity for offending was enhanced.⁹¹⁸

In his statement to the Royal Commission, Commissioner Tidd unreservedly accepted Mr Walker's findings and conclusions.⁹¹⁹ A copy of the report was tendered into evidence during the public hearing.⁹²⁰

In evidence, Senior Counsel Assisting asked Commissioner Tidd about Mr Walker's findings. In particular, Senior Counsel Assisting asked questions about the findings that TSAS did not take steps to conceal claims of child sexual abuse and that TSAS did not take steps to protect alleged perpetrators of child sexual abuse.

The word 'conceal' is not defined in the dictionary which accompanies Mr Walker's report and is not part of the report itself.⁹²¹ Commissioner Tidd gave evidence that he understood the term 'conceal' to mean, in the context of the report, an organisational intention to withhold evidence or an organisational intention to cover up those actions. Commissioner Tidd accepted in evidence that term could also include a failure or omission to do something.⁹²²

During the public hearing, Senior Counsel Assisting took Commissioner Tidd to a number of historical responses by officers and employees of TSAS to allegations of child sexual abuse as summarised in Mr Walker's report. In none of the factual situations had any officer or employee reported the allegation of child sexual abuse to the police. This is consistent with other evidence that the Royal Commission heard during the public hearing.

Commissioner Tidd agreed in evidence that, at the time of the operation of the homes and subsequently, TSAS members received complaints of child sexual abuse which were not passed on to the police. Commissioner Tidd agreed that, in this way, the TSAS had inadvertently taken steps to conceal child sexual abuse and protect alleged perpetrators of child sexual abuse.⁹²³

TSAS says that, while Commissioner Tidd agreed that TSAS had not always reported child sexual abuse and admitted that the failure to report abuse may have had the effect of protecting alleged perpetrators of child sexual abuse, he was clear that TSAS's conduct was not, in his view, concealment in the sense of the wilful covering-up of misconduct.

We accept that, in the absence of policy or procedure, by not reporting allegations of child sexual abuse to the police, TSAS did not wilfully conceal allegations of child sexual abuse. However, as appropriately conceded by Commissioner Tidd, not reporting allegations of child sexual abuse to the police had the effect of concealing child sexual abuse and protecting the alleged perpetrator. In this way, we differ from the conclusion reached in Mr Walker's report.

The Officer Review Board

The Officer Review Board (ORB) was established by IHQ in 1989.⁹²⁴

The ORB process is a formal internal process for dealing with officers alleged to have perpetrated abuse, including child sexual abuse. This process is governed by Orders and Regulations relating

to the ORB.⁹²⁵ The Orders and Regulations require that certain matters must be referred to and investigated by ORB unless the General directs otherwise.⁹²⁶ Once the ORB has investigated the allegations it makes recommendations to the Territorial Commander.⁹²⁷ The Territorial Commander is not bound by the recommendations.⁹²⁸

ORB review

In early 2014, Commissioner Tidd directed that the ORB review all current and historical allegations against each officer who had not resigned or had their officership terminated.⁹²⁹

Before the ORB commenced its review, TSAS engaged a barrister, Ms Sarah Hinchey (now Judge Hinchey of the County Court of Victoria), to advise on the policies and procedures which govern the ORB process and on the allegations against various officers.⁹³⁰

Ms Hinchey was asked to consider the documentation concerning each officer and advise on whether further action should be undertaken in light of the allegations and having regard to the person's role and responsibilities or retirement entitlements. If the recommendation was that the ORB should take action, Ms Hinchey was asked to advise on whether the allegations should be put to the relevant officer for their comment and what investigations, if any, the ORB should undertake before making any recommendation to Commissioner Tidd.⁹³¹

Ms Hinchey provided her advice on 29 August 2014.⁹³²

In her advice, Ms Hinchey said that, while a number of allegations against officers have been considered in the context of a civil dispute or claim, the matters had not been systematically referred to the ORB.⁹³³ Ms Hinchey concluded that, despite the fact that every one of the matters to which she was referred in the course of providing her advice would have required referral to the ORB, that course of action was considered on only one of the matters.⁹³⁴

Ms Hinchey also gave consideration to the various Orders and Regulations that govern TSAS's complaints review and disciplinary structure. In her advice, Ms Hinchey made recommendations for modifications to the system. The Royal Commission received evidence that amending Orders and Regulations involves IHQ and this is an ongoing matter for discussion and consideration with IHQ.⁹³⁵

Ms Hinchey also advised that various policies and procedures were not clear enough about what matters must be referred to the ORB and when they should be referred. This deficiency in some of the policies and procedures is yet to be rectified, but TSAS is working with IHQ to do so.⁹³⁶

Commissioner Tidd said in his statement that 'sadly, for reasons that do not appear clear to me [this process] has not always been followed in the past'.⁹³⁷ In oral evidence during the public hearing, Commissioner Tidd said that, since arriving in 2013 and taking his position, there was no reason or explanation as to why the ORB process had not been followed in the past.⁹³⁸

We are satisfied that before 2014 TSAS did not follow the ORB process in that it failed to refer all officers against whom allegations of child sexual abuse had been made to the ORB.

We are also satisfied that before 2014, in not referring all officers against whom sexual allegations had been made to the ORB, TSAS failed to hold some officers accountable for their actions in sexually abusing children.

These findings are accepted by TSAS.⁹³⁹

Response to ORB recommendations

After TSAS received Ms Hinchey's advice, four cases against officers were closed and four cases required no further action.⁹⁴⁰ The ORB commenced a full review of historical cases against the remaining 17 officers.⁹⁴¹ The ORB process commenced in October 2014 and continued until February 2015.⁹⁴² The ORB then made formal recommendations to the Territorial Commander, Commissioner Tidd.⁹⁴³

Commissioner Tidd considered the ORB's recommendations in relation to three retired officers who were at the Institutions. He decided to:⁹⁴⁴

- lift the suspension of Major Leggett
- not terminate Major Kop's officership
- terminate the officership of Major Osborne (as he then was), having decided some of the allegations of physical and sexual abuse against Major Osborne were substantiated.

The decision reached by ORB and Commissioner Tidd in respect to Major Kop was the subject of evidence during the public hearing.

Major Kop

Commissioner Tidd told the Royal Commission that the case of Major Kop was probably the most difficult case that the ORB had considered.⁹⁴⁵

In evidence, Senior Counsel Assisting asked Commissioner Tidd why he did not terminate Major Kop's officership given the extensive allegations of primarily physical abuse and also allegations of sexual abuse made against him.⁹⁴⁶

Commissioner Tidd said that Major Kop had denied the allegations of sexual abuse and the ORB found the allegations in respect to Major Kop to be unsubstantiated.⁹⁴⁷ In respect of the alleged physical abuse, Major Kop admitted to the ORB that there were times when his physical punishment of children was excessive.⁹⁴⁸

Commissioner Tidd said the ORB heard evidence from two former boys of Major Kop's 'effective work' at Eden Park.⁹⁴⁹ The ORB also heard evidence from two other employees who worked at the home at the time that Major Kop was there. Those employees recognised that under Major Kop there was a significant change in the culture and the approach to working with boys.⁹⁵⁰

Commissioner Tidd agreed that during this public hearing the Royal Commission had heard evidence from former residents of Eden Park that Major Kop was prolific in his corporal punishment of children in his care.⁹⁵¹ Commissioner Tidd also agreed that on the basis of that evidence Major Kop contributed to the environment at the home,⁹⁵² which was one where children were frightened to complain about sexual abuse and in which sexual abuse was perpetrated against children.⁹⁵³

During the public hearing, Commissioner Tidd agreed that Major Kop's current age and limited contact with children should not be a determinative factor in the decision whether to terminate his officership given that part of the purpose of the ORB is to hold officers accountable for their conduct.⁹⁵⁴ However, he said that for a retired officer at Major Kop's age and stage of life there are no discipline options available to TSAS other than dismissal, and the ORB considered this punishment for Major Kop's conduct to be excessive.⁹⁵⁵

Training

In late 2014, following receipt of Ms Hinchey's advice and during the early stages of the ORB's review of historical cases, TSAS provided legal training in decision making to members of the ORB.⁹⁵⁶ TSAS also engaged external lawyers to provide the ORB with a document entitled 'Guidance regarding Practice and Procedure' to consult when making decisions.⁹⁵⁷ TSAS also engaged a forensic psychologist to speak to the ORB about sexual abuse matters and the behaviour of offenders.⁹⁵⁸

Roundtable 2015

In February 2015, TSAS and TSAE convened a 'roundtable' meeting of a group of experts to consider why significant levels of child sexual abuse occurred in TSAS and TSAE homes during the 1950s to 1970s.⁹⁵⁹

Professor Robert Bland, Professor of Social Work at the Australian Catholic University, convened the roundtable. The experts who participated in the roundtable were leading academics from various disciplines, researchers and a psychiatrist.⁹⁶⁰

The roundtable was coordinated by TSAE. TSAS was also represented at the roundtable by Mr Graham Rigley and Mr Walker.⁹⁶¹

On 29 May 2015, Commissioner James Condon from TSAE sent the Royal Commission a letter that included a summary of the factors that the roundtable considered had contributed to the abuse.⁹⁶² These included the following:⁹⁶³

- Sexual and physical abuse happened together and were different parts of a broader abuse profile.
- Extreme power and vulnerability coexisted in the institutions so that the opportunity for abuse was ever present. This was the central starting point for abuse.
- The culture of The Salvation Army in the Men's Social Services supported harsh physical treatment of the boys. A rigid hierarchy of authority operated so that the power of the manager in the institutions was unchallenged. Staff were not selected, trained or supported in the difficult work of caring for the 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.
- The state, families, schools and other community groups failed to protect the boys from abuse by handing over absolute care of the boys to the institutions.
- 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.

In evidence, Commissioner Tidd added 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.⁹⁶⁴

National Professional Standards Council

In late 2014 TSAS and TSAE agreed to convene the National Professional Standards Council (NPSC).⁹⁶⁵ The aim of the NPSC is to provide a national perspective on all matters pertaining to issues of child sexual abuse and all other forms of abuse.⁹⁶⁶

The purpose, principles and functions of the NPSC are set out in a document headed 'The Salvation Army Australia, National Professional Standards Council'.⁹⁶⁷ Relevantly, the documents sets out the relevant functions of the NPSC to include:⁹⁶⁸

- harmonising the responses of both Territories to care leavers who suffered abuse to ensure just compensation and adequate pastoral care is provided and seeking reconciliation where appropriate
- harmonising disciplinary processes and a National Officers Review Board procedure for dealing with sexual offences as well as 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.

The NPSC met for the first time in December 2014⁹⁶⁹ and meets quarterly.⁹⁷⁰

7 Criminal proceedings

A number of criminal prosecutions have been brought against TSAS officers and employees in South Australia, Victoria and Western Australia. There are also a number of TSAS officers in respect of whom criminal investigations are ongoing or against whom charges have been laid but the matter has not proceeded to trial.

The Royal Commission heard and received evidence about numerous criminal prosecutions against former TSAS officers and employees who had been entrusted with the care of children in all four of the Institutions. The evidence showed the widespread nature of the sexual offending by TSAS officers and employees against children in those homes over a very long period of time.

In particular, the public hearing received evidence about the criminal prosecution of Mr William Ellis, a former employee of TSAS who worked at Eden Park. That evidence was received in part to examine some aspects of the criminal law that govern the prosecution of child sexual offences in South Australia.

The current South Australian DPP, Mr Adam Kimber SC, also provided a statement and gave evidence about the current state of the law in South Australia and what Mr Kimber SC perceives to be the current challenges that the Office of the Director of Public Prosecutions (SA) (ODPP) faces in effectively prosecuting child sexual offences.

The Royal Commission did not examine the forensic legal decisions that any of the state DPPs took or rulings that respective courts in the various prosecutions made about which evidence was received during this public hearing.

7.1 R v William John Ellis

Relevant facts and proceedings

Mr Ellis commenced work at the Eden Park as a supervisor.⁹⁷¹ He worked at Eden Park from 1961 until 1971.⁹⁷² After he left the home, Mr Ellis worked in an aged care facility, known as Parklyn, until his retirement.⁹⁷³

The assistant manager at Eden Park, Major Ian Huxley, gave Mr Ellis the title of ‘Sergeant’, as it was felt that it was better for boys that he had a title. Brigadier Lawler was the manager of Eden Park at the time and supervised Mr Ellis.

In June 2003, the South Australia Police established a Paedophile Task Force.⁹⁷⁴

Charges laid against Mr Ellis

On 12 August 2004, Mr Ellis was charged with one count of indecent assault under section 70 of the *Criminal Law Consolidation Act 1935* (SA) (CLCA) and four counts of buggery under section 69 of the CLCA.⁹⁷⁵ The complainants were two former residents of Eden Park – Mr Rundle and another male.

On 4 February 2005, Mr Ellis was committed for trial in the District Court on one count of indecent assault and four counts of buggery.⁹⁷⁶

On 9 February 2005, the ODPP solicitor wrote a handover memo to the ODPP arraignment solicitor and noted:

- there were only two complainants at that time
- there was no forensic evidence to corroborate the claims
- Mr Rundle was involved in civil proceedings
- both victims had been ‘proofed’
- the new solicitor should turn his or her mind to whether further charges should be laid.⁹⁷⁷

A memorandum dated 3 March 2005, written by the ODPP arraignment solicitor, recommended that the existing charges proceed but that a fresh charge of gross indecency be laid. Reference was made to the possibility of further complainants being located. The managing solicitor who signed the District Court Information expressed ‘some doubts about the cross-admissibility’ of the charges relating to each complainant.⁹⁷⁸

On 7 March 2005, a District Court Information was filed, with the Court charging Mr Ellis with one count of indecent assault, four counts of buggery and one count of gross indecency.⁹⁷⁹ On the same day, Ellis was arraigned and pleaded not guilty to all counts.⁹⁸⁰

In a memorandum dated 26 June 2005, the ODPP solicitor asked for instructions on whether to lay an ex-officio Information with an additional charge in respect of a third complainant, BMK.⁹⁸¹ The solicitor also addressed the question of whether the charges in respect of each complainant were cross-admissible. The managing solicitor instructed the solicitor to speak with defence counsel as to whether they consented to the ODPP laying an ex-officio Information. The managing solicitor also expressed the preliminary view that the evidence was not cross-admissible as ‘strikingly similar’ but may be admissible on an ‘improbability line of reasoning’, in which case the ODPP will have to exclude concoction between the complainants.⁹⁸²

On 29 September 2005, the ODPP filed an ex-officio Information (with the consent of defence counsel) charging Mr Ellis with a further count of buggery against BMK.⁹⁸³ It also amended the one count of gross indecency charge to an additional count of indecent assault and added a further

charge of buggery in respect of Mr Rundle.⁹⁸⁴ Mr Ellis' trial was originally listed for this date but was vacated because of the filing of the ex-officio Information. A new trial date was set for 20 November 2006.⁹⁸⁵

On 10 November 2006, the trial date of 20 November 2006 was vacated.⁹⁸⁶ A memorandum written on 16 November 2006 by the ODPP solicitor indicated the matter was taken out of the trial list because possible new complainants had been identified.⁹⁸⁷

Between 7 December 2006 and 21 June 2007, five directions hearings were heard in the District Court.⁹⁸⁸

In a memorandum dated 15 August 2007, an ODPP solicitor sought instructions on what charges should be laid and referred to five new potential complainants. Charges were recommended in respect of two complainants – BMN and another male. Charges were not recommended in respect of the three other men, as the ODPP solicitor considered that they were unable to particularise any of the incidents with sufficient clarity.⁹⁸⁹

In a memorandum dated 27 August 2007, the ODPP solicitor sought instructions to file a third ex-officio Information.⁹⁹⁰ The solicitor expressed the tentative view that the charges were cross-admissible as showing an 'underlying system'.⁹⁹¹

On 3 September a third ex-officio Information was filed in the District Court which charged Mr Ellis with six counts of indecent assault and nine counts of buggery involving five complainants.⁹⁹² Mr Ellis was arraigned on the same date and pleaded not guilty to all the charges.⁹⁹³

On 31 October 2008, defence counsel filed and served an application seeking that a separate trial be held in respect of the charges relating to each of the five complainants.⁹⁹⁴ The basis for the application was that the evidence was not cross-admissible, that prejudice would be occasioned to the accused if the evidence was admitted and that there was a risk of contamination or concoction of evidence between the complainants.⁹⁹⁵

A fourth ex-officio Information was filed on 10 November 2008, which charged Mr Ellis with six counts of indecent assault and seven counts of buggery involving four complainants.⁹⁹⁶ The fifth complainant had passed away before trial.

Issue of severance, joinder and cross-admissibility

On 10 November 2008, the matter proceeded to trial in the South Australian Supreme Court before his Honour Justice David. An application for severance of the charges by defence counsel was heard on 10 and 11 November 2008.⁹⁹⁷ Defence counsel submitted that the counts alleged in relation to specific complainants were not cross-admissible and that the prosecution could not exclude the possibility of concoction or contamination between Mr Rundle and BMK.⁹⁹⁸

The prosecution relied on the test specified in *Hoch v The Queen* (1988) 165 CLR 292 (*Hoch*) to establish cross-admissibility.⁹⁹⁹ It was submitted that the jury should be instructed that the allegation by each of the complainants was of such a nature in its similarity that it would be inherently improbable that all complainants would not be telling the truth. It was further submitted that there was no real possibility of concoction or contamination of the evidence of the complainants.¹⁰⁰⁰

Both Mr Rundle and BMK were required to give evidence on the defence pre-trial application on whether they had discussed their allegations so the DPP could establish that there had been no concoction or contamination of their evidence.¹⁰⁰¹

On 11 November 2008, his Honour Justice David refused the application.¹⁰⁰² His Honour provided brief reasons on 11 November 2008 and reserved the right to give more detailed reasons at the conclusion of the trial if required.¹⁰⁰³ On 2 July 2009, more detailed reasons were published.¹⁰⁰⁴

In his Honour's more detailed reasons he observed that there was no dispute as to the nature of the similarities between the evidence of the complainants.¹⁰⁰⁵

His Honour specifically identified the following five aspects of similarity between the accounts of each complainant:¹⁰⁰⁶

- Mr Ellis was in a position of authority at Eden Park and that he was introduced to the four complainants, and had control over them, as a result of his position there
- each of the four complainants was in a particularly vulnerable position given the isolation from their families
- in relation to each of the complainants, Mr Ellis would use methods of punishment and fear to gain control over them. There was a common thread that he was violent to each of them
- Mr Ellis would use his position to create opportunity of isolation with them in order to be alone with them
- Mr Ellis would engage in sexual activities with each of the complainants in circumstances where they were frightened and, because of his violent nature, they did not complain of that conduct.

His Honour Justice David found that Mr Rundle and BMK were witnesses of truth in respect of the evidence that they gave about their communications with each other and that they had not disclosed specific details of the sexual abuse by Mr Ellis to one another.¹⁰⁰⁷

His Honour was satisfied there was no evidence to support the possibility of concoction or that the similarities between the versions given by Mr Rundle and BMK were the result of concoction or contamination. On that basis, his Honour found the evidence cross-admissible in that it was improbable the complainants could give such similar accounts unless the events they described actually occurred.¹⁰⁰⁸

Conviction and sentence

The trial proceeded in the Supreme Court before Justice David from 5 March 2009 until 6 April 2009.¹⁰⁰⁹ The trial was delayed several times because of Mr Ellis' poor health. On 6 April 2009, His Honour summed up the case to the jury.¹⁰¹⁰

On 7 April 2009, the jury found Mr Ellis guilty of all charges.¹⁰¹¹

On 4 May 2009, sentencing submissions took place in the Supreme Court. Mr Ellis' bail was revoked.¹⁰¹²

On 8 May 2009, Mr Ellis was sentenced to a head sentence of 16 years and a non-parole period of 12 years.¹⁰¹³ He was 76 years old at the time of his sentencing. During the course of his sentencing remarks Justice David said:¹⁰¹⁴

The Salvation Army leased the property at Eden Park in the early part of the 20th century, and from that early date used it as a boys' home. They eventually bought the premises and occupied it until approximately 1983. On the evidence I heard and which was presented to the jury in this case, this was a horrific place by any standards, let alone modern standards.

There was evidence I heard of beatings, harshness and cruel incarceration by way of punishment of defenceless and vulnerable boys who were placed in the home mainly because they were seen to come from dysfunctional backgrounds. Add to that fact that four of them, who were subject to these charges were sexually abused over a period of time by at least one supervisor, namely yourself.

It makes it difficult to understand how all this took place for an extended period of time virtually under the noses of the community of this State. The very existence of the Eden Park Boys Home and how it was run was a disgrace, and your behaviour sadly was very much part of that disgrace.

Appeal

After Mr Ellis was convicted of the offences and was sentenced, he sought to appeal the conviction and sentence.

On 31 July 2009, Mr Ellis' application for permission to appeal against conviction and sentence was granted in the Court of Criminal Appeal.¹⁰¹⁵

There were three grounds of appeal:¹⁰¹⁶

- that the learned trial judge erred in considering that aspects of the evidence of the complainants were sufficiently similar to satisfy the test for admission as similar fact evidence

- that the learned trial judge erred in identifying and applying the test for admissibility of similar fact evidence
- that the learned trial judge erred in his directions to the jury as to the use of similar fact evidence.

On 27 April 2010, the Court of Criminal Appeal delivered the judgement of *R v Ellis* [2010] SASC 118. The Court held that the learned trial judge was correct in concluding that the complainants' evidence was cross-admissible and that the trial judge applied the correct principles. The appeals against conviction and sentence were both dismissed.¹⁰¹⁷

Mr Ellis is still serving his sentence in a South Australian jail.

7.2 Evidence of Mr Kimber SC

The South Australian DPP, Mr Kimber SC, provided a statement to the Royal Commission and gave evidence about the Ellis prosecution and the law with respect to joinder in South Australia. Mr Kimber also gave evidence about the efficacy of the offence of persistent sexual exploitation and the calling of expert evidence in child sexual abuse cases.

Joinder, severance and cross-admissibility

In the Ellis trial, the defence's severance application was heard by the Supreme Court on 10 and 11 November 2008.¹⁰¹⁸ At that time the law with respect to joinder was governed by section 278 of the CLCA, which provides:¹⁰¹⁹

278 Joinder of charges

(1) Subject to the provisions of this Act, charges for two or more offences may be joined in the same information if those charges are founded on the same facts, or form, or are a part of, a series of offences of the same or a similar character.

(2) Where before trial, or at any stage of a trial, the court is of the opinion that an accused person may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same information or that, for any other reason, it is desirable to direct that an accused person should be tried separately for any one or more offences charged in an information, the court may order a separate trial of any count or counts of the information.

(3) This section does not affect any other provision of this Act or any other enactment permitting more than one charge to be joined in the same information.

The leading case on joinder and ‘similar fact evidence’ at that time was *Hoch*.¹⁰²⁰ This case provided a common law test for the admission of similar fact evidence. The majority judgment stated that:¹⁰²¹

the basis for the admission of similar fact evidence lies in its possessing a particular probative value or cogency by reason that it reveals a pattern of activity such that, if accepted, it bears no reasonable explanation other than the inculcation of the accused person in the offence charged.

Hoch was authority for the proposition that whether or not similar fact evidence would be admissible depended primarily on its probative force. The evidence could ‘reveal “striking similarities”, “unusual features”, “underlying unity”, “system” or “pattern” such that it raises as a matter of common sense and experience the objective improbability of some event having occurred other than as alleged by the prosecution’.¹⁰²²

Under *Hoch* the evidence was not to be admitted as cross-admissible, and there was not to be a single trial with multiple complainants, unless the trial judge was satisfied there was no reasonable possibility that the evidence was the product of collusion or concoction by the witnesses.¹⁰²³

On 23 November 2008, section 278 of the CLCA was amended by the operation of the *Criminal Law Consolidation (Rape and Sexual Offences) Amendment Act 2008 (SA)*. The amended section 278 provides:

278 Joinder of charges

(1) Subject to the provisions of this Act, charges for two or more offences may be joined in the same information if those charges are founded on the same facts, or form, or are a part of, a series of offences of the same or a similar character.

(2) Where before trial, or at any stage of a trial, the court is of the opinion that an accused person may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same information or that, for any other reason, it is desirable to direct that an accused person should be tried separately for any one or more offences charged in an information, the court may order a separate trial of any count or counts of the information.

(2a) Despite subsection (2) and any rule of law to the contrary, if, in accordance with this Act, 2 or more counts charging sexual offences involving different alleged victims are joined in the same information, the following provisions apply:

(a) subject to paragraph (b), those counts are to be tried together;

(b) the judge may order a separate trial of a count relating to a particular alleged victim if (and only if) evidence relating to that count is not admissible in relation to each other count relating to a different alleged victim.

(3) This section does not affect any other provision of this Act or any other Act permitting more than 1 charge to be joined in the same information.

...

Under the legislative provision, where an Information charges sexual offences committed against two or more alleged victims, the charges are to be tried together in the same trial unless the evidence is not cross-admissible.¹⁰²⁴

Section 278(2a)(c) was deleted by the Evidence (Discreditable Conduct) Amendment Act 2011 (SA), which came into operation on 1 June 2012. That legislative modification was moved to section 34S of the Evidence Act 1929 (SA).¹⁰²⁵ Section 34S provides that:

34S Certain matters excluded from consideration of admissibility

Evidence may not be excluded under this Division if the only grounds for excluding the evidence would be either (or both) of the following:

- (a) there is a reasonable explanation in relation to the evidence consistent with the innocence of the defendant;
- (b) the evidence may be the result of collusion or concoction.

The import of the amendments made to section 278 of the CLCA on 23 November 2008 is unchanged by the enactment of section 34S of the *Evidence Act 1929* (SA).¹⁰²⁶

Had the defence application for severance occurred after 23 November 2008, neither Mr Rundle nor BMK would have been required to give evidence on the application. Both men would not have been required to give evidence twice during the criminal proceedings against Mr Ellis.

In evidence, Mr Kimber SC said that in his experience, in considering whether to exercise the discretion to sever charges under the legislative provisions introduced since 23 November 2008, the South Australian courts focus on the strength of the probative force of the evidence¹⁰²⁷ and the improbability of complainants coming forward and making broadly similar allegations of a sexual nature.¹⁰²⁸

Mr Kimber SC gave evidence that the changes in the law on joinder mean that it is more likely that charges against one alleged offender involving multiple complainants will be heard in a single trial. He said this has the advantage that a jury will have the 'full picture' and in that way multiple complainants giving evidence at one trial strengthens the Crown case.¹⁰²⁹

Persistent sexual exploitation

All of the criminal charges against Mr Ellis that ultimately proceeded to trial were offences which were in force at the time the offending occurred but had since been abolished. There were two types of charges alleged in respect of all four complainants:

- the offences of ‘buggery’ contrary to the repealed section 69 of the CLCA
- ‘indecent assault of a male’ contrary to the repealed section 70(1)(c) of the CLCA.¹⁰³⁰

Mr Kimber SC said in his statement that, if Mr Ellis was prosecuted today, the ODPP would consider charging him with the offence of persistent sexual exploitation contrary to section 50(1) of the CLCA.¹⁰³¹ The offence of persistent sexual exploitation was introduced on 23 November 2008 and is retrospective in operation. The abolished version of the section (previously section 74 of the CLCA) did not have retrospective effect.¹⁰³²

The section applies to acts of sexual exploitation of a child, whether they were committed before or after the commencement of the section.¹⁰³³ Acts of sexual exploitation are defined to include offences ‘substantially similar’ to existing sexual offences.¹⁰³⁴

The offence prescribes that an adult person who, over a period of not less than three days, commits more than one act of sexual exploitation of a particular child is guilty of an offence. The Crown does not have to prove the dates on which the offences occurred, the order in which the offences occurred or any particular place the offence occurred except to establish a ‘jurisdictional nexus’.¹⁰³⁵

The offence of persistent sexual exploitation in section 50 alleviates any of the difficulties associated with the common law requirements as to particularity. The particularity requirement requires that each separate act be separately identified with reasonable precision in relation to time or place or some other relevant contextual detail. Mr Ellis was not charged with offences relating to three complainants because the complainants could not sufficiently particularise the acts. The offence of persistent sexual exploitation may have been a charge which could have been laid in respect of those allegations had the offence of persistent sexual exploitation in section 50 been enacted at the time of the trial.

In his statement, Mr Kimber SC also details two particular challenges relevant to the prosecution of historical child sexual offences that would not arise today because of the enactment of the offence of persistent sexual exploitation in section 50.¹⁰³⁶ First, there is a challenge in cases where it is impossible to determine whether a complainant was under or over a prescribed age. If the age of the victim could not be established in cases where it was an element of the charge, no charge of that type could proceed.¹⁰³⁷ Secondly, there were cases where the alleged offending spanned a period during which the legislation establishing the offences changed. In cases where alleged victims could not particularise whether offending took place during one period or another, charges were not always able to be laid.¹⁰³⁸

In evidence, Mr Kimber SC said that the offence of persistent sexual exploitation in section 50 of the CLCA has been positive because it is commonly used and there are cases which proceed today which could not have otherwise proceeded to trial.¹⁰³⁹ Further, the offence of persistent sexual exploitation allows the sentencing judge to bring into the sentence the entirety of the alleged conduct.¹⁰⁴⁰

Expert evidence

Section 79 of the Uniform Evidence Act allows for the calling of expert evidence about children's behaviour when they have been sexually abused. There is no comparable legislative provision in South Australia.¹⁰⁴¹

The leading South Australian case on the topic is *R v C* (1993) 60 SASR 467.¹⁰⁴² In that case, it was put to the complainant in cross-examination that her behaviour in associating with the alleged offender (her father) after he allegedly had sexually interfered with her suggested that the offending did not occur. The Crown, as part of its case, called evidence from a psychiatrist that it was not uncommon for a victim of sexual abuse to continue to associate with the alleged offender. The accused was convicted.¹⁰⁴³

The conviction was overturned on appeal.¹⁰⁴⁴ The Hon. Chief Justice King said that the evidence was inadmissible and did not qualify as 'expert evidence' because there was not a scientifically accepted body of knowledge and it was a matter capable of assessment by the ordinary person.¹⁰⁴⁵

Mr Kimber SC expressed the view that *R v C* does not prohibit, in the appropriate case, evidence being received by a court about children's behaviour when they have been sexually abused.¹⁰⁴⁶ Mr Kimber SC said that it was his view that legislative amendment is not required for this evidence to be led at trial.¹⁰⁴⁷

Mr Kimber SC agreed that evidence on the topic of children's behaviour when they have been sexually abused would be of assistance to a jury or trier of fact. Mr Kimber agreed that legislative provisions which allow for (but do not require) the calling of this evidence would be of assistance.¹⁰⁴⁸

7.3 Other criminal proceedings

The Royal Commission received documentary evidence about other criminal proceedings against former TSAS officers and employees alleged to have sexually offended against children at the Institutions.

In particular, the Royal Commission received material related to criminal proceedings against Captain Smith, Captain Osborne, Mr Beyer, Mr Poulter and Mr Willemson.

The criminal prosecutions of Mr Ellis, Captain Smith, Mr Willemsen, Mr Poulter and Captain Osborne demonstrate the pervasive and serious allegations of sexual offending by former TSAS officers and staff members against children in their care. The alleged offending spans a significant period of time and relates to all four Institutions the subject of this public hearing.

In its work on the criminal justice system, the Royal Commission will consider many of the systemic issues for criminal prosecution raised during this public hearing.

8 Systemic issues

This case study provided the Royal Commission with insights into systemic issues within its terms of reference in the areas of institutional responses to concerns and allegations about incidents of child sexual abuse.

In particular, the systemic issues which were considered by the Royal Commission arising from this case study were:

- the historical response of TSAS to allegations of child sexual abuse
- the contemporary response of TSAS to allegations of child sexual abuse, including the claims process
- TSAS's response to the Royal Commission's *Redress and Civil Litigation Report*, published in September 2015.

A number of systemic issues relevant to the Royal Commission's work regarding criminal justice were also explored, including:

- the South Australian legislation which governs joinder and severance of multiple charges relating to different complainants
- the availability and use of the South Australian offence of persistent sexual exploitation and its impact on the particularisation of child sexual offences
- the adducing of 'expert evidence' about the behaviour of a child who has been sexually abused.

APPENDIX A: Terms of Reference

Letters Patent dated 11 January 2013

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO

The Honourable Justice Peter David McClellan AM,
Mr Robert Atkinson,
The Honourable Justice Jennifer Ann Coate,
Mr Robert William Fitzgerald AM,
Dr Helen Mary Milroy, and
Mr Andrew James Marshall Murray

GREETING

WHEREAS all children deserve a safe and happy childhood.

AND Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse.

AND all forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.

AND child sexual abuse and other related unlawful or improper treatment of children have a long-term cost to individuals, the economy and society.

AND public and private institutions, including child-care, cultural, educational, religious, sporting and other institutions, provide important services and support for children and their families that are beneficial to children's development.

AND it is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse and any related unlawful or improper treatment of children be fully explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of child sexual abuse and to respond appropriately when any allegations and incidents of child sexual abuse occur, including holding perpetrators to account and providing justice to victims.

AND it is important that those sexually abused as a child in an Australian institution can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify.

AND noting that, without diminishing its criminality or seriousness, your inquiry will not specifically examine the issue of child sexual abuse and related matters outside institutional contexts, but that any recommendations you make are likely to improve the response to all forms of child sexual abuse in all contexts.

AND all Australian Governments have expressed their support for, and undertaken to cooperate with, your inquiry.

NOW THEREFORE We do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and under the Constitution of the Commonwealth of Australia, the Royal Commissions Act 1902 and every other enabling power, appoint you to be a Commission of inquiry, and require and authorise you, to inquire into institutional responses to allegations and incidents of child sexual abuse and related matters, and in particular, without limiting the scope of your inquiry, the following matters:

- a. what institutions and governments should do to better protect children against child sexual abuse and related matters in institutional contexts in the future;
- b. what institutions and governments should do to achieve best practice in encouraging the reporting of, and responding to reports or information about, allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- c. what should be done to eliminate or reduce impediments that currently exist for responding appropriately to child sexual abuse and related matters in institutional contexts, including addressing failures in, and impediments to, reporting, investigating and responding to allegations and incidents of abuse;
- d. what institutions and governments should do to address, or alleviate the impact of, past and future child sexual abuse and related matters in institutional contexts, including, in particular, in ensuring justice for victims through the provision of redress by institutions, processes for referral for investigation and prosecution and support services.

AND We direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

- e. the experience of people directly or indirectly affected by child sexual abuse and related matters in institutional contexts, and the provision of opportunities for

them to share their experiences in appropriate ways while recognising that many of them will be severely traumatised or will have special support needs;

- f. the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you will be informed by individual cases and may need to make referrals to appropriate authorities in individual cases;
- g. the adequacy and appropriateness of the responses by institutions, and their officials, to reports and information about allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- h. changes to laws, policies, practices and systems that have improved over time the ability of institutions and governments to better protect against and respond to child sexual abuse and related matters in institutional contexts.

AND We further declare that you are not required by these Our Letters Patent to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and We authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration:

- i. the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things, in accordance with section 6P of the Royal Commissions Act 1902 or any other relevant law, including, for example, for the purpose of enabling the timely investigation and prosecution of offences;
- j. the need to establish investigation units to support your inquiry;
- k. the need to ensure that evidence that may be received by you that identifies particular individuals as having been involved in child sexual abuse or related matters is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
- l. the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses;

- m. the need to ensure that institutions and other parties are given a sufficient opportunity to respond to requests and requirements for information, documents and things, including, for example, having regard to any need to obtain archived material.

AND We appoint you, the Honourable Justice Peter David McClellan AM, to be the Chair of the Commission.

AND We declare that you are a relevant Commission for the purposes of sections 4 and 5 of the *Royal Commissions Act 1902*.

AND We declare that you are authorised to conduct your inquiry into any matter under these Our Letters Patent in combination with any inquiry into the same matter, or a matter related to that matter, that you are directed or authorised to conduct by any Commission, or under any order or appointment, made by any of Our Governors of the States or by the Government of any of Our Territories.

AND We declare that in these Our Letters Patent:

child means a child within the meaning of the Convention on the Rights of the Child of 20 November 1989.

government means the Government of the Commonwealth or of a State or Territory, and includes any non-government institution that undertakes, or has undertaken, activities on behalf of a government.

institution means any public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated), and however described, and:

- i. includes, for example, an entity or group of entities (including an entity or group of entities that no longer exists) that 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, including through their families; and
- ii. does not include the family.

institutional context: child sexual abuse happens in an institutional context if, for example:

- i. it happens on premises of an institution, where activities of an institution take place, or in connection with the activities of an institution; or
- ii. it is engaged in by an official of an institution in circumstances (including circumstances involving settings not directly controlled by the institution) where you consider that

the institution has, or its activities have, created, facilitated, increased, or in any way contributed to, (whether by act or omission) the risk of child sexual abuse or the circumstances or conditions giving rise to that risk; or

- iii. it happens in any other circumstances where you consider that an institution is, or should be treated as being, responsible for adults having contact with children.

law means a law of the Commonwealth or of a State or Territory.

official, of an institution, includes:

- i. any representative (however described) of the institution or a related entity; and
- ii. any member, officer, employee, associate, contractor or volunteer (however described) of the institution or a related entity; and
- iii. any person, or any member, officer, employee, associate, contractor or volunteer (however described) of a body or other entity, who provides services to, or for, the institution or a related entity; and
- iv. any other person who you consider is, or should be treated as if the person were, an official of the institution.

related matters means any unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse.

AND We:

- n. require you to begin your inquiry as soon as practicable, and
- o. require you to make your inquiry as expeditiously as possible; and
- p. require you to submit to Our Governor-General:
 - i. first and as soon as possible, and in any event not later than 30 June 2014 (or such later date as Our Prime Minister may, by notice in the Gazette, fix on your recommendation), an initial report of the results of your inquiry, the recommendations for early consideration you may consider appropriate to make in this initial report, and your recommendation for the date, not later than 31 December 2015, to be fixed for the submission of your final report; and
 - ii. then and as soon as possible, and in any event not later than the date Our Prime Minister may, by notice in the Gazette, fix on your recommendation, your final report of the results of your inquiry and your recommendations; and

- q. authorise you to submit to Our Governor-General any additional interim reports that you consider appropriate.

IN WITNESS, We have caused these Our Letters to be made Patent.

WITNESS Quentin Bryce, Governor-General of the Commonwealth of Australia.

Dated 11th January 2013

Governor-General

By Her Excellency's Command

Prime Minister

Letters Patent dated 13 November 2014

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO

The Honourable Justice Peter David McClellan AM,
Mr Robert Atkinson,
The Honourable Justice Jennifer Ann Coate,
Mr Robert William Fitzgerald AM,
Dr Helen Mary Milroy, and
Mr Andrew James Marshall Murray

GREETING

WHEREAS We, by Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia, appointed you to be a Commission of inquiry, required and authorised you to inquire into certain matters, and required you to submit to Our Governor-General a report of the results of your inquiry, and your recommendations, not later than 31 December 2015.

AND it is desired to amend Our Letters Patent to require you to submit to Our Governor-General a report of the results of your inquiry, and your recommendations, not later than 15 December 2017.

NOW THEREFORE We do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and under the Constitution of the Commonwealth of Australia, the *Royal Commissions Act 1902* and every other enabling power, amend the Letters Patent issued to you by omitting from subparagraph (p)(i) of the Letters Patent “31 December 2015” and substituting “15 December 2017”.

IN WITNESS, We have caused these Our Letters to be made Patent.

WITNESS General the Honourable Sir Peter Cosgrove AK MC (Ret’d), Governor-General of the Commonwealth of Australia.

Dated 13th November 2014
Governor-General
By Her Excellency’s Command
Prime Minister

APPENDIX B: Public hearing

The Royal Commission	Justice Peter McClellan AM (Chair) Justice Jennifer Coate Mr Bob Atkinson AO APM Mr Robert Fitzgerald AM Professor Helen Milroy Mr Andrew Murray
Commissioners who presided	Justice Jennifer Coate Mr Robert Fitzgerald AM Professor Helen Milroy
Date of hearing	6–14 October 2015
Legislation	Royal Commissions Act 1902 (Cth) Royal Commissions Act 1923 (NSW)
Leave to appear	The Salvation Army (Southern Territory) BMC Ross Rogers BMA David Reece Steven Grant Brian Cherrie BML BMS Philip Hodges State of Victoria State of Western Australia State of South Australia Director of Public Prosecutions South Australia

Legal representation	<p>S David SC, Senior Counsel Assisting the Royal Commission</p> <p>Dr M Collins QC, K Burke and M Marcus, instructed by K Fraser of Clayton Utz, appearing for The Salvation Army (Southern Territory), Commissioner Floyd Tidd, Mr Philip Brewin and Mr Graham Sapwell</p> <p>K Kothrakis of Doogue O’Brien George, appearing for BMC</p> <p>I Fehring, instructed by A Sdrinis of Angela Sdrinis Legal, appearing for Ross Rogers, Brian Cherrie, BML, BMS and Philip Hodges</p> <p>S Keogh-Barnes of Emma Turnbull Lawyers, appearing for BMA</p> <p>K Judd QC and A Haban-Beer, instructed by M Boscaglia of the Victorian Government Solicitor’s Office, appearing for the State of Victoria</p> <p>D Matthews and R Hartley, instructed by R Hartley of the State Solicitor’s Office Western Australia, appearing for the State of Western Australia</p> <p>A Douglas-Baker, instructed by J Scanlon of Kelsos Lawyers, appearing for David Reece</p> <p>T Golding, instructed by MT Karpinski of Crown Solicitor’s Office South Australia, appearing for the State of South Australia and the Director of Public Prosecutions (South Australia)</p> <p>J Taaffe, instructed by C O’Brien of Doogue O’Brien George, appearing for Steven Grant</p>
Pages of transcript	920 pages
Notices to Produce issued under the Royal Commissions Act 1902 (Cth) and documents produced:	46 Notices to Produce, producing 42,468 documents
Summons to Attend issued under the Evidence (Miscellaneous Provisions) Act 1958 (Vic) and documents produced:	3 Summonses to Attend, producing 6,568 documents
Summons to Attend issued under the Royal Commissions Act 1923 (NSW) and documents produced:	2 Summonses to Attend, producing 14,297 documents
Number of exhibits	44 exhibits consisting of a total of 670 documents tendered at the hearing

Witnesses**Graham Rundle**

Former resident of Eden Park Boys' Home

Steven Grant

Former resident of Eden Park Boys' Home

BMB

Former resident of Eden Park Boys' Home

Etienne Scheepers

Chief Executive, Families SA, Department for Education and Child Development

BMC

Former resident of Hollywood Children's Village

Kathryn Benham

Acting Director General, Department for Child Protection and Family Support

Jack Charles

Former resident of Box Hill Boys' Home

BML

Former resident of Box Hill Boys' Home

Brian Cherrie

Former resident of Box Hill Boys' Home

Ross Rogers

Former resident of Box Hill Boys' Home

BMS

Former resident of Bayswater Boys' Home No 2

Philip Hodges

Former resident of Bayswater Boys' Home No 2

BMA

Former resident of Bayswater Youth Training Centre

Alan Hall

Director Performance, Regulations and Reporting,
Department of Health & Human Services

David Reece

Former resident of Box Hill Boys' Home

Commissioner Floyd Tidd

Territorial Commander, Salvation Army (Southern Territory)

Graham Sapwell

Former employee of The Salvation Army (Southern Territory)

Philip Brewin

Nevett Ford

Adam Kimber SC

Director of Public Prosecutions, South Australia

Endnotes

- 1 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [10].
- 2 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [9].
- 3 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [16].
- 4 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [17].
- 5 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [9].
- 6 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [18].
- 7 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [18].
- 8 Exhibit 33-0001, Case Study 33, TSAS.600.004.1949 at 1950–1951.
- 9 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [32].
- 10 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [12].
- 11 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [19].
- 12 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [20].
- 13 Exhibit 33-0001, Case Study 33, TSAS.600.004.1949 at 1949.
- 14 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [2].
- 15 Exhibit 33-0001, Case Study 33, TSAS.600.004.1949 at 1949.
- 16 Exhibit 33-0001, Case Study 33, TSAS.600.004.1949 at 1954.
- 17 Exhibit 33-0001, Case Study 33, TSAS.600.004.1949 at 1953.
- 18 Exhibit 33-0001, Case Study 33, TSAS.600.004.1949 at 1954.
- 19 Exhibit 33-0001, Case Study 33, TSAS.600.004.1949 at 1954.
- 20 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [15].
- 21 Exhibit 33-0001, Case Study 33, TSAS.600.004.1949 at 1954.
- 22 Exhibit 33-0001, Case Study 33, TSAS.600.004.1949 at 1953.
- 23 Exhibit 33-0001, Case Study 33, TSAS.600.004.1949 at 1953.
- 24 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [22].
- 25 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [22].
- 26 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [23], [28].
- 27 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [28].
- 28 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [28].
- 29 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [29].
- 30 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [34].
- 31 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [34].
- 32 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [136].
- 33 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [136]–[137].
- 34 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [141].

- 35 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [39]–[41].
- 36 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [41].
- 37 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [42].
- 38 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [43].
- 39 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11362:1–4.
- 40 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11362:6–11.
- 41 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11363:41–4.
- 42 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11364:30–9.
- 43 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11365:17–26.
- 44 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11364:44–7.
- 45 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11365:19–22.
- 46 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11365:19–22.
- 47 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11363:46–11364:6.
- 48 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11364:8–12.
- 49 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11364:14–28.
- 50 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11365:36–46.
- 51 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11366:5–7.
- 52 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11366:19–22.
- 53 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11135:43–11136:18.
- 54 Exhibit 33-0001, Case Study 33, REPT.0001.01002.2054_E at 2082_E.
- 55 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11120:26–7; Exhibit 33-0001, Case Study 33, REPT.0001.01002.0254_E at 2085_E.
- 56 Exhibit 33-0001, Case Study 33, REPT.0001.01002.2054_E at 2082_E.
- 57 Exhibit 33-0001, Case Study 33, REPT.0001.01002.2054_E at 2082_E.
- 58 Exhibit 33-0001, Case Study 33, SA.0049.001.1115 at 1115.
- 59 Exhibit 33-0005, 'Statement of Etienne Philippus Scheepers', Case Study 33, STAT.0683.001.0001.
- 60 Exhibit 33-0005, 'Statement of Etienne Philippus Scheepers', Case Study 33, STAT.0683.001.0001 at [4].
- 61 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11121:4–6.
- 62 Exhibit 33-0005, 'Statement of Etienne Philippus Scheepers', Case Study 33, STAT.0683.001.0001 at [5].
- 63 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11121:40–6.
- 64 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11122:5–8.
- 65 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11122:10–14.
- 66 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11133:41–6.
- 67 Exhibit 33-0001, Case Study 33, SA.9100.01001.0089_R.
- 68 Exhibit 33-0001, Case Study 33, REPT.0001.01002.2054_E at 2082_E.
- 69 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11122:16–19.
- 70 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11134:5–10.
- 71 Submissions of the State of South Australia, Case Study 33, SUBM.1033.002.0001 at [2.3].
- 72 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11126:26–30.
- 73 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11126:32–5.
- 74 Exhibit 33-0005, 'Statement of Etienne Philippus Scheepers', Case Study 33, STAT.0683.001.0001 at [27].
- 75 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11126:37–9.
- 76 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11134:5–10.
- 77 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11130:12–24.
- 78 *Social Welfare Act 1965 (SA)*, s 8.
- 79 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11130:20–4.
- 80 *Social Welfare Act 1965 (SA)*, s 162.
- 81 *Social Welfare Act 1965 (SA)*, s 172.
- 82 *Community Welfare Act 1972 (SA)*, ss 5, 7.
- 83 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11130:30–3.

- 84 *Community Welfare Act 1972 (SA), s 61(1).*
- 85 *Community Welfare Act 1972 (SA), s 63.*
- 86 *Community Welfare Act 1972 (SA), s 64.*
- 87 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11130:39–42.
- 88 Exhibit 33-0039, Case Study 33, SA.9999.088.0002 at 0002.
- 89 Exhibit 33-0005, ‘Statement of Etienne Philippus Scheepers’, Case Study 33, STAT.0683.001.0001 at [11].
- 90 Exhibit 33-0005, ‘Statement of Etienne Philippus Scheepers’, Case Study 33, STAT.0683.001.0001 at [11].
- 91 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11131:14–19.
- 92 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11132:36–8.
- 93 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11132:40–2.
- 94 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11131:21–5.
- 95 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11131:33–4.
- 96 Exhibit 33-0039, Case Study 33, SA.9999.088.0002 at 0002.
- 97 Transcript of EP Scheepers, Case Study 33, 7 October 2015, 11134:12–21.
- 98 Exhibit 33-0005, ‘Statement of Etienne Philippus Scheepers’, Case Study 33, STAT.0683.001.0001 at [47].
- 99 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [8].
- 100 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [17].
- 101 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [15].
- 102 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [20].
- 103 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [21].
- 104 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [22].
- 105 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [21].
- 106 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [23].
- 107 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [23].
- 108 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [23].
- 109 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [24].
- 110 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [24].
- 111 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [24].
- 112 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [25].
- 113 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [25].
- 114 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [26].
- 115 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [26].
- 116 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [28].
- 117 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [33].
- 118 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [28]–[29].
- 119 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [30].
- 120 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [32].
- 121 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [32].
- 122 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [34].
- 123 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [64].
- 124 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [89].
- 125 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [89].
- 126 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [90], [92].
- 127 Exhibit 33-0003, ‘Statement of Steven Grant’, Case Study 33, STAT.0682.001.0001_R at [10].
- 128 Exhibit 33-0003, ‘Statement of Steven Grant’, Case Study 33, STAT.0682.001.0001_R at [15]–[20].
- 129 Exhibit 33-0003, ‘Statement of Steven Grant’, Case Study 33, STAT.0682.001.0001_R at [15]–[21].
- 130 Exhibit 33-0003, ‘Statement of Steven Grant’, Case Study 33, STAT.0682.001.0001_R at [28].
- 131 Exhibit 33-0003, ‘Statement of Steven Grant’, Case Study 33, STAT.0682.001.0001_R at [30].
- 132 Exhibit 33-0003, ‘Statement of Steven Grant’, Case Study 33, STAT.0682.001.0001_R at [31].
- 133 Exhibit 33-0003, ‘Statement of Steven Grant’, Case Study 33, STAT.0682.001.0001_R at [31].
- 134 Exhibit 33-0003, ‘Statement of Steven Grant’, Case Study 33, STAT.0682.001.0001_R at [31].
- 135 Exhibit 33-0003, ‘Statement of Steven Grant’, Case Study 33, STAT.0682.001.0001_R at [31].
- 136 Exhibit 33-0003, ‘Statement of Steven Grant’, Case Study 33, STAT.0682.001.0001_R at [32].
- 137 Exhibit 33-0003, ‘Statement of Steven Grant’, Case Study 33, STAT.0682.001.0001_R at [32].
- 138 Exhibit 33-0003, ‘Statement of Steven Grant’, Case Study 33, STAT.0682.001.0001_R at [32].

- 139 Exhibit 33-0003, 'Statement of Steven Grant', Case Study 33, STAT.0682.001.0001_R at [33].
- 140 Exhibit 33-0003, 'Statement of Steven Grant', Case Study 33, STAT.0682.001.0001_R at [33].
- 141 Exhibit 33-0003, 'Statement of Steven Grant', Case Study 33, STAT.0682.001.0001_R at [34].
- 142 Exhibit 33-0003, 'Statement of Steven Grant', Case Study 33, STAT.0682.001.0001_R at [34].
- 143 Exhibit 33-0001, Case Study 33, TSAS.300.001.3147_R at 3147_R.
- 144 Exhibit 33-0001, Case Study 33, TSAS.300.001.3147_R at 3147_R.
- 145 Exhibit 33-0001, Case Study 33, TSAS.300.002.0998.
- 146 Exhibit 33-0003, 'Statement of Steven Grant', Case Study 33, STAT.0682.001.0001_R at [37].
- 147 Exhibit 33-0003, 'Statement of Steven Grant', Case Study 33, STAT.0682.001.0001_R at [37].
- 148 Exhibit 33-0003, 'Statement of Steven Grant', Case Study 33, STAT.0682.001.0001_R at [38]–[39].
- 149 Exhibit 33-0003, 'Statement of Steven Grant', Case Study 33, STAT.0682.001.0001_R at [39].
- 150 Exhibit 33-0003, 'Statement of Steven Grant', Case Study 33, STAT.0682.001.0001_R at [39].
- 151 Exhibit 33-0003, 'Statement of Steven Grant', Case Study 33, STAT.0682.001.0001_R at [39].
- 152 Exhibit 33-0003, 'Statement of Steven Grant', Case Study 33, STAT.0682.001.0001_R at [61].
- 153 Exhibit 33-0003, 'Statement of Steven Grant', Case Study 33, STAT.0682.001.0001_R at [71].
- 154 Exhibit 33-0004, 'Statement of BMB', Case Study 33, STAT.0690.001.0001_R at [11].
- 155 Exhibit 33-0004, 'Statement of BMB', Case Study 33, STAT.0690.001.0001_R at [12].
- 156 Exhibit 33-0004, 'Statement of BMB', Case Study 33, STAT.0690.001.0001_R at [25].
- 157 Exhibit 33-0004, 'Statement of BMB', Case Study 33, STAT.0690.001.0001_R at [25].
- 158 Exhibit 33-0004, 'Statement of BMB', Case Study 33, STAT.0690.001.0001_R at [25].
- 159 Exhibit 33-0004, 'Statement of BMB', Case Study 33, STAT.0690.001.0001_R at [26].
- 160 Exhibit 33-0004, 'Statement of BMB', Case Study 33, STAT.0690.001.0001_R at [22], [29].
- 161 Exhibit 33-0004, 'Statement of BMB', Case Study 33, STAT.0690.001.0001_R at [22].
- 162 Exhibit 33-0004, 'Statement of BMB', Case Study 33, STAT.0690.001.0001_R at [29]–[30].
- 163 Exhibit 33-0004, 'Statement of BMB', Case Study 33, STAT.0690.001.0001_R at [36]–[37].
- 164 Exhibit 33-0004, 'Statement of BMB', Case Study 33, STAT.0690.001.0001_R at [35]–[36].
- 165 Exhibit 33-0004, 'Statement of BMB', Case Study 33, STAT.0690.001.0001_R at [36].
- 166 Exhibit 33-0004, 'Statement of BMB', Case Study 33, STAT.0690.001.0001_R at [39].
- 167 Exhibit 33-0004, 'Statement of BMB', Case Study 33, STAT.0690.001.0001_R at [40].
- 168 Exhibit 33-0004, 'Statement of BMB', Case Study 33, STAT.0690.001.0001_R at [40].
- 169 Exhibit 33-0004, 'Statement of BMB', Case Study 33, STAT.0690.001.0001_R at [59].
- 170 Exhibit 33-0004, 'Statement of BMB', Case Study 33, STAT.0690.001.0001_R at [59].
- 171 Exhibit 33-0004, 'Statement of BMB', Case Study 33, STAT.0690.001.0001_R at [60].
- 172 Exhibit 33-0007, 'Statement of Kathryn Benham', Case Study 33, STAT.0680.001.0001 at [10].
- 173 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [69].
- 174 Exhibit 33-0001, Case Study 33, WA.0050.001.0001_R at 0001_R.
- 175 Exhibit 33-0001, Case Study 33, WA.0057.002.0029 at 0067.
- 176 Exhibit 33-0001, Case Study 33, WA.0057.002.0029 at 0068.
- 177 Exhibit 33-0001, Case Study 33, WA.0057.002.0029 at 0066.
- 178 Transcript of K Benham, Case Study 33, 7 October 2015, 11159:6–14.
- 179 Transcript of K Benham, Case Study 33, 7 October 2015, 11159:16–18.
- 180 *Child Welfare Act 1907 (WA)*, s 13.
- 181 *Child Welfare Act 1907 (WA)*, s 14.
- 182 *Child Welfare Act 1907 (WA)*, s 4.
- 183 *Child Welfare Act 1907 (WA)*, s 4.
- 184 Transcript of K Benham, Case Study 33, 7 October 2015, 11159:34–5.
- 185 Exhibit 33-0007, 'Statement of Kathryn Benham', Case Study 33, STAT.0680.001.0001 at [10].
- 186 Transcript of K Benham, Case Study 33, 7 October 2015, 11158:45–7.
- 187 Transcript of K Benham, Case Study 33, 7 October 2015, 11159:2–4.
- 188 *Child Welfare Act 1907 (WA)*, s 4; Exhibit 33-0007, 'Statement of Kathryn Benham', Case Study 33, STAT.0680.001.0001 at [24].
- 189 Transcript of K Benham, Case Study 33, 7 October 2015, 11161:19–26.
- 190 *Child Welfare Act 1907 (WA)*, s 10.

- 191 *Child Welfare Act 1907* (WA), s 64; *Children’s Welfare Act 1947* (WA), s 63.
- 192 Exhibit 33-0007, ‘Statement of Kathryn Benham’, Case Study 33, STAT.0680.001.0001 at [30].
- 193 *Child Welfare Regulations 1934* (WA), reg 42.
- 194 Transcript of K Benham, Case Study 33, 7 October 2015, 11164:6–9.
- 195 Transcript of K Benham, Case Study 33, 7 October 2015, 11162:37–40.
- 196 Exhibit 33-0007, ‘Statement of Kathryn Benham’, Case Study 33, STAT.0680.001.0001 at [35].
- 197 Exhibit 33-0002, Case Study 33, WA.0053.0011.0136.
- 198 Exhibit 33-0002, Case Study 33, WA.0053.0011.0124.
- 199 Exhibit 33-0002, Case Study 33, WA.0053.0011.0319_R.
- 200 Exhibit 33-0002, Case Study 33, WA.0053.0011.0212.
- 201 *Child Welfare Act Amendment Act 1936* (WA).
- 202 *Child Welfare Act Amendment Act 1941* (WA).
- 203 Transcript of K Benham, Case Study 33, 7 October 2015, 11159:20–2.
- 204 Exhibit 33-0007, ‘Statement of Kathryn Benham’, Case Study 33, STAT.0680.001.0001 at [37].
- 205 Exhibit 33-0007, ‘Statement of Kathryn Benham’, Case Study 33, STAT.0680.001.0001 at [37].
- 206 Exhibit 33-0001, Case Study 33, WA.0057.002.0075.
- 207 Exhibit 33-0007, ‘Statement of Kathryn Benham’, Case Study 33, STAT.0680.001.0001 at [38].
- 208 Exhibit 33-0007, ‘Statement of Kathryn Benham’, Case Study 33, STAT.0680.001.0001 at [41].
- 209 Exhibit 33-0007, ‘Statement of Kathryn Benham’, Case Study 33, STAT.0680.001.0001 at [42].
- 210 *Child Welfare Regulations 1934* (WA), reg 19.
- 211 *Child Welfare Regulations 1934* (WA), reg 20(c).
- 212 *Child Welfare Regulations 1934* (WA), reg 20(a).
- 213 *Child Welfare Regulations 1934* (WA), reg 19.
- 214 *Child Welfare Regulations 1934* (WA), reg 19.
- 215 Transcript of K Benham, Case Study 33, 7 October 2015, 11167:30–5.
- 216 Transcript of K Benham, Case Study 33, 7 October 2015, 11167:37–47.
- 217 Transcript of K Benham, Case Study 33, 7 October 2015, 11179:45–11180:3.
- 218 Transcript of K Benham, Case Study 33, 7 October 2015, 11180:5–15.
- 219 Exhibit 33-0001, Case Study 33, WA.0053.001.0435; Transcript of K Benham, Case Study 33, 7 October 2015, 11168:17–11171:27.
- 220 Transcript of K Benham, Case Study 33, 7 October 2015, 11168:10–15.
- 221 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [10].
- 222 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [12].
- 223 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [19].
- 224 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [25].
- 225 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [18].
- 226 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [18].
- 227 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [20].
- 228 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [20].
- 229 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [20].
- 230 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [21].
- 231 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [29]–[30].
- 232 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [33].
- 233 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [33].
- 234 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [37].
- 235 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [40]–[42].
- 236 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [44]–[45].
- 237 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [51].
- 238 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [71].
- 239 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [74]–[75].
- 240 Exhibit 33-0006, ‘Statement of BMC’, Case Study 33, STAT.0691.001.0001_R at [79].
- 241 Exhibit 33-0001, Case Study 33, DHS.3006.017.0188; Exhibit 33-0020, ‘Statement of Alan Gordon Hall’, Case Study 33, STAT.0688.002.0001_R at [25.2].
- 242 Exhibit 33-0023, ‘Statement of Commissioner Floyd John Tidd’, Case Study 33, STAT.0686.001.0001_R at [63].

- 243 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [63].
- 244 Exhibit 33-0001, Case Study 33, DHS.3006.017.0188.
- 245 Exhibit 33-0001, Case Study 33, DHS.3006.017.0188.
- 246 Exhibit 33-0001, Case Study 33, DHS.3006.017.0016.
- 247 Exhibit 33-0001, Case Study 33, DHS.3006.017.0016.
- 248 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [63].
- 249 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001_R at [27.1].
- 250 Transcript of AG Hall, Case Study 33, 8 October 2015 11282:21–3.
- 251 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [26].
- 252 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [26].
- 253 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [26].
- 254 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [27.6].
- 255 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [23].
- 256 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [27.8].
- 257 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [27.10].
- 258 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [11].
- 259 Transcript of AG Hall, Case Study 33, 8 October 2015, 11283:42–4.
- 260 Transcript of AG Hall, Case Study 33, 8 October 2015, 11283:46–11284:1.
- 261 Transcript of AG Hall, Case Study 33, 8 October 2015, 11284:3–8.
- 262 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [11].
- 263 Transcript of AG Hall, Case Study 33, 8 October 2015, 11284:24–6.
- 264 Transcript of AG Hall, Case Study 33, 8 October 2015, 11284:28–30.
- 265 Transcript of AG Hall, Case Study 33, 8 October 2015, 11284:37–40.
- 266 Transcript of AG Hall, Case Study 33, 8 October 2015, 11284:42–5.
- 267 Transcript of AG Hall, Case Study 33, 8 October 2015, 11284:47–11285:2.
- 268 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [37].
- 269 Transcript of AG Hall, Case Study 33, 8 October 2015, 11285:16–21.
- 270 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [38].
- 271 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [38].
- 272 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [39].
- 273 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [39].
- 274 Transcript of AG Hall, Case Study 33, 8 October 2015, 11288:29–36.
- 275 Transcript of AG Hall, Case Study 33, 8 October 2015, 11289:6–13.
- 276 Transcript of AG Hall, Case Study 33, 8 October 2015, 11289:26–9.
- 277 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [35].
- 278 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [35].
- 279 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [35].
- 280 Transcript of AG Hall, Case Study 33, 8 October 2015, 11286:44–11287:9.
- 281 Transcript of AG Hall, Case Study 33, 8 October 2015, 11287:16–21.
- 282 Transcript of AG Hall, Case Study 33, 8 October 2015, 11287:35–8.
- 283 Transcript of AG Hall, Case Study 33, 8 October 2015, 11289:37–44.
- 284 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [12].
- 285 *Children's Welfare Act 1954* (Vic), s 14(2).
- 286 *Children's Welfare Act 1954* (Vic), s 21(1).
- 287 Transcript of AG Hall, Case Study 33, 8 October 2015, 11290:33–8.
- 288 *Children's Welfare Act 1954* (Vic), s 20(1).
- 289 *Children's Welfare Act 1954* (Vic), s 20(10).
- 290 *Children's Welfare Act 1954* (Vic), s 3(2).
- 291 Transcript of AG Hall, Case Study 33, 8 October 2015, 11294:9–11.
- 292 *Children's Welfare Act 1954* (Vic), s 15(1).
- 293 *Children's Welfare Regulations 1955* (Vic), reg 51.
- 294 *Children's Welfare Regulations 1955* (Vic), reg 52.

- 295 *Children's Welfare Act 1954* (Vic), s 9(b).
- 296 *Children's Welfare Regulations 1955* (Vic), reg 15.
- 297 *Children's Welfare Regulations 1955* (Vic), reg 18.
- 298 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [44].
- 299 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [43].
- 300 *Children's Welfare Act 1958* (Vic), s 3(2).
- 301 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [14.3].
- 302 Transcript of AG Hall, Case Study 33, 8 October 2015, 11292:24–7.
- 303 Transcript of AG Hall, Case Study 33, 8 October 2015, 11292:29–32.
- 304 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [16].
- 305 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [17].
- 306 *Social Welfare Act 1960* (Vic), s 10(2).
- 307 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [27.7].
- 308 *Social Welfare Act 1960* (Vic), s 11.
- 309 Exhibit 33-0001, Case Study 33, DHS.3004.036.0001.
- 310 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [47].
- 311 *Social Welfare Act 1970* (Vic), s 5.
- 312 *Social Welfare Act 1970* (Vic), s 36(1); Transcript of AG Hall, Case Study 33, 8 October 2015, 11293:25–9.
- 313 *Social Welfare Act 1970* (Vic), s 95.
- 314 Transcript of AG Hall, Case Study 33, 8 October 2015, 11296:34–47.
- 315 Transcript of AG Hall, Case Study 33, 8 October 2015, 11297:22–5.
- 316 Transcript of AG Hall, Case Study 33, 8 October 2015, 11296:40–6; 11297:27–30.
- 317 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [34].
- 318 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [34].
- 319 Exhibit 33-0020, 'Statement of Alan Gordon Hall', Case Study 33, STAT.0688.002.0001 at [34].
- 320 Transcript of AG Hall, Case Study 33, 8 October 2015, 11297:14–20; 11297:32–9.
- 321 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [6].
- 322 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [7].
- 323 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [8].
- 324 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [14].
- 325 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [14].
- 326 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [17].
- 327 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [17].
- 328 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [18].
- 329 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [20].
- 330 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [20].
- 331 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [21], [23].
- 332 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [22].
- 333 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [24].
- 334 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [25].
- 335 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [25].
- 336 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [28].
- 337 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [29].
- 338 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [28].
- 339 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [28].
- 340 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [40].
- 341 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [41].
- 342 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [46].
- 343 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [46].
- 344 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [48].
- 345 Exhibit 33-0012, 'Statement of BML', Case Study 33, STAT.0681.001.0001_R at [6].
- 346 Exhibit 33-0012, 'Statement of BML', Case Study 33, STAT.0681.001.0001_R at [6].
- 347 Exhibit 33-0012, 'Statement of BML', Case Study 33, STAT.0681.001.0001_R at [8].
- 348 Exhibit 33-0012, 'Statement of BML', Case Study 33, STAT.0681.001.0001_R at [10].

349 Exhibit 33-0012, 'Statement of BML', Case Study 33, STAT.0681.001.0001_R at [11].

350 Exhibit 33-0012, 'Statement of BML', Case Study 33, STAT.0681.001.0001_R at [12].

351 Exhibit 33-0012, 'Statement of BML', Case Study 33, STAT.0681.001.0001_R at [13].

352 Exhibit 33-0012, 'Statement of BML', Case Study 33, STAT.0681.001.0001_R at [15].

353 Exhibit 33-0012, 'Statement of BML', Case Study 33, STAT.0681.001.0001_R at [15].

354 Exhibit 33-0012, 'Statement of BML', Case Study 33, STAT.0681.001.0001_R at [15].

355 Exhibit 33-0012, 'Statement of BML', Case Study 33, STAT.0681.001.0001_R at [37].

356 Exhibit 33-0012, 'Statement of BML', Case Study 33, STAT.0681.001.0001_R at [40].

357 Exhibit 33-0013, 'Statement of Brian Cherrie', Case Study 33, STAT.0687.001.0001_R at [5].

358 Exhibit 33-0013, 'Statement of Brian Cherrie', Case Study 33, STAT.0687.001.0001_R at [6].

359 Exhibit 33-0013, 'Statement of Brian Cherrie', Case Study 33, STAT.0687.001.0001_R at [13].

360 Exhibit 33-0013, 'Statement of Brian Cherrie', Case Study 33, STAT.0687.001.0001_R at [10].

361 Exhibit 33-0013, 'Statement of Brian Cherrie', Case Study 33, STAT.0687.001.0001_R at [10].

362 Exhibit 33-0013, 'Statement of Brian Cherrie', Case Study 33, STAT.0687.001.0001_R at [10].

363 Exhibit 33-0013, 'Statement of Brian Cherrie', Case Study 33, STAT.0687.001.0001_R at [12].

364 Exhibit 33-0013, 'Statement of Brian Cherrie', Case Study 33, STAT.0687.001.0001_R at [11].

365 Exhibit 33-0013, 'Statement of Brian Cherrie', Case Study 33, STAT.0687.001.0001_R at [30].

366 Exhibit 33-0013, 'Statement of Brian Cherrie', Case Study 33, STAT.0687.001.0001_R at [31].

367 Exhibit 33-0013, 'Statement of Brian Cherrie', Case Study 33, STAT.0687.001.0001_R at [32].

368 Exhibit 33-0013, 'Statement of Brian Cherrie', Case Study 33, STAT.0687.001.0001_R at [34].

369 Exhibit 33-0013, 'Statement of Brian Cherrie', Case Study 33, STAT.0687.001.0001_R at [30].

370 Exhibit 33-0013, 'Statement of Brian Cherrie', Case Study 33, STAT.0687.001.0001_R at [32].

371 Exhibit 33-0013, 'Statement of Brian Cherrie', Case Study 33, STAT.0687.001.0001_R at [34].

372 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [9].

373 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [15].

374 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [16].

375 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [17].

376 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [20].

377 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [25].

378 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [27].

379 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [29], [32].

380 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [31].

381 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [34].

382 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [35].

383 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [35].

384 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [45].

385 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [61], [64].

386 Transcript, Case Study 33, 8 October 2015, 11218:6–47.

387 Exhibit 33-0016, 'Statement of Ross Rogers', Case Study 33, STAT.0692.001.0001_R at [10]–[11].

388 Exhibit 33-0016, 'Statement of Ross Rogers', Case Study 33, STAT.0692.001.0001_R at [16].

389 Exhibit 33-0016, 'Statement of Ross Rogers', Case Study 33, STAT.0692.001.0001_R at [17].

390 Exhibit 33-0016, 'Statement of Ross Rogers', Case Study 33, STAT.0692.001.0001_R at [18].

391 Exhibit 33-0016, 'Statement of Ross Rogers', Case Study 33, STAT.0692.001.0001_R at [18].

392 Transcript of R Rogers, Case Study 33, 8 October 2015, 11238:6–10.

393 Exhibit 33-0016, 'Statement of Ross Rogers', Case Study 33, STAT.0692.001.0001_R at [19].

394 Exhibit 33-0016, 'Statement of Ross Rogers', Case Study 33, STAT.0692.001.0001_R at [20].

395 Exhibit 33-0016, 'Statement of Ross Rogers', Case Study 33, STAT.0692.001.0001_R at [24].

396 Exhibit 33-0016, 'Statement of Ross Rogers', Case Study 33, STAT.0692.001.0001_R at [26].

397 Exhibit 33-0016, 'Statement of Ross Rogers', Case Study 33, STAT.0692.001.0001_R at [44], [46].

398 Exhibit 33-0016, 'Statement of Ross Rogers', Case Study 33, STAT.0692.001.0001_R at [57]–[58].

399 Exhibit 33-0016, 'Statement of Ross Rogers', Case Study 33, STAT.0692.001.0001_R at [57].

400 Submissions of Brian Cherrie, Ross Rogers, Philip Hodges, BML and BMS, Case Study 33, SUBM.1033.003.0001_R at [29].

401 Exhibit 33-0021, 'Statement of David Reece', Case Study 33, STAT.0675.002.0001 at [11].

402 Exhibit 33-0021, 'Statement of David Reece', Case Study 33, STAT.0675.002.0001 at [13].

403 Exhibit 33-0021, 'Statement of David Reece', Case Study 33, STAT.0675.002.0001 at [14].
404 Exhibit 33-0021, 'Statement of David Reece', Case Study 33, STAT.0675.002.0001 at [18].
405 Exhibit 33-0021, 'Statement of David Reece', Case Study 33, STAT.0675.002.0001 at [11].
406 Transcript of D Reece, Case Study 33, 9 October 2015, 11319:45–7.
407 Exhibit 33-0021, 'Statement of David Reece', Case Study 33, STAT.0675.002.0001 at [19].
408 Exhibit 33-0021, 'Statement of David Reece', Case Study 33, STAT.0675.002.0001 at [22]–[23].
409 Exhibit 33-0021, 'Statement of David Reece', Case Study 33, STAT.0675.002.0001 at [23].
410 Exhibit 33-0021, 'Statement of David Reece', Case Study 33, STAT.0675.002.0001 at [24].
411 Exhibit 33-0021, 'Statement of David Reece', Case Study 33, STAT.0675.002.0001 at [25]–[26].
412 Exhibit 33-0021, 'Statement of David Reece', Case Study 33, STAT.0675.002.0001 at [27].
413 Exhibit 33-0021, 'Statement of David Reece', Case Study 33, STAT.0675.002.0001 at [37].
414 Transcript of D Reece, Case Study 33, 9 October 2015, 11322:32–7.
415 Exhibit 33-0021, 'Statement of David Reece', Case Study 33, STAT.0675.002.0001 at [58].
416 Exhibit 33-0021, 'Statement of David Reece', Case Study 33, STAT.0675.002.0001 at [60].
417 Exhibit 33-0001, Case Study 33, TSAS.349.008.0067_R at 0083_R.
418 Exhibit 33-0001, Case Study 33, VPOL.3026.008.0001_R.
419 Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [8].
420 Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [9].
421 Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [12].
422 Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [14]–[15].
423 Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [15].
424 Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [19].
425 Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [20].
426 Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [22].
427 Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [22].
428 Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [23].
429 Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [23].
430 Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [24].
431 Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [41].
432 Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [44].
433 Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [44].
434 Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [45].
435 Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [45].
436 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [9].
437 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [9].
438 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [16].
439 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [15].
440 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [15].
441 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [16].
442 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [24].
443 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [24].
444 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [24].
445 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [24]–[25].
446 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [25].
447 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [26].
448 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [24].
449 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [43].
450 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [42].
451 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [44].
452 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [41].
453 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [42].
454 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [44].
455 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [8].
456 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [8].

457 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [12].
458 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [9].
459 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [13].
460 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [14].
461 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [14].
462 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [15]–[17].
463 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [16].
464 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [17].
465 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [18].
466 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [18].
467 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [18].
468 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [19].
469 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [19].
470 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [19].
471 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [28].
472 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [47].
473 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [49].
474 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [50].
475 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [51].
476 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001 at [54].
477 Exhibit 33-0002, 'Statement of Graham Rundle', Case Study 33, STAT.0674.001.0001_R at [39]; Exhibit 33-0003, 'Statement of Steven Grant', Case Study 33, STAT.0682.001.0001_R at [45]; Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [30]; Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [25]; Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001_R at [21].
478 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [44].
479 Exhibit 33-0012, 'Statement of BM', Case Study 33, STAT.0681.001.0001_R at [14]; Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [27]; Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [45].
480 Exhibit 33-0019, 'Statement of BMA', Case Study 33, STAT.0678.001.0001_R at [21].
481 Exhibit 33-0011, 'Statement of Jack Charles', Case Study 33, STAT.0696.001.0001_R at [30].
482 Exhibit 33-0003, 'Statement of Steven Grant', Case Study 33, STAT.0682.001.0001_R at [45]–[46].
483 Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [25].
484 Exhibit 33-0016, 'Statement of Ross Rogers', Case Study 33, STAT.0692.001.0001_R at [22].
485 Exhibit 33-0016, 'Statement of Ross Rogers', Case Study 33, STAT.0681.001.0001_R at [37].
486 Exhibit 33-0023, 'Statement of David Reece', Case Study 33, STAT.0675.002.0001_R at [29].
487 Exhibit 33-0023, 'Statement of David Reece', Case Study 33, STAT.0675.002.0001_R at [29].
488 Exhibit 33-0023, 'Statement of David Reece', Case Study 33, STAT.0675.002.0001_R at [33].
489 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [36].
490 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [36].
491 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [36], [39].
492 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [40]–[41].
493 Exhibit 33-0015, 'Statement of David Wright', Case Study 33, STAT.0694.001.0001_R at [42].
494 Exhibit 33-0017, 'Statement of BMS', Case Study 33, STAT.0676.001.0001_R at [26].
495 Exhibit 33-0023, 'Statement of David Reece', Case Study 33, STAT.0675.002.0001_R at [30].
496 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [21], [28].
497 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [28].
498 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [28].
499 Exhibit 33-0018, 'Statement of Philip Hodges', Case Study 33, STAT.0677.001.0001 at [29].
500 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [37].
501 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [161].

- 502 The Salvation Army, *Orders and Regulations for Soldiers of the Salvation Army*, www.salvationist.org/extranet_main.nsf/vw_dynamic_arrays/D967CA35CA545B2180257DD90041FC9F?openDocument (viewed 2 December 2015).
- 503 Exhibit 33-0001, Case Study 33, TSAS.600.004.1975; Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11374:25–7.
- 504 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11374:33–8.
- 505 Exhibit 33-0001, Case Study 33, TSAS.600.004.2352, TSAS.600.004.0087; Exhibit 33-0023, ‘Statement of Commissioner Floyd John Tidd’, Case Study 33, STAT.0686.001.0001_R at [92]; Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11374:24–31.
- 506 Exhibit 33-0001, Case Study 33, TSAS.600.004.1981; Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11374:16–23.
- 507 Exhibit 33-0023, ‘Statement of Commissioner Floyd John Tidd’, Case Study 33, STAT.0686.001.0001_R at [164(a)]; Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11422:4–16.
- 508 Exhibit 33-0023, ‘Statement of Commissioner Floyd John Tidd’, Case Study 33, STAT.0686.001.0001_R at [162].
- 509 Exhibit 33-0023, ‘Statement of Commissioner Floyd John Tidd’, Case Study 33, STAT.0686.001.0001_R at [157].
- 510 Exhibit 33-0023, ‘Statement of Commissioner Floyd John Tidd’, Case Study 33, STAT.0686.001.0001_R at [158].
- 511 Exhibit 33-0001, Case Study 33, TSAS.600.004.1975 at 1979.
- 512 Exhibit 33-0001, Case Study 33, TSAS.600.004.2339 at 2345.
- 513 Exhibit 33-0001, Case Study 33, TSAS.600.004.2339 at 2347.
- 514 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11375:2–5.
- 515 Exhibit 33-0001, Case Study 33, TSAS.600.004.2352 at 2362.
- 516 Exhibit 33-0001, Case Study 33, TSAS.600.004.2352 at 2364.
- 517 Exhibit 33-0001, Case Study 33, TSAS.600.004.1981 at 1983.
- 518 Exhibit 33-0001, Case Study 33, TSAS.600.004.1975; Exhibit 33-0033, ‘Statement of Commissioner Floyd John Tidd’, Case Study 33, STAT.0686.001.0035_R at [158(a)].
- 519 Exhibit 33-0001, Case Study 33, TSAS.001.001.1389; Exhibit 33-0023, ‘Statement of Commissioner Floyd John Tidd’, Case Study 33, STAT.0686.001.0001_R at [160]–[161].
- 520 Exhibit 33-0001, Case Study 33, TSAS.001.001.1389 at 1389.
- 521 Exhibit 33-0001, Case Study 33, TSAS.001.001.1389 at 1389.
- 522 Exhibit 33-0001, Case Study 33, TSAS.001.001.1389 at 1390.
- 523 Exhibit 33-0001, Case Study 33, TSAS.001.001.1389 at 1390.
- 524 Exhibit 33-0001, Case Study 33, TSAS.600.004.2352 at 2355.
- 525 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11369:17–21.
- 526 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11404:6–7; Exhibit 33-0023, ‘Statement of Commissioner Floyd John Tidd’, Case Study 33, STAT.0686.001.0001_R at [162].
- 527 Exhibit 33-0023, ‘Statement of Commissioner Floyd John Tidd’, Case Study 33, STAT.0686.001.0001_R at [164]–[165].
- 528 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11399:21–42.
- 529 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11399:21–42.
- 530 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11400:7–11.
- 531 Submissions of the Salvation Army Southern Territory, Case Study 33, SUBM.1033.004.0013 at [35]–[38].
- 532 Exhibit 33-0001, Case Study 33, TSAS.300.003.0064_R.
- 533 Exhibit 33-0001, Case Study 33, TSAS.300.003.0064_R.
- 534 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11390:40–6.
- 535 We understand this to be the current title for the position which was, at the time, known as the State Social Services Secretary.
- 536 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11391:14–19.
- 537 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11391:10–19.
- 538 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11391:21–8.
- 539 Exhibit 33-0001, Case Study 33, TSAS.300.001.6060.
- 540 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11392:5–7.

541 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11392:9–15.
 542 Exhibit 33-0001, Case Study 33, TSAS.300.001.3955.
 543 Exhibit 33-0001, Case Study 33, TSAS.300.001.3955.
 544 Exhibit 33-0001, Case Study 33, SA.9100.01003.0045.
 545 Exhibit 33-0001, Case Study 33, SA.9100.01002.0115 at 0115.
 546 Exhibit 33-0002, ‘Statement of Graham Rundle’, Case Study 33, STAT.0674.001.0001_R at [17], [32]; Exhibit
 33-0004; ‘Statement of BMB’, Case Study 33, STAT.0690.001.0001_R at [22], [29].
 547 Exhibit 33-0001, Case Study 33, SA.9100.01003.0045 at 0045.
 548 Exhibit 33-0001, Case Study 33, SA.9100.01003.0045 at 0045.
 549 Exhibit 33-0001, Case Study 33, SA.9100.01003.0043.
 550 Exhibit 33-0001, Case Study 33, SA.9100.01001.0151.
 551 Exhibit 33-0001, Case Study 33, SA.9100.01001.0151.
 552 Exhibit 33-0001, Case Study 33, SA.9100.01002.0115 at 0115.
 553 Exhibit 33-0001, Case Study 33, SA.9100.01002.0115 at 0116.
 554 Exhibit 33-0001, Case Study 33, SA.9100.01002.0115 at 0116.
 555 Exhibit 33-0001, Case Study 33, SA.9100.01002.0115 at 0116.
 556 Exhibit 33-0001, Case Study 33, SA.9100.01002.0115 at 0115.
 557 Exhibit 33-0001, Case Study 33, SA.9100.01002.0115 at 0115.
 558 Exhibit 33-0001, Case Study 33, SA.9100.01002.0115 at 0117.
 559 Exhibit 33-0001, Case Study 33, SA.9100.01002.0115 at 0117.
 560 Exhibit 33-0001, Case Study 33, SA.0049.001.1035 at 1035.
 561 Exhibit 33-0001, Case Study 33, TSAS.600.004.2352 at 2362.
 562 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11406:35–47.
 563 Exhibit 33-0001, Case Study 33, TSAS.600.004.2352 at 2364.
 564 Exhibit 33-0001, Case Study 33, SA.0039.003.0384 at 0387; Exhibit 33-0001, Case Study 33,
 SA.0039.001.0039 at 0039.
 565 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11411:11–31.
 566 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11411:38–43.
 567 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11412:10–18.
 568 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11410:10–17.
 569 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11411:45–11412:8.
 570 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11411:45–11412:8.
 571 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11412:10–14.
 572 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11399:13–11400:5.
 573 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11400:7–11.
 574 Exhibit 33-0001, Case Study 33, TSAS.372.002.0311_R.
 575 Exhibit 33-0001, Case Study 33, TSAS.372.002.0314_R.
 576 Exhibit 33-0001, Case Study 33, TSAS.372.002.0311_R.
 577 Exhibit 33-0001, Case Study 33, TSAS.372.002.0311_R at 0312_R.
 578 Exhibit 33-0001, Case Study 33, TSAS.372.001.0136_R at 0137_R; Transcript of FJ Tidd, Case Study 33, 9
 October 2015, 11373:25–8.
 579 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11372:27–44.
 580 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11372:27–36.
 581 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11373:14–11374:7.
 582 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11373:19–23.
 583 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11373:14–11374:7.
 584 Exhibit 33-0001, Case Study 33, TSAS.372.001.0136_R.
 585 Exhibit 33-0001, Case Study 33, TSAS.372.002.0203_R.
 586 Exhibit 33-0001, Case Study 33, WA.0047.001.0157_R.
 587 Exhibit 33-0001, Case Study 33, WA.0047.001.0157_R.
 588 Exhibit 33-0001, Case Study 33, WA.0047.001.0157_R.
 589 Exhibit 33-0001, Case Study 33, WA.0047.001.0157_R.
 590 Exhibit 33-0001, Case Study 33, WA.0047.001.0157_R.
 591 Exhibit 33-0001, Case Study 33, TSAS.372.002.0203_R.

592 Exhibit 33-0001, Case Study 33, TSAS.372.002.0203_R at 0203_R–0204_R.
593 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11378:12–16.
594 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11378:18–20.
595 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11378:22–8.
596 Exhibit 33-0001, Case Study 33, TSAS.372.002.0194_R.
597 Exhibit 33-0001, Case Study 33, TSAS.372.001.0136_R.
598 Exhibit 33-0001, Case Study 33, TSAS.372.001.0136_R.
599 Exhibit 33-0001, Case Study 33, TSAS.372.001.0136_R.
600 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11379:4–16.
601 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11379:4–16.
602 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11380:25–30.
603 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11380:32–6.
604 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11381:1–6.
605 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11380:43–6.
606 Exhibit 33-0001, Case Study 33, TSAS.372.001.0177_R.
607 Exhibit 33-0001, Case Study 33, TSAS.372.001.0177_R.
608 Exhibit 33-0001, Case Study 33, TSAS.372.001.0177_R.
609 Exhibit 33-0001, Case Study 33, TSAS.372.001.0177_R at 0178_R.
610 Exhibit 33-0001, Case Study 33, TSAS.372.002.0020_R.
611 Exhibit 33-0001, Case Study 33, TSAS.372.002.0020_R at 0021_R.
612 Exhibit 33-0001, Case Study 33, TSAS.372.002.0020_R at 0022_R.
613 Exhibit 33-0001, Case Study 33, TSAS.372.002.0020_R at 0022_R.
614 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11383:2–18.
615 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11383:24–37.
616 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11383:39–41.
617 Exhibit 33-0001, Case Study 33, TSAS.372.001.0136_R.
618 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11384:18–24.
619 Exhibit 33-0001, Case Study 33, WA.0053.001.0220_R.
620 Exhibit 33-0001, Case Study 33, WA.0053.001.0220_R.
621 Exhibit 33-0001, Case Study 33, WA.0053.001.0220_R.
622 Exhibit 33-0001, Case Study 33, WA.0053.001.0217_R.
623 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11385:25–11386:39.
624 Exhibit 33-0001, Case Study 33, TSAS.600.004.2352 at 2364.
625 Exhibit 33-0001, Case Study 33, TSAS.600.004.2352 at 2354.
626 Exhibit 33-0001, Case Study 33, WA.0053.001.0217_R; WA.0053.001.0212.
627 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11386:29–31.
628 Exhibit 33-0001, Case Study 33, TSAS.600.004.2352 at 2355.
629 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11386:33–9.
630 Exhibit 33-0001, Case Study 33, WA.0053.001.0447.
631 Captain Sanders is also referred to as ‘Captain Saunders’ and ‘Major Sanders’ in many of the documents
tendered into evidence.
632 Exhibit 33-0001, Case Study 33, WA.0053.001.0447.
633 Exhibit 33-0001, Case Study 33, WA.0053.001.0450_R.
634 Exhibit 33-0001, Case Study 33, WA.0053.001.0450_R.
635 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11388:4–21.
636 Exhibit 33-0001, Case Study 33, TSAS.600.004.2352 at 2364.
637 Exhibit 33-0001, Case Study 33, TSAS.600.004.2352 at 2364.
638 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11388:23–5.
639 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11388:27–33.
640 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11389:12–16.
641 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11389:18–28.
642 Exhibit 33-0001, Case Study 33, TSAS.372.006.0009.
643 Exhibit 33-0001, Case Study 33, TSAS.372.006.0009.
644 Exhibit 33-0001, Case Study 33, TSAS.372.006.0002, TSAS.372.006.0010.

645 Exhibit 33-0001, Case Study 33, TSAS.372.006.0008.
646 Exhibit 33-0001, Case Study 33, TSAS.372.006.0009.
647 Exhibit 33-0001, Case Study 33, TSAS.372.006.0010.
648 Exhibit 33-0001, Case Study 33, TSAS.372.006.0008.
649 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11393:7–13.
650 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11393:19–30.
651 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11394:45–11395:2.
652 Exhibit 33-0001, Case Study 33, DHS.3006.017.0094_R at 0094_R.
653 Exhibit 33-0001, Case Study 33, DHS.3006.017.0094_R at 0094_R.
654 Exhibit 33-0001, Case Study 33, DHS.3006.017.0094_R at 0094_R.
655 Exhibit 33-0001, Case Study 33, DHS.3006.017.0094_R at 0094_R.
656 Exhibit 33-0001, Case Study 33, DHS.3006.017.0094_R at 0094_R.
657 Exhibit 33-0001, Case Study 33, DHS.3006.017.0094_R at 0094_R.
658 Exhibit 33-0001, Case Study 33, DHS.3006.017.0094_R at 0095_R.
659 Exhibit 33-0001, Case Study 33, DHS.3006.017.0094_R at 0095_R.
660 Exhibit 33-0001, Case Study 33, DHS.3006.017.0094_R at 0095_R.
661 Exhibit 33-0001, Case Study 33, TSAS.600.004.2352 at 2364.
662 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11397:8–17.
663 Exhibit 33-0001, Case Study 33, TSAS.600.004.2352 at 2364.
664 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11397:31–5.
665 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11397:37–9.
666 Exhibit 33-0001, Case Study 33, VPOL.3026.017.0692_E_R.
667 Exhibit 33-0001, Case Study 33, VPOL.3026.017.0692_E_R at 0692_E_R.
668 Exhibit 33-0001, Case Study 33, VPOL.3026.017.0692_E_R at 0693_E_R.
669 Exhibit 33-0001, Case Study 33, DHS.3006.007.0032_R.
670 Exhibit 33-0001, Case Study 33, VPOL.3026.017.0687_E_R.
671 Exhibit 33-0001, Case Study 33, VPOL.3026.017.0687_E_R.
672 Exhibit 33-0001, Case Study 33, VPOL.3026.017.0687_E_R.
673 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11398:4–37.
674 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11398:30–7.
675 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11398:39–44.
676 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11398:46–11399:3.
677 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [2].
678 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [3].
679 Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11537:26–8.
680 From 2007 until 2012, Mr Geoff Webb was also employed to work with Mr Sapwell to assist in the handling of the claims made against TSAS. See Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [4], [5].
681 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [4].
682 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [15].
683 Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11548:42–7.
684 Exhibit 33-0001, Case Study 33, TSAS.600.001.0001.
685 Exhibit 33-0001, Case Study 33, TSAS.600.001.0001 at 0003.
686 Exhibit 33-0001, Case Study 33, TSAS.600.001.0001 at 0003.
687 Exhibit 33-0001, Case Study 33, TSAS.600.001.0001 at 0003.
688 Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11549:11–15; Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [15].
689 Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11549:17–20.
690 Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11545:31–47.
691 Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11546:1–32.
692 Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11549:2–9.
693 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [25].
694 Exhibit 33-0001, Case Study 33, TSAS.600.001.0032.
695 Exhibit 33-0001, Case Study 33, TSAS.600.001.0032; Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [18].

- 696 Exhibit 33-0001, Case Study 33, TSAS.600.001.0032 at 0033.
697 Exhibit 33-0001, Case Study 33, TSAS.600.001.0032 at 0034.
698 Exhibit 33-0001, Case Study 33, TSAS.600.001.0032 at 0034–0035.
699 Exhibit 33-0001, Case Study 33, TSAS.600.001.0032 at 0035.
700 Exhibit 33-0001, Case Study 33, TSAS.600.001.0051_R.
701 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [30].
702 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [30].
703 Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11561:39–41.
704 Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11551:16–44.
705 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [33].
706 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [25].
707 Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11552:47–11553:4, 11554:29–33.
708 Exhibit 33-0001, Case Study 33, WA.0047.001.0283_R.
709 Exhibit 33-0001, Case Study 33, WA.0047.001.0157_R, TSAS.372.002.0218_R.
710 Exhibit 33-0001, Case Study 33, TSAS.372.001.0009.
711 Exhibit 33-0001, Case Study 33, WA.0047.001.0351_R.
712 Captain Charles Allan Smith is now deceased.
713 Exhibit 33-0001, Case Study 33, WA.0047.001.0090_R.
714 Exhibit 33-0001, Case Study 33, WA.0047.001.0090_R at 0118_R.
715 Exhibit 33-0001, Case Study 33, TSAS.370.001.0088.
716 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [38].
717 Exhibit 33-0001, Case Study 33, TSAS370.001.0147_R at 0148_R.
718 Exhibit 33-0001, Case Study 33, TSAS.370.001.0097.
719 Exhibit 33-0001, Case Study 33, TSAS.370.001.0055_R.
720 Exhibit 33-0001, Case Study 33, TSAS.370.001.0055_R.
721 Exhibit 33-0001, Case Study 33, TSS.372.003.0067.
722 Exhibit 33-0001, Case Study 33, TSAS.372.003.0067.
723 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [49].
724 Submissions of The Salvation Army (Southern Territory), Case Study 33, SUBM.1033.004.0003 at [83].
725 Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11613:2–4.
726 See also Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11613:31–6.
727 Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11574:45–7.
728 Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11613:45–11614:5.
729 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [58].
730 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [58].
731 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [61].
732 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [62].
733 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [63].
734 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [63]; Exhibit 33-0001, Case Study 33, TSAS.001.001.1394.
735 Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11610:5–9.
736 Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11610:5–16.
737 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [23].
738 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [84].
739 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [84].
740 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [85].
741 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [32].
742 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [33].
743 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [34].
744 Mr Brewin gave evidence that he thought the increase was in response to the apology to abused former wards of the state delivered by the then Victorian Premier, Mr Steve Bracks, on 9 August 2006. Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [34].
745 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [39].
746 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [39].

747 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [42].

748 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [43].

749 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [52].

750 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [68].

751 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [70].

752 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [70].

753 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [71].

754 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [72]–[73].

755 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [75].

756 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [76].

757 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [82].

758 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [77].

759 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [82].

760 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [83].

761 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [88].

762 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [89].

763 Transcript of PH Brewin, Case Study 33, 14 October 2015, 11704:27–31.

764 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [90].

765 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [90].

766 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [92].

767 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [94].

768 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [95].

769 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [93].

770 Exhibit 33-0003, 'Statement of Steven Grant', Case Study 33, STAT.0682.001.0001_R at [52].

771 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [217]–[218].

772 Exhibit 33-0034, Case Study 33, TSAS.300.001.0383_R at 0384_R.

773 Exhibit 33-0001, Case Study 33, TSAS.379.001.0006_E_R.

774 Exhibit 33-0001, Case Study 33, TSAS.379.001.0006_E_R.

775 Mr Brewin did not disclose Mr Osborne's admission to Mr Grant either. Transcript of PH Brewin, Case Study 33, 14 October 2015, C11673:9–11.

776 Transcript of PH Brewin, Case Study 33, 14 October 2015, 11716:44–11717:3.

777 Transcript of PH Brewin, Case Study 33, 14 October 2015, 11673:16–19, 11718:20–44.

778 Transcript of PH Brewin, Case Study 33, 14 October 2015, 11670:42–11671:3, 11671:22–34.

779 Transcript of PH Brewin, Case Study 33, 14 October 2015, 11671:5–11.

780 Transcript of PH Brewin, Case Study 33, 14 October 2015, 11720:16–25.

781 Transcript of PH Brewin, Case Study 33, 14 October 2015, 11672:11–19.

782 Transcript of PH Brewin, Case Study 33, 14 October 2015, 11673:16–19.

783 Transcript of PH Brewin, Case Study 33, 14 October 2015, 11717:5–13.

784 Transcript of PH Brewin, Case Study 33, 14 October 2015, 11674:10–15.

785 Submissions of The Salvation Army (Southern Territory), Case Study 33, SUBM.1033.004.0001 at [97].

786 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11471:1–8.

787 Exhibit 33-0001, Case Study 33, TSAS.300.001.3041_R.

788 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [97].

789 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [97].

790 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [96], [98].

791 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [98].

792 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [102].

793 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [103].

794 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [108].

795 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [110].

796 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [114].

797 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [111].

798 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [112].

799 Transcript of R Rogers, Case Study 33, 8 October 2015, 11244:27–32.

800 Transcript of PH Brewin, Case Study 33, 14 October 2015, 11727:32–6.
801 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [122].
802 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [122].
803 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [123].
804 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [101].
805 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [102].
806 Exhibit 33-0030, ‘Statement of Graham Sapwell’, Case Study 33, STAT.0684.001.0001_R at [20].
807 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [134].
808 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [135].
809 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [136].
810 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [136].
811 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [137].
812 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [140].
813 Exhibit 33-0029, ‘Supplementary Statement of Floyd Tidd’, Case Study 33, STAT.0686.002.0001 at [4(h)].
814 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [143].
815 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [145]–[146].
816 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [147(b)]–[147(f)].
817 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [147(a)].
818 It is unclear if these are the same 28 claims which TSAS defended and which are referred to above. See
Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [122], [172].
819 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [172].
820 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [171].
821 Transcript of PH Brewin, Case Study 33, 14 October 2015, 11682:30–4.
822 Transcript of PH Brewin, Case Study 33, 14 October 2015, 11650:21–32.
823 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [136].
824 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11472:29–36.
825 Exhibit 33-0023, ‘Statement of Commissioner Floyd John Tidd’, Case Study 33, STAT.0686.001.0001_R at
[296].
826 Transcript of BMS, Case Study 33, 8 October 2015, 11252:29–36; Exhibit 33-0023, ‘Statement of
Commissioner Floyd John Tidd’, Case Study 33, STAT.0686.001.0001_R at [297].
827 Exhibit 33-0001, Case Study 33, IND.0313.001.0005_R.
828 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11470:10–13.
829 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11471:1–8.
830 Exhibit 33-0023, ‘Statement of Commissioner Floyd John Tidd’, Case Study 33, STAT.0686.001.0001_R at
[299].
831 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [156].
832 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [157].
833 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [158].
834 Transcript of BMB, Case Study 33, 6 October 2015, 11114:6–9; Transcript of R Rogers, Case Study 33, 8
October 2015, 11244:27–32; Transcript of BMS, Case Study 33, 8 October 2015, 11252:5–8; Transcript of
BMA, Case Study 33, 8 October 2015, 11274:4–5.
835 Submissions of The Salvation Army (Southern Territory), Case Study 33, SUBM.1003.004.0001 at [103].
836 Submissions of The Salvation Army (Southern Territory), Case Study 33, SUBM.1003.004.0001 at [104].
837 Submissions of The Salvation Army (Southern Territory), Case Study 33, SUBM.1033.004.0001 at [105].
838 The advice suggested that it was capable of being used more broadly for subsequent allegations of abuse in
respect to other officers of The Salvation Army. Exhibit 33-0001, Case Study 33, TSAS.370.001.0055_R.
839 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [214].
840 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [214].
841 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [214].
842 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11463:36–11464:20.
843 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [209].
844 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11464:39–43.
845 Exhibit 33-0031, ‘Statement of Philip Brewin’, Case Study 33, STAT.0685.003.0001 at [211].
846 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11465:8–11.

847 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [208].

848 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [207]; Exhibit 33-0001, Case Study 33, TSAS.600.001.0012_R.

849 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [208].

850 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11467:8–26.

851 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [204].

852 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [204].

853 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [205].

854 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [205].

855 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [307].

856 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11487:28–33.

857 Submissions of The Salvation Army (Southern Territory), Case Study 33, SUBM.1033.004.0001 at [113].

858 Transcript of PH Brewin, Case Study 33, 14 October 2015, 11685:18–23.

859 Submissions of The Salvation Army (Southern Territory), Case Study 33, SUBM.1033.004.0001 at [110].

860 Further Submissions of Brian Cherrie, Ross Rogers, Philip Hodges, BML and BMS, Case Study 33, SUBM.1033.011.0001 at [6].

861 Transcript of R Rogers, Case Study 33, 8 October 2015, 11244:18–25, 11244:34–43; Transcript of GR Rundle, Case Study 33, 6 October 2015, 11085:30–45, 11087:26–30.

862 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11487:34–9.

863 Exhibit 33-0043, Case Study 33, TSAS.9999.019.0003_R at 0003_R; Exhibit 33-0044, Case Study 33, TSAS.9999.019.0001_R.

864 Exhibit 33-0043, Case Study 33, TSAS.9999.019.0001_R.

865 Exhibit 33-0043, Case Study 33, TSAS.9999.019.0001_R.

866 Exhibit 33-0043, Case Study 33, TSAS.9999.019.0001_R.

867 Exhibit 33-0029, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.002.0001 at [4].

868 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11356:7–10, 11357:29–31; Transcript of FJ Tidd, Case Study 33, 13 October 2015, 11520:7–9.

869 Transcript of FJ Tidd, Case Study 33, 13 October 2015, 11520:26–31.

870 Transcript of FJ Tidd, Case Study 33, 13 October 2015, 11521:18–21.

871 Transcript of FJ Tidd, Case Study 33, 13 October 2015, 11521:23–8.

872 Transcript of FJ Tidd, Case Study 33, 13 October 2015, 11521:30–5.

873 Transcript of FJ Tidd, Case Study 33, 13 October 2015, 11521:37–44.

874 Transcript of FJ Tidd, Case Study 33, 13 October 2015, 11522:2–10.

875 Transcript of FJ Tidd, Case Study 33, 13 October 2015, 11522:12–22.

876 Exhibit 33-0029, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.002.0001 at [4(m)].

877 Transcript of FJ Tidd, Case Study 33, 13 October 2015, 11522:32–40. Shortly before the publication of this report, the Royal Commission received a letter from the solicitors for The Salvation Army (Southern Territory) outlining the review process that they had undertaken and the outcome of the same. The letter and its contents were not examined as forming part of this public hearing. See TSAS.0012.001.0001.

878 Transcript of FJ Tidd, Case Study 33, 9 October 2015, 11358:22–33.

879 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11522:32–40.

880 Exhibit 33-0029, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.002.0001 at [4(k)].

881 Exhibit 33-0029, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.002.0001 at [4(k)].

882 Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11579:11–14, 11581:47–11582:4.

883 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [188].

884 Transcript of PH Brewin, Case Study 33, 14 October 2015, 11660:32–7.

885 Transcript of PH Brewin, Case Study 33, 14 October 2015, 11664:38–11665:2.

886 Transcript of PH Brewin, Case Study 33, 14 October 2015, 11664:38–11665:26.

887 Transcript of BMB, Case Study 33, 6 October 2015, 11114:6–9; Transcript of S Grant, Case Study 33, 6 October 2015, 11101:9–10, Transcript of GR Rundle, Case Study 33, 6 October 2015, 11084:39–45.

888 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [174]; Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11505:3–14.

889 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [176].

- 890 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [190].
- 891 Exhibit 33-0031, 'Statement of Philip Brewin', Case Study 33, STAT.0685.003.0001 at [190].
- 892 Exhibit 33-0001, Case Study 33, TSAS.300.003.0171_R.
- 893 Transcript of PH Brewin, Case Study 33, 14 October 2015, 11664:11–24.
- 894 Transcript of PH Brewin, Case Study 33, 14 October 2015, 11665:41–11666:2.
- 895 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11435:12–15; Exhibit 33-0001, Case Study 33, TSAS.379.001.0006_E_R.
- 896 Exhibit 33-0028, 'Statutory Declaration of BMJ', Case Study 33, TSAS.300.001.0383_R.
- 897 Exhibit 33-0030, 'Statement of Graham Sapwell', Case Study 33, STAT.0684.001.0001_R [130]–[131].
- 898 Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11583:21–11584:4.
- 899 Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11579:11–17.
- 900 Transcript of GR Sapwell, Case Study 33, 13 October 2015, 11579:37–41.
- 901 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11434:29–32.
- 902 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11434:34–11435:25.
- 903 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11437:8–12.
- 904 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11437:18–21.
- 905 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11497:1–7.
- 906 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11495:8–30.
- 907 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11437:28–30.
- 908 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11436:22–6.
- 909 Submissions of The Salvation Army (Southern Territory), Case Study 33, SUBM.1033.004.0001 at [151]–[152].
- 910 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [264].
- 911 Exhibit 33-0001, Case Study 33, TSAS.600.004.0100_R at 0107_R, 0112_R.
- 912 Exhibit 33-0001, Case Study 33, TSAS.600.004.0100_R at 0107_R.
- 913 Exhibit 33-0001, Case Study 33, TSAS.600.004.0100_R at 0110_R.
- 914 Exhibit 33-0001, Case Study 33, TSAS.600.004.0100_R at 0106_R–0107_R.
- 915 Exhibit 33-0001, Case Study 33, TSAS.600.004.0100_R at 0109_R; Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [125].
- 916 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [127].
- 917 Exhibit 33-0001, Case Study 33, TSAS.600.004.0100_R at 0108_R.
- 918 Exhibit 33-0001, Case Study 33, TSAS.600.004.0100_R at 0108_R.
- 919 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [128].
- 920 Exhibit 33-0001, Case Study 33, TSAS.600.004.0100_R.
- 921 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11446:5–7.
- 922 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11446:16–25.
- 923 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11450:8–45.
- 924 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11404:17–19.
- 925 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [324].
- 926 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [325].
- 927 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [324].
- 928 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11404:34–7.
- 929 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [326].
- 930 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [328].
- 931 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [329].

- 932 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [328].
- 933 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [331].
- 934 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [331].
- 935 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [330].
- 936 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [332].
- 937 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [325].
- 938 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11475:1–7.
- 939 Submissions of The Salvation Army (Southern Territory), Case Study 33, SUBM.1033.004.0001 at [157].
- 940 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [333].
- 941 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [333].
- 942 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [338].
- 943 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [338].
- 944 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [340].
- 945 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11478:30–3.
- 946 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11479:20–11480:35.
- 947 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11480:23–35.
- 948 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11480:3–7.
- 949 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11480:23–35.
- 950 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11479:8–11.
- 951 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11480:37–41.
- 952 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11480:43–7.
- 953 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11480:43–7.
- 954 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11480:9–17.
- 955 Transcript of FJ Tidd, Case Study 33, 12 October 2015, 11481:2–9.
- 956 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [342].
- 957 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [347].
- 958 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [343]–[344].
- 959 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [130].
- 960 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [131].
- 961 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [132].
- 962 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [133].
- 963 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [133].
- 964 Transcript of FJ Tidd, 12 October 2015, 11458:19–24.
- 965 Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [136].

966	Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [137].
967	Exhibit 33-0001, Case Study 33, TSAS.600.004.1971.
968	Exhibit 33-0001, Case Study 33, TSAS.600.004.1971 at 1972.
969	Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [137].
970	Exhibit 33-0023, 'Statement of Commissioner Floyd John Tidd', Case Study 33, STAT.0686.001.0001_R at [143].
971	Exhibit 33-0001, Case Study 33, SA.0039.001.0039 at 0041.
972	Exhibit 33-0001, Case Study 33, SA.0039.001.0039 at 0041.
973	Exhibit 33-0001, Case Study 33, SA.0039.001.0039 at 0041.
974	Exhibit 33-0001, Case Study 33, SA.0041.001.0280_R.
975	Exhibit 33-0001, Case Study 33, SA.0039.001.0019_R.
976	Exhibit 33-0001, Case Study 33, WEB.0088.001.0001_R.
977	Exhibit 33-0001, Case Study 33, SA.0039.002.0840_R.
978	Exhibit 33-0001, Case Study 33, SA.0039.001.0327_R.
979	Exhibit 33-0001, Case Study 33, SA.0039.001.0363_R.
980	Exhibit 33-0001, Case Study 33, WEB.0088.001.0003_R.
981	Exhibit 33-0001, Case Study 33, SA.0039.001.0677_R.
982	Exhibit 33-0001, Case Study 33, SA.0039.001.0677_R.
983	Exhibit 33-0001, Case Study 33, SA.0039.001.0012_R.
984	Exhibit 33-0001, Case Study 33, SA.0039.001.0012_R.
985	Exhibit 33-0001, Case Study 33, WEB.0088.001.0003_R.
986	Exhibit 33-0001, Case Study 33, WEB.0088.001.0003_R.
987	Exhibit 33-0001, Case Study 33, SA.0039.001.1181_R.
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989	Exhibit 33-0001, Case Study 33, SA.0039.001.1079_R.
990	Exhibit 33-0001, Case Study 33, SA.0039.001.1070_R.
991	Exhibit 33-0001, Case Study 33, SA.0039.001.1070_R.
992	Exhibit 33-0001, Case Study 33, SA.0039.003.0002_R.
993	Exhibit 33-0001, Case Study 33, WEB.0088.001.0003_R.
994	Exhibit 33-0001, Case Study 33, SA.0039.008.0016_R.
995	Exhibit 33-0001, Case Study 33, SA.0039.008.0016_R.
996	Exhibit 33-0001, Case Study 33, SA.0039.001.0248_R.
997	Exhibit 33-0001, Case Study 33, WEB.0088.001.0007_R.
998	Exhibit 33-0001, Case Study 33, SA.0039.001.0527_R at 0527_R.
999	Exhibit 33-0001, Case Study 33, SA.0039.001.0527_R at 0527_R.
1000	Exhibit 33-0001, Case Study 33, SA.0039.001.0527_R at 0527_R.
1001	Exhibit 33-0001, Case Study 33, SA.0039.001.0527_R at 0528_R.
1002	Exhibit 33-0001, Case Study 33, SA.0039.001.0527_R at 0528_R.
1003	Exhibit 33-0001, Case Study 33, SA.0039.001.0527_R at 0528_R.
1004	Exhibit 33-0001, Case Study 33, SA.0039.001.0508_R.
1005	Exhibit 33-0001, Case Study 33, SA.0039.001.0508_R at 0510_R.
1006	Exhibit 33-0001, Case Study 33, SA.0039.001.0508_R at 0509_R.
1007	Exhibit 33-0001, Case Study 33, SA.0039.001.0508_R at 0514_R.
1008	Exhibit 33-0001, Case Study 33, SA.0039.001.0508_R at 0515_R.
1009	Exhibit 33-0001, Case Study 33, WEB.0088.001.0007_R at 0009_R.
1010	Exhibit 33-0001, Case Study 33, SA.0039.001.0427_R.
1011	Exhibit 33-0001, Case Study 33, SA.0039.001.0427_R at 0505_R.
1012	Exhibit 33-0001, Case Study 33, WEB.0088.001.0007_R at 0013_R.
1013	Exhibit 33-0001, Case Study 33, SA.0039.001.0039_R at 0042_R.
1014	Exhibit 33-0001, Case Study 33, SA.0039.001.0039_R at 0040_R.
1015	Exhibit 33-0001, Case Study 33, SA.0039.001.0619.
1016	Exhibit 33-0001, Case Study 33, SA.0039.001.0413.

- 1017 Exhibit 33-0001, Case Study 33, SA.0039.010.0354_R.
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 1020 *Hoch v The Queen* (1988) 165 CLR 292.
 1021 Exhibit 33-0038, ‘Statement of Adam Kimber SC’, Case Study 33, STAT.0679.001.0001_R at [5.4],
Hoch v The Queen (1988) 165 CLR 292 at 294.
 1022 Exhibit 33-0038, ‘Statement of Adam Kimber SC’, Case Study 33, STAT.0679.001.0001_R at [5.5],
Hoch v The Queen (1988) 165 CLR 292 at 294–5.
 1023 Exhibit 33-0038, ‘Statement of Adam Kimber SC’, Case Study 33, STAT.0679.001.0001_R at [5.11].
 1024 Exhibit 33-0038, ‘Statement of Adam Kimber SC’, Case Study 33, STAT.0679.001.0001_R at [5.6].
 1025 Exhibit 33-0038, ‘Statement of Adam Kimber SC’, Case Study 33, STAT.0679.001.0001_R at [5.7].
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 1027 Transcript of A Kimber, Case Study 33, 14 October 2015, 11748: 10–42.
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 1030 Exhibit 33-0038, ‘Statement of Adam Kimber SC’, Case Study 33, STAT.0679.001.0001_R at [2.6], [8.3], [8.11].
 1031 Exhibit 33-0038, ‘Statement of Adam Kimber SC’, Case Study 33, STAT.0679.001.0001_R at [9.15].
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 1037 Exhibit 33-0038, ‘Statement of Adam Kimber SC’, Case Study 33, STAT.0679.001.0001_R at [10.2.1].
 1038 Exhibit 33-0038, ‘Statement of Adam Kimber SC’, Case Study 33, STAT.0679.001.0001_R at [10.2.2].
 1039 Transcript of A Kimber, Case Study 33, 14 October 2015, 11758:16–23.
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 1041 Transcript of A Kimber, Case Study 33, 14 October 2015, 11759:33–8; Exhibit 33-0038, ‘Statement of Adam
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