



Royal Commission
into Institutional Responses
to Child Sexual Abuse

REPORT OF CASE STUDY NO. 1

The response of institutions to
the conduct of Steven Larkins

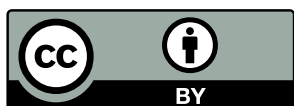
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Report of Case Study No. 1

The response of institutions to the
conduct of Steven Larkins

March 2014

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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, the Royal Commission is directed to focus its inquiries and recommendations on systemic issues but also recognise that its work will 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 to this report.

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 a hearing might only occupy a limited number of days of hearing time, the preparatory work that our staff and parties with an interest must do 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 we were to attempt that task a great many resources would need to be applied over an indeterminate, but lengthy, period. 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 public hearing 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 our findings and recommendations will have a secure foundation. In some cases, the relevance of the lessons to be learned will be confined to the institution that is the subject of the hearing. In other cases, they will have relevance to many similar institutions in different parts of Australia.

Public hearings will help us understand the extent of abuse that might 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 tell the story of some individuals to help the public understand:

- the nature of sexual abuse and the circumstances in which it can occur
- most importantly, the devastating impact that it can have on some people's lives.

A detailed explanation of public hearings is available in the practice notes on our website at www.childabuseroyalcommission.gov.au. Public hearings are streamed live over the internet.

Private sessions

When the Royal Commission was appointed, it was apparent to the Australian Government that many people (possibly thousands) would wish to tell the Royal Commission of 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 7 February 2014, the Royal Commission has held 1,180 private sessions with a further 638 sessions booked in before the end of June 2014. Many accounts from private sessions will, in a de-identified form, be recounted in later Royal Commission reports.

Research program

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

This case study

Institutional responses to Steven Larkins

This is the report of the public hearing that examined the response of institutions to the conduct of Steven Larkins. This was identified as appropriate for a case study for several reasons. The perpetrator, Steven Larkins, has been convicted and is serving a prison sentence for his conduct. He occupied positions of responsibility in Scouts Australia NSW and in the Hunter Aboriginal Children's Service.

The case study provided an opportunity to examine how both institutions responded to the behaviour of Larkins. It also allowed the Royal Commission to look at the work of regulatory agencies and consider whether:

- their practices and procedures were appropriate
- if appropriate, they were effectively followed.

The case study also gave some consideration to the criminal justice system as it applies to sexual offenders.

The scope and purpose of the hearing was:

- the response of Scouts Australia NSW to allegations and information concerning the conduct of Steven Larkins relating to children between 1997 and 2001
- the checks carried out by the (then) NSW Department of Community Services in 1999–2001 on the suitability of Steven Larkins to be granted parental responsibility
- the carrying out of a Working With Children Check concerning Steven Larkins by the (then) NSW Department of Community Services in 2003 and the subsequent review of the assessment made by the Commission for Children and Young People in 2004
- the response of Hunter Aboriginal Children’s Service to information about Steven Larkins’ conduct in 2003 and in 2010–2011
- any other related matters.

General issues

Along with the findings and recommendations made in this report, some issues of general significance have been identified (see section 6).

We will consider these issues further in other public hearings or roundtables.

Executive summary

1 Steven Larkins

Steven Larkins grew up in the Stockton area of Newcastle. He was an active member of Scouts Australia NSW (Scouts) from childhood and progressed to leadership roles in 1990s.

During his time as a scout leader, Larkins faced complaints about his conduct with young scouts. Later, after joining the Hunter Aboriginal Children's Service in 2000, further allegations of inappropriate conduct arose relating to a young person in his care.

Larkins was eventually prosecuted in 2012 for offences he had committed 15 years earlier.

2 Scouts

Larkins joined Scouts as a young boy. By 1990, he was a 24-year-old scout leader at the First Stockton Scout Troop in Newcastle, NSW. Two years later, Larkins indecently assaulted a 12-year-old scout ('AA') while AA was staying overnight at Larkins' home because of a scout activity.

AA did not tell anyone of the assault at the time. He told the Royal Commission that when the assault occurred he felt 'belittled, dirty, wrong and confused' and 'didn't know what [he] had done to deserve this'. As a result of the abuse, AA said he has suffered emotional instability, alcohol abuse and sexual dysfunction and has been diagnosed with depression and bipolar disorder.

In 1994, Scouts received a complaint that Larkins slept in a tent with a young boy while on a scout activity. In response, Larkins was 'stood down' from the First Stockton Scout Troop. But he promptly joined the troop in the town of Raymond Terrace in the Hunter region of NSW, where he went on to become a district leader.

- **Finding 1:** The decision to 'stand down' Steven Larkins was ineffective because it was not recognised by other scout leaders as an indication that Steven Larkins should not be in charge of young scouts.

The Scouts' next action related to a 1997 complaint to Armand Hoytink, the Group Leader of Stockton Scouts, about Larkins' conduct at Stockton public pool, where he was buying sweets for children.

- **Finding 2:** Mr Hoytink should have, and did, report the incident involving Steven Larkins at Stockton public pool in 1997 to a senior scout member and to the police.

When a Scouts Australia NSW internal investigation found there were previous incidents involving Larkins, Regional Commissioner Allan Currie issued him with an 'official warning' and placed it on his personnel file. No other action was taken to make scout leaders aware of the warning.

- ▶ **Finding 3:** The ‘official warning’ against Steven Larkins was not effectively recorded or communicated to those who were responsible for appointing and supervising leaders within Scouts Australia NSW.
- ▶ **Finding 4:** Mr Currie’s actions in relation to Steven Larkins in 1997 were influenced by his desire to protect the reputation of Scouts Australia NSW.

In 1997, Larkins indecently assaulted an 11-year-old scout (‘AC’), also while the boy was staying overnight at Larkins’ home. AC told the Royal Commission that initially he ‘just froze’ and was ‘petrified as to what was happening’ to him, and then ran out of the room and locked himself in the bathroom where he stayed all night. AC said that when he returned home the next morning he went straight to his room and ‘felt it was all my fault’ and that ‘I would get into trouble for what happened and Mum would be angry with me’.

As with AA, AC did not inform anyone of the assault at the time. As a result of the abuse, AC said he has become a harder and angrier person, and finds it very difficult to trust anyone other than his immediate family.

AC’s mother (‘AB’) reported the assault on her son to the police in 1997, and the police in Newcastle started to investigate Larkins. The police spoke to Mr Currie who told Hilton Bloomfield, the Chief Executive.

- ▶ **Finding 5:** Mr Currie and Mr Bloomfield knew at some time between September and December 1997 that the police were investigating Steven Larkins over a report of child abuse yet took no action.

The ‘official warning’ Scouts had given to Larkins also meant he was removed from weekly ‘face-to-face’ work with young scouts, an action that was only communicated through ‘word of mouth’. This did not prevent Larkins from attending major scout activities.

- ▶ **Finding 6:** Mr Hoitink saw Steven Larkins at Sea World in January 1998, leading a group of scouts. The Royal Commission is satisfied that the scouts he led had come from the jamboree at Springfield and that Steven Larkins was present at the jamboree.
- ▶ **Finding 7:** The official warning of Steven Larkins by Mr Currie was ineffective, as Steven Larkins was able to be in the company of young scouts with no other adult present.

In early 2000, AA attended a scout camp. When he saw Larkins at the camp, AA told a group leader that Larkins had indecently assaulted him as a child. This led to Mr Currie recommending that Larkins be suspended, but this was not noted on his member record.

- ▶ **Finding 8:** Mr Currie was right to recommend Steven Larkins’ suspension following the disclosure by AA that he was sexually abused by Steven Larkins. Scouts Australia NSW responded promptly and suspended Steven Larkins, and provided appropriate support to AA.
- ▶ **Finding 9:** Scouts Australia NSW should have, but did not, permanently record Steven Larkins’ suspension on his member record.

3 NSW Police Force

Once AB had reported the assault on her son to the police in 1997, the investigation was transferred from the State Crime Command to Newcastle Police. It was assigned to (then) Senior Constable Nigel Turney.

- ▶ **Finding 10:** The allegation of indecent assault of AC was not investigated by detectives with experience in such matters. Senior Constable Turney investigated the allegation although he was inexperienced in that area, including in interviewing victims of sexual assault.
- ▶ **Finding 11:** There were substantial delays in the police investigation of the alleged offence, so that the Director of Public Prosecutions' advice to prosecute was received 12 months after the victim first communicated with police.
- ▶ **Finding 12:** Police involved in the investigation of the matters relating to AC communicated incorrect information about the prosecution of Steven Larkins to AB and AC, and later tried to correct it.
- ▶ **Finding 13:** The delay in the investigation, and the misinformation provided by officers of the NSW Police Force to AB, influenced AB and her son AC to ask that the prosecution of Steven Larkins not proceed in 1998.

4 Working with Children Check

Scouts Australia NSW was not the only organisation that brought Larkins into contact with children. In May 2000, he started work for the Hunter Aboriginal Children's Service (HACS), a designated agency helping young people who had been removed from their home. Larkins became the principal officer at HACS.

Between 2000 and 2001, in response to an application by the NSW Department of Community Services (DoCS), the NSW Children's Court granted Larkins parental responsibility for six children in the care of HACS.

In early 2003, Larkins applied to DoCS for a Working with Children Check assessment. The screening process found a 26 March 1999 court date recorded on CrimTrac for a charge of aggravated indecent assault. However, the matter had never been before the court and Larkins brought this to the attention of DoCS. Following the appropriate procedure, DoCS suggested that Larkins ask the police to remove the CrimTrac record or clarify that he was not the person involved. Larkins did not respond. DoCS then assessed that Larkins posed a 'medium level' of risk and sent its report directly to Larkins but not to anyone else at HACS.

- ▶ **Finding 14:** There was no reasonable explanation of how a draft summons and court attendance notice against Steven Larkins for the indecent assault on AC was still available on CrimTrac in 2003.

- ▶ **Finding 15:** NSW Department of Community Services properly found Steven Larkins to be a risk to children on the basis of the information it had on 11 November 2003.
- ▶ **Finding 16:** Ms Priestley, Acting Manager of the Screening Unit of the NSW Department of Community Services, did not communicate Steven Larkins' 11 November 2003 Working with Children Check assessment to the Hunter Aboriginal Children's Service Management Committee Chairperson or members.
- ▶ **Finding 17:** By NSW Department of Community Services providing the Working with Children Check assessment directly to Steven Larkins, Larkins was able to:
 - conceal his Working with Children Check assessment from the Hunter Aboriginal Children's Service (HACS) Management Committee and employees
 - continue employment at HACS, when the HACS Management Committee could have dealt with his Working with Children Check assessment through the appropriate governance processes.

The following year, Larkins applied for a review of his Working with Children Check assessment and provided false documents saying his role did not have direct and unsupervised contact with children. As a result, the Commission for Children and Young People withdrew his Working with Children Check assessment in June 2004.

Lack of clarity meant that important communication did not take place between the agencies and the relevant people at HACS. This allowed Larkins to deceive DoCS, the Commission for Children and Young People and HACS.

5 Hunter Aboriginal Children's Service

From July 2003 HACS, as an out-of-home care provider, participated in the Office of the Children's Guardian Quality Improvement Program. The Children's Guardian was aware of the principal officer's role and could have advised other agencies that Larkins was in fact working directly with children.

- ▶ **Finding 18:** Steven Larkins provided a false statutory declaration and letter to support his application to review his Working with Children Check assessment.
- ▶ **Finding 19:** The Commission for Children and Young People did not check Steven Larkins' representations with the Hunter Aboriginal Children's Service Chairperson or management committee members.
- ▶ **Finding 20:** The Commission for Children and Young People did not exchange information with the Office of the Children's Guardian about Steven Larkins' position with Hunter Aboriginal Children's Service.
- ▶ **Finding 21:** The Commission for Children and Young People wrongly 'withdrew' the Working with Children Check assessment of Steven Larkins.

In 2003, HACS caseworker Jacqueline Henderson became Chairperson of its management committee. She is the second cousin of Larkins. Ms Henderson had heard rumours in the early to mid-1990s that Larkins had ‘interfered with a couple of boys in Scouts’. She heard more rumours in 2003, but when she confronted him twice that year, she said he became aggressive and threatened to take legal action. Ms Henderson was also concerned about Larkins having children at his home.

- ▶ **Finding 22:** Ms Henderson should have told relevant agencies about:
 - rumours that Steven Larkins had ‘interfered’ with boys in Scouts Australia NSW
 - Steven Larkins having children visiting and staying at his home.

Those agencies include the NSW Department of Community Services, the Office of the Children’s Guardian and the Commission for Children and Young People.

- ▶ **Finding 23:** The Hunter Aboriginal Children’s Service Management Committee should have sighted Steven Larkins’ Working with Children Check assessment, or should have delegated one of its members to do so and report to the committee.

AD was one of the children for whom Larkins had parental responsibility. In 2010, a youth worker found text messages on AD’s phone that came from Larkins. AD’s caseworker told his superiors at HACS and asked whether he should report the matter. He was advised against it due to lack of evidence.

- ▶ **Finding 24:** There was an opportunity in late 2010 for one or more of Hunter Aboriginal Children’s Service’s employees to report Steven Larkins for the content of the text messages to the Hunter Aboriginal Children’s Service Management Committee. This was another missed opportunity for Steven Larkins’ conduct to be scrutinised by those with authority to do so.

Around mid-January 2011, Larkins organised a meeting of the HACS Management Committee at which he sought permission to become AD’s carer. He told the committee that he could be a carer because he already had parental responsibility for AD. Although the committee did not oppose Larkins’ request, it did not formally assess his suitability or develop a case plan as its procedures required.

- ▶ **Finding 25:** While the law in January 2011 did not require Steven Larkins to be assessed to be a foster carer, Hunter Aboriginal Children’s Service procedures did, and for good reasons. Hunter Aboriginal Children’s Service should have followed its own procedures to assess Steven Larkins’ suitability to care for AD and to develop a case plan.

Ms Henderson gave evidence that HACS was ‘very poorly governed’. However, she took no steps to address this as Chairperson. Although she took part in some training, Ms Henderson said that she did not feel adequately equipped to do the job.

Karen Elphick chaired the HACS Management Committee from 2009 until early 2012. Like Ms Henderson, she had no previous experience in HACS or other children’s services, or in chairing a board or management committee. Ms Elphick said that she relied on Larkins and the HACS Human Resources Manager.

- ▶ **Finding 26:** Hunter Aboriginal Children’s Service Management Committee members who gave evidence to the Royal Commission were inexperienced in organisational management and lacked knowledge of governance and legislative and regulatory frameworks relevant to Hunter Aboriginal Children’s Service.

Ms Elphick also gave evidence that Larkins separated HACS staff from its management committee and he controlled committee meetings.

- ▶ **Finding 27:** A number of factors helped Steven Larkins to wield influence over the Hunter Aboriginal Children’s Service Management Committee:
 - Ms Henderson and Ms Elphick accepted their appointments as Chairperson without experience in organisational management or understanding of the regulatory regime governing out-of-home care.
 - Ms Henderson was a relative of Steven Larkins.
 - Steven Larkins restricted open communication between Hunter Aboriginal Children’s Service Management Committee members and staff.

A criminal investigation of Larkins finally started in April 2011, after a HACS manager discovered a USB drive containing many images of child pornography. Larkins was arrested that day and charged with possessing child pornography. By August 2011, he faced 19 charges and in 2012 pleaded guilty and received an overall effective sentence of 22 months in prison.

This case study provides important insights into how a person about whom there were concerns since the early 1990s:

- remained as a scout leader
- evaded a State-run vetting process
- escaped early prosecution
- obtained employment in a non-government agency that provides a safe place for children
- became the carer of a young person.

1 Steven Larkins

At a glance

This chapter outlines the known conduct of Steven Larkins, from early complaints in the 1990s when he was a scout leader, through his involvement from 2000 in a child-support agency, until his eventual prosecution in 2012 for offences committed 15 years earlier.

1.1 Larkins the scout leader

Larkins grew up in the Stockton area of Newcastle and was involved in Scouts Australia NSW (Scouts) as a young boy. By the age of 18, he was Assistant Scout Leader at the First Stockton Scout Troop and later held similar positions at other troops. In 1990, aged 24, he became the Scout Leader at the First Stockton Scout Troop.¹

Larkins indecently assaulted scouts in the 1990s

In 1992, Larkins indecently assaulted a 12-year-old scout ('AA') while AA was staying overnight at Larkins' home because of a scout activity.² AA gave evidence that after the incident he felt 'belittled, dirty, wrong and confused' and 'didn't know what [he] had done to deserve this'.³ AA did not tell anyone about this incident at the time. As a result of the abuse, AA said he has suffered emotional instability, alcohol abuse and sexual dysfunction and has been diagnosed with depression and bipolar disorder.⁴ We accept his evidence.

In 1994, a district commissioner of Scouts received a complaint that Larkins had slept in a tent with a young boy while on a scout activity, and that the boy was using Larkins' arm as a pillow.⁵ The District Commissioner gave evidence that he recalled being told the young boy had returned home and locked himself in his room. He was also told that when Larkins later visited the boy's home with a gift of new running shoes, the boy refused to come out and no longer wanted to attend Scouts.⁶

As a result of the complaint, Larkins was 'stood down'⁷ and he left the First Stockton Scout Troop in April 1994. That same month, he joined the troop at First Raymond Terrace. Although initially the Assistant Scout Leader, he later became District Leader (Special Projects). By 1996, he was Regional Leader (Scouts) of the Hunter and Coastal Regions of NSW.⁸

The following year, Larkins indecently assaulted an 11-year-old scout ('AC'). As with AA, this happened while AC was staying overnight at Larkins' home. AC gave evidence that Larkins had arranged for AC and another young scout to spend the weekend camping.⁹ But he then told the scouts they would be spending the night at his house.¹⁰ He placed mattresses on the floor of his bedroom.¹¹ He lay down between the scouts, and he sexually assaulted AC.¹²

In his statement, AC said of the assault, 'Initially I just froze, I was petrified as to what was happening to me'.¹³ He then ran out of the room and locked himself in the bathroom where he stayed all night.¹⁴ AC said that Larkins followed him to the bathroom trying to say that nothing had happened and that 'he'd done nothing wrong'. AC said that when he returned home the next morning he went straight to his room and 'felt it was all my fault'.¹⁵ AC also said, 'For some stupid reason I thought I would get into trouble for what happened and Mum would be angry with me'.¹⁶ We accept his evidence.

As with AA, AC did not inform anyone of the assault at the time. As a result of the abuse, AC said he has become a harder and angrier person, and finds it very difficult to trust anyone other than immediate family.¹⁷

Larkins was 'stood down' and warned

On 6 April 1997, two weeks after the assault of AC, Larkins was seen at Stockton public pool buying sweets for children and asking them to join the Scouts. The pool manager contacted Armand Hoitink, Group Leader of Stockton Scouts.¹⁸ Following a Scouts internal inquiry, Larkins was given an official warning and removed from 'face-to-face' contact with young scouts.¹⁹

The indecent assaults on AA and AC were both later reported to NSW Police. AC told his mother about Larkins' assault of him in July 1997. She promptly reported it to the police. AA kept the assault to himself for eight years before he confided in his partner, then informed Scouts in April 2000, and the police in July 2000.

1.2 Larkins the HACS manager

Larkins had further contact with children after he started work as the Acting Co-ordinator of the Hunter Aboriginal Children's Service (HACS) in May 2000.²⁰ Although not required to do so, in early 2003 Larkins applied to the NSW Department of Community Services (DoCS) for a Working with Children Check (WWCC) assessment.²¹ In late 2003, DoCS wrote to Larkins enclosing a 'report to employer on risk assessment' showing that he had a medium level of risk with his employment.²² DoCS did not directly contact the Chairperson of the HACS Management Committee or any of its members about the WWCC assessment.

Larkins falsified documents and became carer of a child

In early 2004, Larkins applied for a review of his WWCC assessment. Shortly after, the administration of WWCCs was transferred from DoCS to the Commission for Children and Young People (CCYP).²³ As part of this review, Larkins claimed his role did not have direct contact with children and he provided false statutory declarations and forged documents to support this claim.²⁴ In fact, his position at HACS did have direct and unsupervised access to children.²⁵ In mid-June 2004, CCYP advised Larkins that he did not need a WWCC assessment because his position did not have direct contact with children.²⁶ Accordingly, the Commission withdrew his WWCC assessment.

Between early 2000 and early 2001, in response to an application by DoCS, the NSW Children's Court granted orders under the *Children and Young Persons (Care and Protection) Act 1998* (NSW), allocating parental responsibility for six children to Larkins as the principal officer of HACS.²⁷ Parental responsibility confers all the duties, powers, responsibilities and authority that parents have by law for their children.

In early January 2011, Larkins sought approval to take on the direct care of a young person ('AD'), and argued that he was automatically able to foster children as the head of the agency.²⁸ This was contrary to HACS policy that staff could not become foster carers for children placed with HACS.²⁹

Larkins was convicted in 2012

A criminal investigation finally started against Larkins in April 2011, when another HACS manager discovered a USB drive in a car that Larkins had been driving. The drive contained many pornographic images of children, and it was handed to the police. Larkins was arrested that day and charged with possessing child pornography. He was also suspended from his position as CEO of HACS, initially on paid leave.³⁰

Detective Nathan Abbott investigated the child pornography offences. He immediately uncovered the 1992 and 1997 allegations against Larkins. He charged Larkins with two counts of aggravated indecent assault because the victims were under the age of sixteen at the time of the offence. Abbott also investigated the WWCC and the correspondence between DoCS and Larkins. He found that Larkins had sworn a false statutory declaration and forged documents, including a WWCC assessment.

In August 2011, Larkins was charged with 19 counts. In July 2012, he pleaded guilty to two charges of aggravated indecent assault, three charges of possessing child abuse material and three charges relating to dishonesty offences.³¹ Larkins was sentenced in the Local Court to:

- a section 9 bond for three years for the two charges of indecent assault
- 12 months' imprisonment for the possession of child abuse material with a non-parole period of 9 months
- 18 months' imprisonment for the dishonesty offences with a non-parole period of 12 months.

The overall effective sentence was 22 months' imprisonment with a non-parole period of 19 months.³² Following an appeal by Larkins heard in January 2013, the non-parole period for possessing child abuse material was reduced by four months.³³

2 Scouts

At a glance

The Royal Commission considered the response of Scouts to the conduct of Steven Larkins in detail during the public hearing. This section deals with each incident in turn and makes findings about the way that Scouts responded.

Scouts Australia has a complex organisational structure with different areas, levels and reporting lines. State branches are divided into regions, which are in turn divided into districts or branches, then into groups of individual scout troops. The management responsibilities at each level are:

Section	Management responsibility
State branches	Chief Executive Officer who reports to a state's Chief Commissioner (Each state also has a Chief Scout in a ceremonial role)
Regions	Regional Commissioner
Districts or branches	Commissioner
Groups	Group Leader
Troops	Scout Leader

Group leaders, scout leaders and assistant scout leaders must receive a warrant from Scouts Australia to perform their role.

2.1 1994 complaint

The earliest complaint that Scouts received about Larkins was in 1994. This was about Larkins sleeping in a tent with a young boy while on a scout activity. The complaint was made to Bill Metcalfe, the relevant District Commissioner. Mr Metcalfe said that he took his concerns to John Grothen, the Area Commissioner at the time.³⁴ Mr Grothen said he would raise it with the Area Team.³⁵

Mr Metcalfe said he raised concerns about Larkins at an Area Team meeting. The Area Team decided that Larkins should not be in charge of young scouts and should not be involved with the First Stockton Scout Troop. Mr Metcalfe said Larkins was told he was 'stood down',³⁶ and the team's decision was 'then to be put out to all the scout groups in the Area'.³⁷

The 'standing down' of Larkins was ineffective

After being stood down, Larkins left the First Stockton Scout Troop but then joined the First Raymond Terrace Scout Troop as Assistant Scout Leader.

Mr Metcalfe was surprised when he heard about this and questioned the Group Leader at First Raymond Terrace about the decision. The Group Leader told him that:

- the complaints against Larkins were not seen as serious enough to stop him joining because the Area did not take his scout warrant card away from him
- Raymond Terrace was ‘keeping an eye on him’.³⁸

► **Finding 1**

The decision to ‘stand down’ Steven Larkins was ineffective because it was not recognised by other scout leaders as an indication that Steven Larkins should not be in charge of young scouts.

2.2 1997 warning

The official warning given to Larkins in 1997 related to a complaint about his conduct at Stockton public pool. On receiving the complaint, Armand Hoitink, Group Leader of Stockton Scouts, told the police about the incident.³⁹ There was some dispute about whether Mr Hoitink also contacted Mr Metcalfe or Des Hocking at this time. We are satisfied that Mr Hoitink did contact Mr Hocking, who was then the Regional Commissioner (Operations) for Port Stephens.⁴⁰

The next day, Mr Hoitink wrote to Allan Currie, Regional Commissioner of the Hunter and Coastal Region of NSW and a member of the State Executive. Mr Hoitink’s letter stated that the police had contacted Larkins and confirmed that he had been at the pool and had bought the children bags of lollies. In that letter, Mr Hoitink said the police told him that, while Larkins’ behaviour was ‘highly suspicious’, there was no specific law against what he was doing and they could not charge him with any offence.⁴¹

► **Finding 2**

Mr Hoitink should have, and did, report the incident involving Steven Larkins at Stockton public pool in 1997 to a senior scout member and to the police.

Mr Currie responded to Mr Hoitink’s letter by asking Peter Elliot, the Regional Commissioner (Youth Programs), to investigate the matter.⁴² Mr Currie confirmed that Mr Elliot did not contact the police during his investigation to ask what they had found out.⁴³

Mr Currie said that he had several phone calls with Mr Hocking during the investigation. Mr Hocking told him about previous incidents involving Larkins, including:

- climbing into the sleeping bag of a child who was supposedly suffering hypothermia
- sleeping in the same tent as young scouts
- showering in the presence of children at camp.⁴⁴

Scouts 'official warning' was not effective

Mr Currie responded to Mr Hoitink's letter on 17 April 1997, saying that he had given Larkins an 'official warning' that would be attached to Larkins' record.⁴⁵ In evidence, Mr Currie said that the record of the warning was not placed on Larkins' member report. He believed it would have been placed in a paper file similar to a personnel file. Mr Currie agreed that fewer people had access to this file.⁴⁶

Senior Counsel Assisting submitted that we should make a finding that the official warning was not effectively recorded or communicated to the people in Scouts responsible for supervising Larkins.

Scouts disputed this proposed finding because:

- although the allegations dealt with by Mr Currie in 1997 referred to bizarre behaviour by Larkins, they did not directly suggest actual or likely abuse requiring immediate action
- while Mr Hoitink's allegations and Mr Hocking's information point towards what would today be described as 'grooming behaviour', those actions could also be interpreted as showing Larkins' lack of maturity
- 'at the time it was thought to be at least improper – if not illegal – to disseminate suspicions other than founded on a substantial basis'⁴⁷ because of concerns around defamation and privacy.

Scouts submitted that the effectiveness of its response and communication needs to be interpreted in light of these constraints.

We do not accept that Larkins' conduct can be dismissed or excused as 'bizarre behaviour' or the signs of immaturity. The perceived constraints relating to defamation and privacy are misguided. A person will have a defence of qualified privilege against a claim of defamation if they report reasonable suspicions of child sexual abuse to a person who has a legitimate interest in receiving that information.

In 1997, at the time the Larkins allegations came to light, this defence was recognised at common law⁴⁸ and in NSW legislation.⁴⁹ Under the statutory defence at that time, a defendant had to show that communicating the material was reasonable in the circumstances. The common law and statutory defence still apply today.⁵⁰ In 2006, the statutory defence was incorporated in uniform laws in each Australian state and territory.⁵¹

Today, the statutory defence also provides various matters that the court may consider when determining whether the conduct in publishing defamatory material was reasonable, such as:

- the nature of the business environment
- the extent to which the matter published distinguishes suspicions, allegations and proven facts
- the sources of information in the matter published and the integrity of those sources
- whether the matter published contained the substance of the person's side of the story and, if not, whether the defendant made a reasonable attempt to obtain and publish a response from that person.

The defence of qualified privilege will not protect those who publish defamatory material with malicious intent, including those who are reckless to the truth of the material.⁵²

We accept the submission by Senior Counsel Assisting. If the conduct of Larkins was serious enough to warrant an ‘official warning’, then that warning could only be effective if it was properly recorded and communicated to those responsible for supervising Larkins.

► **Finding 3**

The ‘official warning’ against Steven Larkins was not effectively recorded or communicated to those who were responsible for appointing and supervising leaders within Scouts Australia NSW.

Scouts was influenced by protecting its reputation

In a letter informing Larkins of his ‘official warning’, Mr Currie wrote that the publicity from the incident at Stockton pool was something the Scout Association could ‘well do without’. He said the Stockton Group was in ‘damage control’ and that, as Regional Commissioner, one of his responsibilities was improving the public image of Scouts and doing what was ‘necessary to keep our good name’.⁵³ In evidence, Mr Currie said that in taking the action he did, he would have been ‘trying to preserve the good name of Scouts, but we would take the necessary action if required’.⁵⁴

Senior Counsel Assisting submitted that we should make a finding that Mr Currie’s actions over Larkins in 1997 were influenced mainly by his desire to protect the Scouts reputation.

Scouts submitted that Mr Currie acted in good faith and was concerned for the organisation *and* for the children in the organisation. Scouts further submitted that Mr Currie’s actions and motivation need to be understood in the context of:

- the nature of the complaints he received
- him being a newly appointed regional commissioner
- there not being the same concern at the time for warning signs and possible future paedophilia, particularly in regional matters, that there is now
- him not coming from an environment sensitive to those issues because he was an engineer.

The Scouts submissions suggested that there is a reasonable explanation for Mr Currie’s actions and motivations. However, we find that Mr Currie’s actions were influenced by his desire to protect the reputation of Scouts. This does not preclude his actions also being influenced by a concern for the children.

► **Finding 4**

Mr Currie’s actions in relation to Steven Larkins in 1997 were influenced by his desire to protect the reputation of Scouts Australia NSW.

Scouts became aware that the police were investigating Larkins

In 1997, Scouts procedures provided for a warning to be the first step in handling a ‘major behavioural problem’ relating to a scout member.⁵⁵ A regional commissioner could also suspend the appointment of an adult leader where there were allegations that the leader:

- had infringed the Scout Association’s ‘duty of care’ to one of its members or a member of the public
- had committed a significant breach of the Scouts code of conduct
- was considered to have brought the Association into disrepute.⁵⁶

Suspension was identified as a temporary measure.

Mr Currie’s evidence was that personnel issues relating to members were normally raised with the Chief Commissioner and Chief Executive, who would report to the State Executive.⁵⁷ Mr Currie did not raise with the State Executive the Stockton pool incident and the behavioural concerns about Larkins that the investigation identified.

Mr Currie could not recall whether he raised the matter and the ‘official warning’ he gave to Larkins with the Chief Executive or the Chief Commissioner, but believed he did not.⁵⁸ Mr Currie also gave evidence that he did not then take the matter further and recommend Larkins’ suspension.⁵⁹

There was evidence that the Hunter and Coastal Region of NSW sent a ‘With Compliments’ note to the Chief Executive at Branch Headquarters⁶⁰ on 18 April 1997. There was also a letter to Hilton Bloomfield, the Chief Executive, on 2 July 1997, in which Mr Currie wrote, ‘You should have received some correspondence from me earlier in the year regarding Mr. Larkins’.⁶¹ The ‘With Compliments’ slip cited Larkins’ member number, date of birth and given names.

Scouts submitted that the evidence of the ‘With Compliments’ slip can reasonably support a finding that Mr Currie did inform the Chief Executive of the incident at Stockton pool and some information about the other incidents identified through the investigation.

We do not need to make a finding on whether Mr Currie reported the matter to the Chief Executive. Even if he did, the report was not properly recorded and there is no evidence of any follow-up action by Mr Currie or Mr Bloomfield.

Meanwhile, details were starting to emerge about other conduct of Larkins, unrelated to the Stockton pool incident. In July 1997, AC told his mother of the indecent assault in March that year. She informed police and the (then) NSW Department of Community Services (DoCS). Newcastle police began an investigation.

On 12 September 1997, a file note by Mr Bloomfield records that (then) Senior Constable Nigel Turney called Mr Currie and asked him if Scouts had suspended Larkins, and that Mr Currie informed Mr Bloomfield of this.⁶² The file note states, ‘It appears that someone has reported Larkins in relation to child abuse, although it may be an anonymous call...’.⁶³

In December 1997, as part of his investigation, Senior Constable Turney took a statement from Mr Currie. Mr Currie gave evidence that Senior Constable Turney spoke to him about the Stockton pool incident. He did not ask the Senior Constable why he wanted a statement. Mr Currie did recall that there had been a police operation about reporting child abuse at the time.⁶⁴

Mr Currie's statement to the police detailed the Stockton pool incident, the letter from Mr Hoytink and the results of Scouts' investigations into rumours about Larkins.⁶⁵

Senior Counsel Assisting submitted that Mr Currie and Mr Bloomfield knew in September 1997 that Larkins was being investigated by the police over a report of child abuse yet took no action.

Scouts contested this suggested finding and submitted that Sergeant Turney gave evidence that he thought it was 'likely' that he had mentioned child abuse or an assault matter to Mr Currie, but he couldn't 'recall the specifics of it'.⁶⁶ Sergeant Turney did not say whether he did so at the time of the September 1997 telephone call or when taking the December 1997 statement.

Mr Currie's evidence about the call was:

It basically was just a call from Constable Turney asking if we had suspended Steven Larkins, and that was all. There was no detail of anything else at that particular time. ... he didn't want to talk for very long. He just asked, and it basically was only a quick conversation.⁶⁷

Scouts submitted that the extent of Mr Currie's knowledge after the September 1997 call seems limited and the evidence does not establish that Mr Currie was given detail of the allegation or any related investigations. Scouts argued Mr Currie believed the call was a follow-up on the complaint that Mr Hoytink had made a few months earlier and that he did not need to take further action.

We do not accept Scouts' submissions on this matter. Our conclusion is that Mr Currie and Mr Bloomfield knew, if not in September 1997 then by December 1997, that the police were investigating Larkins over a report of child abuse. They did not need specific details to know this.

► Finding 5

Mr Currie and Mr Bloomfield knew at some time between September and December 1997 that the police were investigating Steven Larkins over a report of child abuse yet took no action.

Larkins had further unsupervised contact with young scouts

When Mr Currie gave Larkins an 'official warning' he also told him that Larkins was to be removed from weekly 'face-to-face' work with young scouts.⁶⁸ In evidence, Mr Currie admitted that Larkins could still attend major scout activities without permission.⁶⁹

Mr Currie said that Scouts only communicated the action to remove Larkins from ‘face-to-face’ contact through ‘word of mouth’.⁷⁰ Mr Currie said he was attending many scout activities in the Region at the time, and would have known personally if Larkins had breached this condition. He said he did not receive any reports from local scout groups that Larkins had attended their groups.⁷¹ Mr Currie agreed that it was ‘little more than a hope’ that he could communicate his expectations of Larkins to adults at those events.⁷²

In January 1998, the National Scout Jamboree was held in Springfield, Queensland. As part of the jamboree, scouts visited attractions such as Sea World on the Gold Coast.⁷³ Mr Hoytink, who was then on holiday, said he saw Larkins at Sea World in scout uniform, leading a group of scouts, with no other adult present. Scouts did not dispute this evidence and conceded that Mr Currie’s direction to Larkins did not prevent him from being alone with young scouts at major scout activities as opposed to weekly meetings.

Scouts admitted that it would have been better in hindsight for Scouts to remove Larkins from any contact with young scouts. Despite this, Scouts submitted that, based on Mr Currie’s knowledge at the time, it would have been disproportionate to the allegations to exclude Larkins from contact with young scouts at any function in Australia.

We consider that the decision to only remove Larkins from weekly ‘face-to-face’ work with young scouts was ineffective because it did not address the risk of him being alone with young scouts. We do not accept that a direction that Larkins could not be alone with young scouts would have been disproportionate to the allegations.

► **Finding 6**

Mr Hoytink saw Steven Larkins at Sea World in January 1998, leading a group of scouts. The Royal Commission is satisfied that the scouts he led had come from the jamboree at Springfield and that Steven Larkins was present at the jamboree.

► **Finding 7**

The official warning of Steven Larkins by Mr Currie was ineffective, as Steven Larkins was able to be in the company of young scouts with no other adult present.

2.3 2000 suspension

In early 2000, AA attended a scout camp and saw Larkins. AA told a group leader that Larkins had indecently assaulted him as a child.⁷⁴ The group leader referred AA to Mr Hocking who held a more senior position. AA said Mr Hocking was very supportive and arranged for someone from Scouts to see him.⁷⁵

A file note of the (then) Chief Executive of Scouts, Peter Olah, reveals that Mr Currie spoke with Mr Olah in April 2000 and told him about the Stockton pool incident and other rumours about Larkins’ behaviour with young scouts. He also told Mr Olah that AA had come forward with complaints.⁷⁶

Scouts finally suspended Larkins but did not adequately record it

In May 2000, AA met with Mr Currie and told him about the sexual abuse by Larkins. Mr Currie rang Mr Olah after the meeting and recommended Larkin's immediate suspension. He confirmed this in a letter to Mr Olah the next day.⁷⁷ Scouts, and particularly Mr Olah, helped AA meet with the police, offered support and organised counselling.⁷⁸

However, Larkins' suspension was not permanently recorded on his member record.⁷⁹ Scouts submitted that the suspension was permanently recorded on Larkins' paper personnel file, maintained at Scouts Branch Headquarters/State Office.⁸⁰ As with the official warning, we consider that recording the suspension on the personnel file only was inadequate because the information was not available to everyone in Scouts responsible for supervising Larkins.

► Finding 8

Mr Currie was right to recommend Steven Larkins' suspension following the disclosure by AA that he was sexually abused by Steven Larkins. Scouts Australia NSW responded promptly and suspended Steven Larkins, and provided appropriate support to AA.

► Finding 9

Scouts Australia NSW should have, but did not, permanently record Steven Larkins' suspension on his member record.

Scouts have since changed their procedures

By 2000, the Scouts' Behaviour Management Procedure had changed to require the immediate suspension of a leader who was the subject of serious allegations without investigating the matter beforehand.⁸¹ In his statement, Graham Bargwanna, the current Chief Executive, noted that this policy has caused some disquiet within Scouts, because it was believed that natural justice would not be given to the member concerned.⁸²

Mr Bargwanna also said that a specific step-by-step process is now used to respond to child abuse allegations. The steps include:

- reporting by members of 'suspicions or allegations of sexual or physical impropriety' to the Chief Executive or Chief Commissioner
- suspending the accused adult leader
- providing support for that leader.

The process defines steps to terminate or re-instate the leader concerned.⁸³

Mr Bargwanna and Steve Fernie, Regional Commissioner for the Hunter and Coastal Region of NSW, provided further evidence of current Scouts policies and procedures. These include a two-deep leadership policy, which requires that at least two adult members attend while supervising or accompanying young scouts,⁸⁴ and a phase-in of Working with Children Checks from January 2015.⁸⁵ The current record keeping practices of Scouts also link regional and state offices, with staff at regional offices now having access to the state member information system database.⁸⁶

3 NSW Police Force

At a glance

The second institution to investigate Steven Larkins was the NSW Police Force, following a report of the assault on AC in 1997. This section outlines how delays in the investigation, and misinformation provided to AC and his mother, led to the prosecution being dropped even though the Director of Public Prosecutions recommended it proceed.

3.1 Indecent assault of AC

Police allocated the 1997 investigation to an inexperienced officer

In July 1997, AC told his mother of the indecent assault by Larkins in March that year. His mother immediately contacted the police, and the NSW Police State Crime Command initially dealt with the complaint. It was then transferred to Newcastle Police and assigned to (then) Senior Constable Turney as the 'IROC Officer'. This designation meant that he had completed an 'Initial Response Officers Course' tailored for officers receiving complaints of sexual assault.⁸⁷

Unlike detectives in the State Crime Command, Senior Constable Turney did not have experience in child sexual assault matters. This was one of his first such cases.⁸⁸

On 18 August 1997, Senior Constable Turney took a detailed statement from AC in the company of his mother, AB. In September 1997, Senior Constable Turney spoke with Mr Currie and asked whether Larkins had been suspended.

► Finding 10

The allegation of indecent assault of AC was not investigated by detectives with experience in such matters. Senior Constable Turney investigated the allegation although he was inexperienced in that area, including in interviewing victims of sexual assault.

The investigation was significantly delayed

It was not until 28 December 1997 that Senior Constable Turney took a statement from Mr Currie that included known rumours about Larkins within Scouts. Sergeant Turney could not explain why it took four months to take this statement, save for work obligations.⁸⁹

On 15 January 1998, AB gave a statement to the police about what her son told her about the assault.⁹⁰ Larkins was then interviewed on 9 February 1998. He admitted that AC had stayed at his house but denied the indecent assault.⁹¹

The case report on the police computer system known as ‘COPS’ recorded the investigation, and was available to all officers wanting to know its status. Yet the report did not record the statements taken on 28 December 1997, 15 January 1998 or 12 February 1998. Sergeant Turney said he did not recall specific guidelines on what should be included in a case report.⁹² Although the system had been introduced some years earlier, police were still developing protocols about its use.⁹³

Meanwhile, Senior Constable Pamela Amloh applied on 25 March 1998 to the Newcastle Local Court for an apprehended personal violence order (AVO) to protect AC against Larkins. Several interim orders were made against Larkins to protect AC throughout 1998.⁹⁴

There was a further delay of just under three months before the next step in Senior Constable Turney’s investigation. On 6 May 1998, he formally requested advice from the Newcastle office of the NSW Director of Public Prosecutions (DPP) on whether to charge Larkins, enclosing all available evidence. Sergeant Turney said the delay may have been because transcripts of interviews commonly took six to eight weeks to obtain.⁹⁵

3.2 Prosecution of Larkins

Director of Public Prosecutions Solicitor Kylie Henry recommended to her manager on 14 June 1998 that the Crown prosecute Larkins under section 61M of the *Crimes Act 1900*.⁹⁶ Senior Constable Amloh called M Henry on 12 and 16 June 1999 to enquire about progress.⁹⁷ On 16 or 17 June 1998, Ms Henry advised Senior Constable Amloh that the matter had to go to Sydney for approval because it was a child sexual assault.⁹⁸

On 16 July 1998, the COPS system recorded the following information from Senior Constable Turney:⁹⁹

Advice from DPP is that no prosecution will proceed in relation to alleged offences. Info from Senior Constable Amloh on 16/7/98.¹⁰⁰

This entry was clearly wrong because on 22 July 1998, the DPP wrote to Senior Constable Turney that Larkins should be charged.¹⁰¹ Ms Henry’s manager at the DPP approved the sending of her recommendation for prosecution to Sydney on 22 June 1998. It was approved the following day.¹⁰²

The police provided incorrect information to the family

Senior Constable Amloh spoke on the phone with AB on 19 July 1998, three days after apparently informing Senior Constable Turney that the prosecution would not proceed.¹⁰³ She also spoke with Larkins about how often he was likely to visit the area where AC lived.¹⁰⁴ The police told the family that the prosecution was not proceeding. This information was incorrect. The AVO application was withdrawn on 27 July 1998,¹⁰⁵ possibly because the prosecution was presumed not to be proceeding.

Senior Constable Amloh recorded in her diary for 3 August 1998 that she had contacted the AVO prosecutor for the police, Mick Hall, ‘re AC/Larkins. Contrary info’. This suggests that she may not have known of the DPP’s advice by then.¹⁰⁶

It is also likely there was a delay in receiving the DPP's written advice because it is clear from Senior Constable Amloh's diary on 6 August 1998 that she and Senior Constable Turney were intent on contacting AB.¹⁰⁷ The advice from the DPP was stapled into her diary and she recorded that AB's phone was disconnected and Senior Constable Turney would drive over there to speak with her.¹⁰⁸

O 24 September 1998, DPP Witness Liaison Officer Sandra Eyre spoke with Senior Constable Turney and recorded that AB was now 'not wishing to proceed due to delay and initial misinformation'.¹⁰⁹ A further conversation between AB and Ms Eyre on 26 October 1998 records AB saying that 'AC was told that not enough evidence and that AC wanting to put exp. behind him'.¹¹⁰ On 11 November 1998, there was a final phone call between AB and Ms Eyre where AB indicated that AC definitely did not want to proceed with the matter.¹¹¹

The prosecution did not proceed

As at November 1998, Larkins had not been charged even though the DPP had advised that there was enough evidence to charge him with aggravated indecent assault.¹¹² Neither the case report on the COPS system nor the DPP file record whether the prosecution was to be pursued or abandoned. The prosecution was effectively on hold until Detective Nathan Abbott started a further investigation in 2011.

When questioned about the delay in the 1997–98 investigation and whether child sexual assault matters should be given priority, Sergeant Turney said that the case 'wasn't done in an adequate time frame back then' and 'it could have been done a bit quicker' but that things have changed and such matters are now dealt with expeditiously.¹¹³

On 28 February 2003, a search of Larkins' criminal record with CrimTrac revealed that he had a court date of 26 March 1999 for a charge of aggravated indecent assault.¹¹⁴ The Royal Commission obtained a copy of the draft summons and court attendance notice for this date.¹¹⁵ Sergeant Turney knew nothing about these documents or why a Sergeant Denman was listed as the officer in charge.¹¹⁶ Evidence later provided to DoCS showed that Newcastle Court had no record of Larkins attending court for a criminal charge despite there being a record of that court date for the charge of aggravated indecent assault.¹¹⁷

It is clear that the summons and court attendance notice were never issued or served. The circumstances in which it was drafted are not known. Nor are the reasons it was not detected and later removed from Larkins' record when there was no prosecution.

► Finding 11

There were substantial delays in the police investigation of the alleged offence, so that the Director of Public Prosecutions' advice to prosecute was received 12 months after the victim first communicated with police.

► Finding 12

Police involved in the investigation of the matters relating to AC communicated incorrect information about the prosecution of Steven Larkins to AB and AC, and later tried to correct it.

► Finding 13

The delay in the investigation, and the misinformation provided by officers of the NSW Police Force to AB, influenced AB and her son AC to ask that the prosecution of Steven Larkins not proceed in 1998.

► Finding 14

There was no reasonable explanation of how a draft summons and court attendance notice against Steven Larkins for the indecent assault on AC was still available on CrimTrac in 2003.

4 Working with Children Check

At a glance

Steven Larkins had further close contact with children after he started working for the Hunter Aboriginal Children's Service in 2000. As a designated agency providing out-of-home care services to children, this organisation was subject to scrutiny from government organisations involved with Working With Children Checks. This section outlines how Larkins was able to manipulate these processes to avoid being called to account for his conduct.

4.1 Employment screening in NSW

From 3 July 2000, employment screening known as the Working with Children Check (WWCC) was available in NSW for everyone employed in 'child-related employment'¹¹⁸ under Part 7 of the *Commission for Children and Young People Act 1998* (NSW) (CCYP Act). The check involved levels of screening starting with:

- a criminal record check
- consideration of any (final) apprehended violence orders
- relevant disciplinary proceedings
- any relevant probity check.¹¹⁹

If concerns were raised, an assessment of risk to children was required, with the results sent to the person 'who determines whether the person is to be employed' in child-related employment.¹²⁰ This process was replaced on 15 June 2013 by a new WWCC under the *Child Protection (Working with Children) Act 2012* (NSW).

WWCCs under the CCYP Act could be provided to employers by either:

- the Commission for Children and Young People (CCYP)
- an employer or employer-related body approved by the Minister.¹²¹

DoCS was an 'approved screening agency' until 12 March 2004.

Checks were not mandatory for existing employees

Importantly, while employers could seek a WWCC for employees at any stage, they only had a duty to screen a new employee in 'primary child-related employment'.¹²² There was no duty to screen people already in child-related employment when Part 7 of the CCYP Act started.¹²³

After 23 June 2000, employers had a duty to screen existing employees under the *Child Protection (Prohibited Employment) Act 1998* (NSW), unless they had completed a criminal record check on their employees within the previous two years. Employers had six months to comply with this transitional requirement.

4.2 NSW Department of Community Services

Under the arrangements in place at the time, the Hunter Aboriginal Children's Service (HACS) did not need a WWCC for Larkins because he was already working in child-related employment on 3 July 2000 when the WWCC process started. However, Larkins applied to DoCS for a WWCC assessment on 12 February 2003. His application also included an application for Jacqueline Henderson, a HACS out-of-home care caseworker. Larkins nominated himself as the contact person for both checks.¹²⁴

DoCS found a CrimTrac record on Larkins

A search of Larkins' criminal record with CrimTrac on 28 February 2003 revealed that he had a court date of 26 March 1999 relating to a charge of aggravated indecent assault.¹²⁵ That entry was wrong. Although obviously contemplated, he had not been charged with that offence. DoCS sought to clarify the charge with Newcastle Local Court, who advised there was no record of Larkins appearing on 26 March 1999.¹²⁶ As the WWCC only included *final* apprehended violence orders,¹²⁷ DoCS was not told of the interim AVOs made at Newcastle Court in 1998 to protect AC.¹²⁸

On 7 April 2003, Jan Rasmussen, a DoCS officer in the Screening Unit, asked Larkins to supply a consent form and prohibited employment declaration. The next day, Larkins told Ms Rasmussen that he had never been convicted or charged with any offence including any child-related offence.¹²⁹ Ms Rasmussen meanwhile spoke to Newcastle Police, who told her that, although a summons had been requested for aggravated indecent assault, no summons had in fact been issued.¹³⁰ Ms Rasmussen applied the policy for challenges to police records and asked Larkins to request that the NSW Police Force have the entry removed.¹³¹ She backed up her oral instructions with a written request.¹³²

Five months later, the matter had still not been resolved and Ms Rasmussen wrote to Larkins in September asking him to confirm with the NSW Police that the criminal history did not relate to him. She also told him that either he or HACS could withdraw the WWCC request, but only if he did not work directly and unsupervised with children.¹³³ Larkins did not respond.

DoCS assessed Larkins as a 'medium' risk but only informed Larkins

Ms Rasmussen then conducted her final assessment. She erred on the side of caution and treated the unserved summons as if it was a charge that had been dropped.¹³⁴ Her combined score for Larkins rated him as a:

- 'medium' level of risk
- 'high' score in the workplace characteristics assessment
- 'low' score in the offences that involve the sexual assault of a child 'assessment'.¹³⁵

On 11 November 2003, Helen Priestley, Acting Manager of the DoCS Screening Unit, wrote to Larkins enclosing a 'report to employer on risk assessment'.¹³⁶ The report showed that Larkins was a medium level of employment risk. It was addressed to him at the HACS office.

At no stage did DoCS contact any other person at HACS about Larkins' WWCC. The HACS Management Committee was responsible for his appointment and day-to-day employment. Yet DoCS did not directly contact the committee Chairperson or any members about the WWCC. Senior Counsel Assisting submitted that this obvious error allowed Larkins to conceal the results of his WWCC assessment from any member or employee of HACS.

The report did not come to light until Larkins' arrest in 2011. Successive HACS chairpersons, Jacqueline Henderson and Karen Elphick, both said they did not see the report until a detective showed it to them in 2011.¹³⁷ When Larkins was charged with child pornography offences, HACS found a falsified WWCC assessment on his human resources file.¹³⁸

In submissions, the State conceded that it was wrong to communicate the results of the WWCC assessment to Larkins alone. But it noted that at the time, there was no requirement in statute or in the CCYP's WWCC Guidelines that prevented the subject of a WWCC assessment from being the contact person for that check. Nor was it necessary to communicate the results to a management committee or board.

We accept the State's submissions on the statutory position, but we agree with Senior Counsel Assisting that DoCS actions in communicating the results of the WWCC assessment to Larkins alone showed a clear error of judgment.

► **Finding 15**

NSW Department of Community Services properly found Steven Larkins to be a risk to children on the basis of the information it had on 11 November 2003.

► **Finding 16**

Ms Priestley, Acting Manager of the Screening Unit of NSW Department of Community Services DoCS, did not communicate Steven Larkins' 11 November 2003 Working with Children Check assessment to the Hunter Aboriginal Children's Service Management Committee Chairperson or members.

► **Finding 17**

By NSW Department of Community Services providing the Working with Children Check assessment directly to Steven Larkins, Larkins was able to:

- conceal his Working with Children Check assessment from the Hunter Aboriginal Children's Service (HACS) Management Committee and employees
- continue employment at HACS, when the HACS Management Committee could have dealt with his Working with Children Check assessment through the appropriate governance processes.

4.3 Commission for Children and Young People

On 10 February 2004, Larkins sought a review of his Working with Children Check assessment because he had never been charged or convicted of any of the alleged charges.¹³⁹ On 7 March 2004, he gave DoCS further information including a CV and references, and he again told them there were no charges against him.¹⁴⁰ This was the point at which CCYP took over administering WWCCs from DoCS.¹⁴¹ CCYP is a statutory corporation established by the *Commission for Children and Young People Act 1998* (NSW).

On 5 April 2004, Ms Priestley (now an employee of CCYP) recommended in an internal file note that the Commission could not review Larkins' risk assessment without supporting documents that Larkins had not yet provided.¹⁴² Ms Priestley spoke with Larkins on 14 April 2004, when he told her that as co-ordinator, he did not have direct contact with children.¹⁴³ Based on that representation, Ms Priestley initially concluded that he was not in child-related employment but asked him to confirm this in a statutory declaration, with confirmation from his supervisor.¹⁴⁴

Larkins provided false documents

On 26 April 2004, Larkins sent CCYP a statutory declaration saying that:

- he did not have a caseload where he was directly responsible for contact with children
- his main tasks were the overall daily management of the office.¹⁴⁵

This statutory declaration was false and Larkins was later convicted of making a false statutory declaration.¹⁴⁶

Then, on 26 May 2004, a letter on HACS letterhead and purportedly signed by Mark Zaniol, 'professional supervisor', was provided to CCYP.¹⁴⁷ The letter includes a statement that Larkins 'does not have a caseload of children'. This letter was created by Larkins and not signed by Mr Zaniol. Larkins was convicted in 2012 of falsely creating this document to obtain a financial advantage, being his employment.¹⁴⁸

On 28 May 2004, Ms Priestley contacted the author by email to confirm its contents.¹⁴⁹ Mr Zaniol confirmed by return email that Larkins was not involved in direct unsupervised contact with children.¹⁵⁰

The WWCC was withdrawn

In a file note of 8 June 2004, Ms Priestley recommended that Larkins' WWCC assessment should be 'withdrawn' based on the material Larkins provided.¹⁵¹ This was on the basis that the nature of his work was such that he did not need a WWCC assessment. While CCYP asked Larkins for a statement of duties, he did not provide one.¹⁵² Had he done so, it would have revealed that he did have direct unsupervised access to children.¹⁵³

A letter dated 16 June 2004 from Judi Teesdale, Ms Priestley's manager, to Larkins stated:

... it would appear that your position does not meet the criteria for the Working with Children Check ... [as] one of the essential criteria of the position is direct unsupervised contact with children.¹⁵⁴

Ms Teesdale then stated that Larkins' check would be 'withdrawn'. The practical effect of the letter was not only to withdraw the CCYP review, but also the risk assessment that Ms Priestley had issued directly to Larkins on 11 November 2003.

The use of the term 'withdrawn' is anomalous. The WWCC scheme that CCYP administered comprised a request by an employer to CCYP for an employee to be screened. The employer was, appropriately, the only party able to withdraw the request and not CCYP (or the subject of the check). CCYP's role was to inform the employer whether Larkins was a risk. If CCYP determined that he was not working in child-related employment, then it was up to the employer to withdraw the application.¹⁵⁵

Lack of clarity on this issue within both DoCS and CCYP meant that important communication did not take place between the agencies and the relevant people at HACS. This allowed Larkins to deceive DoCS, CCYP and HACS. NSW Children's Guardian Kerryn Boland said that the withdrawal was inconsistent with the procedures and generally accepted practices at the time.¹⁵⁶

From July 2003 HACS, as an out-of-home care provider, participated in the Office of the Children's Guardian Quality Improvement Program because the Children's Guardian was HACS' accrediting body.¹⁵⁷ As such, the Children's Guardian was aware of the principal officer's role and could have advised both agencies that Larkins was working directly with children. Yet CCYP did not contact the Children's Guardian.

► **Finding 18**

Steven Larkins provided a false statutory declaration and letter to support his application to review his Working with Children Check assessment.

► **Finding 19**

The Commission for Children and Young People did not check Steven Larkins' representations with the Hunter Aboriginal Children's Service's Chairperson or management committee members.

► **Finding 20**

The Commission for Children and Young People did not exchange information with the Office of the Children's Guardian over Steven Larkins' position with Hunter Aboriginal Children's Service.

► **Finding 21**

The Commission for Children and Young People wrongly 'withdrew' the Working with Children Check assessment of Steven Larkins.

The WWCC process has now changed

The statement of NSW Children's Guardian Kerry Boland details the operation of the new WWCC under the *Child Protection (Working with Children) Act 2012* (Child Protection Act) that started on 15 June 2013. The Office of the Children's Guardian now administers the new WWCC. A worker initiates a check, rather than an employer, and individuals receive either a clearance or a bar to work with children.¹⁵⁸

The outcomes of checks are only available electronically so that employers must verify that an employee holds a WWCC assessment by checking directly with the Children's Guardian database. The Child Protection Act has also broadened the definition of child-related work to include 'direct contact' with children rather than 'direct unsupervised contact' as was the case before 2013.¹⁵⁹

Under the new Act, only the Administrative Decisions Tribunal can review a decision to bar an applicant from child-related work. The Children's Guardian no longer accepts applications for internal review of a decision.¹⁶⁰

5 Hunter Aboriginal Children’s Service

At a glance

The final institution that the case study examined is the Hunter Aboriginal Children’s Service, where Steven Larkins worked in a senior role from 2000 until his arrest in 2011. This section looks at how the organisation was failing to meet new accreditation standards, and how Larkins manipulated the management committee to prevent disclosure of his conduct.

The Hunter Aboriginal Children’s Service (HACS) provided services to Aboriginal children and young people who had been removed from their families and were living in out-of-home care.

5.1 Quality Improvement Program

In July 2003, the regulatory framework for the Office of the Children’s Guardian (‘Children’s Guardian’) Accreditation and Quality Improvement Program began. At the time, organisations providing out-of-home care were declared ‘designated’ agencies under section 139(1)(b) of the *Children and Young Persons (Care and Protection) Act 1998*. This authorised an agency to arrange the provision of out-of-home care. HACS was a designated agency and Larkins became its principal officer. As principal officer, Larkins acquired the status of an authorised carer under section 137(1)(a) of the *Children and Young Persons (Care and Protection) Act 1998*. As an authorised carer, Larkins could provide direct care to children. The principal officer of a designated agency did not then have to undergo a WWCC assessment.

A new accreditation system had transitional arrangements

Accreditation through the Children’s Guardian operated as a licence to arrange statutory and supported care.¹⁶¹ Ms Boland gave evidence it was known that some agencies that had been providing out-of-home care would not meet the new ‘best practice’ standards under the *Children and Young Persons (Care and Protection) Regulation 2000* (NSW). This being the case, the Regulations allowed 10 years for designated agencies to meet the standards.¹⁶² Agencies could apply under the Transitional Regulation to receive interim accreditation, and were referred to as being in the Children’s Guardian’s Quality Improvement Program.¹⁶³

In December 2003, HACS entered into an ‘accreditation quality improvement agreement’ with the Children’s Guardian, and in January 2004, lodged an application for ‘Accreditation and Quality Improvement’, signed by Larkins.¹⁶⁴ HACS submitted its first required annual progress report to the Children’s Guardian in April 2005.

HACS provided a second progress report in February 2007. Ms Boland was concerned that HACS had entered into an agreement with DoCS to increase the number of out-of-home care placements from 30 to 60.¹⁶⁵ In May 2007, Ms Boland and two of her staff met directly

with Larkins to discuss concerns about HACS practices.¹⁶⁶ After this meeting, Larkins agreed to HACS being placed on an individualised program to meet accreditation criteria.¹⁶⁷

HACS was lagging behind comparable agencies

Ms Boland stated that there was a very low threshold for remaining in the Quality Improvement Program and HACS only had to demonstrate ‘some level of annual improvement’ against accreditation criteria.¹⁶⁸ Ms Boland stated that HACS was ‘lagging behind’ other agencies in the program.¹⁶⁹ The Children’s Guardian noted that HACS policies and procedures were, for the most part, copied directly from a manual that the Children’s Guardian developed to help agencies develop their own.¹⁷⁰

The Children’s Guardian was seeking evidence from the agency as late as July 2010, to understand its policies and procedures relating to the board of management, staff supervision and support, and staff training and development.¹⁷¹ In March 2011, a Children’s Guardian assessment found that HACS had ‘not met’ 16 of 22 standards. Six standards had been ‘partially met’.¹⁷²

There was uncertainty about terminating accreditation

Ms Boland gave evidence that, under the regulation at that time, she could not terminate the interim accreditation of HACS or any other agency in the program unless ‘there had been something extreme’. This was because agencies had 10 years to meet the standards.¹⁷³ The Quality Improvement Program is now closed, and no agencies remain in the program.¹⁷⁴

5.2 Rumours about Larkins

In 2000, when Larkins started working with HACS, Jacqueline Henderson was a casework manager at the agency. She resigned in 2001 and shortly after became the HACS Chairperson, a position she held until 2005. Ms Henderson is the second cousin of Larkins and has known him for much of her life.¹⁷⁵

Rumours of Larkins’ conduct persisted

Ms Henderson had first heard rumours in the early to mid-1990s that Larkins had ‘interfered with a couple of boys in Scouts’. She said she was told it had ‘gone to court’, and ‘I thought, okay, maybe he’s on a bond or something like that, and I didn’t take it any further’.¹⁷⁶

In 2003, while she was still employed with HACS, Ms Henderson heard further rumours in the Worimi Aboriginal community about Larkins and a past incident with a scout. Ms Henderson confronted him about the rumours and said that he became agitated and aggressive.¹⁷⁷

In early to mid-2003, another HACS caseworker told Ms Henderson that he or she had heard Larkins had ‘interfered with boys in Scouts’, and questioned why he was working in a children’s service.¹⁷⁸ Ms Henderson again confronted Larkins about the persistent rumours.

Larkins ‘went off’ and told Ms Henderson that if he heard the same again, he would seek legal advice and take defamation action.¹⁷⁹

Ms Henderson said she also raised the concerns with two members of the HACS committee, one of whom informed her that ‘Well, his Working With Children’s Check’s come back, so it must be okay [sic]’.¹⁸⁰ Ms Henderson was unable to say if anyone had reviewed Larkins’ WWCC assessment. It is now apparent that the WWCC assessment referred to was the falsified copy.¹⁸¹

HACS should have informed relevant agencies

Ms Henderson became a committee member and then the Chairperson of the HACS Management Committee in mid-2003.¹⁸² She gave evidence that it came to her attention that Larkins had children visiting and staying at his home. This concerned her because he had not been assessed as a foster carer.¹⁸³

It also concerned her because she did not think it was appropriate for him to have children at his home when he was there alone. The rumours she had heard about Larkins while in Scouts, were ‘... in the back of my mind, yes’.¹⁸⁴ Larkins told her that the carers of one child were going through some turmoil. Ms Henderson’s only response was to ask that child’s caseworker to keep an eye on the child.¹⁸⁵

► Finding 22

Ms Henderson should have told relevant agencies about:

- rumours that Steven Larkins had ‘interfered’ with boys in Scouts Australia NSW
- Steven Larkins having children visiting and staying at his home.

Those agencies include the NSW Department of Community Services, the Office of the Children’s Guardian and the Commission for Children and Young People.

► Finding 23

The Hunter Aboriginal Children’s Service Management Committee should have sighted Steven Larkins’ Working with Children Check assessment, or should have delegated one of its members to do so and report to the committee.

5.3 Placement of AD with Larkins

One of the children for whom Larkins had parental responsibility was a young person we refer to as ‘AD’. From 2009, AD’s caseworker at HACS was Ian Eggins. Mr Eggins gave evidence that Larkins was ‘overactive’ in his casework with AD:

I didn’t have to report on any other child to him except AD. He always knew what was happening with him. Numerous times during my employment I picked AD up from Steve’s house, or would drop him off there so that Steve could – they were doing things together.¹⁸⁶

On 14 December 2010, a youth worker at a residential youth agency where AD was living contacted Mr Eggins and told him that she was concerned about text messages on AD's phone.¹⁸⁷ Mr Eggins read the text messages, which were from 'Josh' to AD.¹⁸⁸

Mr Eggins rang the phone number from which the text messages had originated and he recognised Larkins' voice when he answered.¹⁸⁹ From this and later comments by Larkins, Mr Eggins concluded that 'Josh' was Larkins.¹⁹⁰

HACS missed opportunities to scrutinise Larkins

Mr Eggins immediately informed his superiors. He spoke to two HACS managers: Ted Lancaster, a casework manager and his direct supervisor,¹⁹¹ and Karen Barwick, a special projects manager.¹⁹² Mr Eggins was a mandatory reporter under the *Children and Young Persons (Care and Protection) Act 1998* and he specifically asked Mr Lancaster whether he should report a risk of significant harm under the Act. Mr Lancaster advised that he did not need to because there was not enough evidence.¹⁹³ Mr Eggins accepted this advice. As AD was over 16 years of age, Mr Eggins did not have to make a mandatory report to DoCS.

Mr Eggins also said that some two weeks after the conversation with Mr Lancaster, he told Ms Barwick about what he had found and what Mr Lancaster had advised him.¹⁹⁴ Ms Barwick said she could not recall having this direct conversation with Mr Eggins. She said that, given her child protection experience, she would have had strong regard to the issue had she been aware of the content of the text messages.¹⁹⁵ The text messages between Larkins and AD were not reported to the HACS Management Committee.

► Finding 24

There was an opportunity in late 2010 for one or more of Hunter Aboriginal Children's Service employees to report Steven Larkins for the content of the text messages to the Hunter Aboriginal Children's Service Management Committee. This was another missed opportunity for Steven Larkins' conduct to be scrutinised by those with authority to do so.

The HACS committee permitted Larkins to provide direct care to a child

Around December 2010 and January 2011, a DoCS employee and a HACS foster-care recruiter discussed Larkins and the placement of AD. The HACS employee was told that if Larkins was an authorised carer, it was HACS' decision whether the placement was suitable for the young person. However, the DoCS employee advised HACS to consider the implications of the placement, including its supervision and the fact that the carer of the young person would be the caseworker's employer.¹⁹⁶

In or about mid-January 2011, Larkins approached Ms Elphick, the (then) Chairperson, and asked her to convene a special meeting of the management committee. Larkins told her that the meeting was to give him permission to become AD's carer. He asked that the meeting take place at the Worimi Local Aboriginal Land Council instead of HACS premises. Larkins did not want staff present as they had expressed concern about him caring for AD.¹⁹⁷

Ms Elphick presided at the meeting on 19 January 2011. She said that Larkins gave the impression that DoCS had already approved the care of the child.¹⁹⁸ Larkins told the committee that he could be a care because he already had parental responsibility for AD.¹⁹⁹

Committee member Adam Faulkner gave evidence that the committee expressed concern to Larkins that this arrangement was not 'standard foster care practice', and that Larkins and HACS could face allegations of inappropriate conduct.²⁰⁰ Mr Faulkner said the committee did not have concerns that Larkins was acting inappropriately to AD.²⁰¹

HACS did not follow its own procedures

HACS had a procedure to assess and place children that was in line with existing out-of-home care standards. This included assessing the carer and developing a case plan.²⁰² Although it was clear that Larkins would be caring for AD, the committee did not assess his suitability or develop a case plan as the procedures required.²⁰³

Ms Barwick said she had considered that Larkins should not approve his own assessment, and that she intended to have the HACS Chairperson at that time, Ms Elphick, do so. Yet when Larkins refused to provide a phone contact for Ms Elphick, Ms Barwick did not pursue the matter. Her recollection is that Larkins 'threw a lot of work at me and I guess, on reflection, when I look back at it, was to keep me very busy'.²⁰⁴

In March 2011, the Children's Guardian assessed HACS on site. Those attending were Children's Guardian staff and three senior HACS managers: Ms Barwick, Mr Lancaster, and Adrian Elliot, the Human Resources Manager.²⁰⁵ Staff of the Children's Guardian later recorded on a file note several concerns about Larkins caring for AD in his own home, including:

- lack of documentation about the placement decision
- no evidence that Larkins had been subjected to any assessment or approval process
- potential conflict with his responsibility for managing allegations against foster carers
- no thought having been given to 'the power differential between Larkins as a carer and the role of case manager in supporting and supervising the young person'.²⁰⁶

In her statement, Ms Boland noted that the fact Larkins had parental responsibility for AD meant that there was no legal requirement for him to be subject to assessment or approval before taking on AD's care.²⁰⁷ Her view was that the Children's Court had already allocated Larkins all the powers of a parent, including responsibility for where AD lived.²⁰⁸

► Finding 25

While the law in January 2011 did not require Steven Larkins to be assessed to be a foster carer, Hunter Aboriginal Children's Service procedures did, and for good reasons. Hunter Aboriginal Children's Service should have followed its own procedures to assess Steven Larkins' suitability to care for AD and to develop a case plan.

5.4 Management committee

As HACS was a community-based non-government agency, its management committee was responsible for the agency operating effectively and meeting its legal, contractual and financial obligations.

Ms Henderson joined the committee after she left her paid position with HACS in mid-2003. She recalled that DoCS and the Association of Child Welfare Agencies provided some training for the HACS Management Committee when she was Chairperson. The training was to ‘understand a bit more about the service, the policies and procedures, especially with variation orders and understanding what they were’.²⁰⁹

Committee members lacked appropriate experience

Ms Henderson gave evidence that HACS was ‘very poorly governed’,²¹⁰ but she took no steps to address this when she was the Chairperson.²¹¹ Ms Henderson said that she did not feel adequately equipped to do the job.²¹²

Ms Elphick chaired the committee from 2009 until early 2012. She had no previous experience in HACS or other children’s services, or in chairing a board or management committee. She described a dearth of support or training in taking up the role. On joining the committee, she was not told about existing policies or procedures, nor did she ask about them. She was not given any relevant documents to read. Ms Elphick was not aware of the legal responsibilities in NSW relating to out-of-home care, and she did not do anything to acquaint herself with them.²¹³

Ms Elphick said that she relied on Larkins and the Human Resources Manager to tell her about HACS policies and procedures, and she relied on Larkins for advice on HACS’ legal requirements.²¹⁴ The Children’s Guardian found in March 2011 that HACS had ‘not met’ the two out-of-home care standards for organisational management: governance and strategic planning and evaluation.²¹⁵

► Finding 26

Hunter Aboriginal Children’s Service Management Committee members who gave evidence to the Royal Commission were inexperienced in organisational management and lacked knowledge of governance and legislative and regulatory frameworks relevant to Hunter Aboriginal Children’s Service.

Larkins separated staff from the committee

Ms Elphick also gave evidence that Larkins separated HACS staff from its management committee. Staff were not allowed to speak to the committee, and vice versa. Ms Elphick said that Larkins did this ‘just through manipulation’,²¹⁶ and he controlled committee meetings.²¹⁷

Mr Faulkner's statement said that the committee did not get involved in day-to-day case work, and no-one else had a detailed understanding of the regulatory regime.²¹⁸

In her evidence, Ms Henderson expressed personal offence at Larkins' actions and their impact on her and her community: 'He's used me as a god-damned puppet because of his dominance and I don't want to see this happen to anyone else'.²¹⁹

Ms Barwick told us that she was appalled that relatives of Larkins were on the HACS Management Committee. Ms Barwick described the power and 'clique' issues that this gave rise to.²²⁰

► **Finding 27**

A number of factors helped Steven Larkins to wield influence over the Hunter Aboriginal Children's Service Management Committee:

- Ms Henderson and Ms Elphick accepted their appointments as Chairperson without experience in organisational management or understanding of the regulatory regime governing out-of-home care.
- Ms Henderson was a relative of Steven Larkins.
- Steven Larkins restricted open communication between Hunter Aboriginal Children's Service Management Committee members and staff.

6 Systemic issues

The following systemic issues emerge from this case study and the Royal Commission will further consider them during the course of its work.

6.1 Organisations

Scouts and similar institutions

Systemic issues that arise from this case study include:

- the circumstances in which employers, including those with responsibility for volunteers, must report allegations of child sexual abuse to an external agency
- the adequacy of the current policies and procedures of institutions such as Scouts Australia NSW in preventing, reporting and responding to child sexual abuse.

NSW Police Force and other police jurisdictions

Systemic issues that arise from this case study include:

- the skill and experience that police officers assigned to child sexual assault investigations need
- record keeping within the NSW Police Force and its consistency with COPS entries, recording of information from the NSW Director of Public Prosecutions, and the availability of information on CrimTrac
- timeliness in child sexual assault investigations
- communication with victims and their families.

Child welfare agencies

The Royal Commission has already published an issues paper on how the Working with Children Check operates and will further consider it at a public forum in early 2014.

6.2 Systems

Out-of-home care

The Royal Commission has already published an issues paper on out-of-home care, which is part of this case study. Issues we will consider further at a roundtable in 2014 include:

- oversight and governance of non-government organisations providing out-of-home care
- regulation of authorised carers.

Criminal justice system

In further case studies and our research program, the Royal Commission will consider sentencing options and practices in child sexual assault matters.

Victim support

The Royal Commission will also consider the adequacy of institutional responses to the needs of victims and their families.

APPENDIX A: Terms of Reference

Letters Patent

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

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
Date of public hearing	16–19 September 2013
Legislation	<i>Royal Commissions Act 1923 (NSW)</i>
Leave to appear	Scouts Australia NSW State of New South Wales Karen Elphick, Jacqueline Henderson and Karen Barwick, former employees of Hunter Aboriginal Children’s Service
Legal representation	G Furness SC and S Beckett, Counsel Assisting the Royal Commission G James AM QC and J Rose instructed by E James of Law Corporation appearing for Scouts Australia NSW J Agius SC, A Williams, M England instructed by I Knight, Crown Solicitor appearing for State of NSW G Patterson, solicitor of Shaw McDonald Lawyers appearing for three former employees of Hunter Aboriginal Children’s Service
Pages of transcript	447 pages
Summons to attend	9 summons to attend issued under the <i>Royal Commissions Act 1923 (NSW)</i> producing 4,290 documents
Number of exhibits	30 exhibits consisting of a total of 314 documents tendered at the hearing
Witnesses	1 Witness AA 2 Witness AC 3 Witness AB

- 4 **Armand Hoitink**
Former Group Leader, Stockton Scout Group
- 5 **William Metcalfe**
Former District Commissioner, Water Wonderland District; Regional Commissioner (Operations) and Regional Activity Centre Warden, Hunter and Coastal Region
- 6 **Allan Currie**
Former District Commissioner, Wyong District; Regional Commissioner (Operations) and Regional Commissioner, Hunter and Coastal Region; and Scouts Australia NSW Executive Committee
- 7 **Peter Olah**
Former Chief Executive, Scouts Australia NSW
- 8 **Graham Bargwanna**
Chief Executive, Scouts Australia NSW
- 9 **Sergeant Nigel Turney**
Former Senior Constable, NSW Police
- 10 **Senior Constable Pamela Amlah**
Former Domestic Violence Liaison Officer, NSW Police
- 11 **Kerryn Boland**
NSW Children's Guardian; Acting Commissioner for Children and Young People; and formerly in various senior executive positions in the NSW Department of Community Services
- 12 **Maree Walk**
Chief Executive, Community Services
- 13 **Ian Eggins**
Former caseworker at Hunter Aboriginal Children's Service
- 14 **Karen Elphick**
Former Chairperson of the Management Committee for the Hunter Aboriginal Children's Service
- 15 **Jacqueline Henderson**
Former out-of-home care caseworker with the Hunter Aboriginal Children's Service
- 16 **Karen Barwick**
Former special projects manager with the Hunter Aboriginal Children's Service

Endnotes

Transcript and exhibits for Case Study 1 are available at www.childabuseroyalcommission.gov.au/public-hearings/new-case-study-1/

- ¹ Exhibit 1-0009, Case Study 1, STAT.0012.001.0222.
- ² Exhibit 1-0003, Case Study 1, STAT.0004.001.0001 at 0002.
- ³ Exhibit 1-0003, Case Study 1, STAT.0004.001.0001 at 0003.
- ⁴ Exhibit 1-0003, Case Study 1, STAT.0004.001.0001 at 0003; Exhibit 1-0003, Case Study 1, STAT.0004.001.0001 at 0005-0006.
- ⁵ Exhibit 1-0006, Case Study 1, STAT.0003.001.0001 at 0002; Exhibit 1-0007, Case Study 1, STAT.0009.001.0010 at 0013.
- ⁶ Transcript of W Metcalfe, Case Study 1 at 108:23-30; Exhibit 1-0007, Case Study 1, STAT.0009.001.0010 at 0013.
- ⁷ Transcript of W Metcalfe, Case Study 1 at 110:11-16.
- ⁸ Exhibit 1-0009, Case Study 1, STAT.0012.001.0222.
- ⁹ Exhibit 1-0004, Case Study 1, STAT.0008.001.0001 at 0003.
- ¹⁰ Exhibit 1-0004, Case Study 1, STAT.0008.001.0001 at 0003.
- ¹¹ Exhibit 1-0004, Case Study 1, STAT.0008.001.0001 at 0003.
- ¹² Exhibit 1-0004, Case Study 1, STAT.0008.001.0001 at 0004.
- ¹³ Exhibit 1-0004, Case Study 1, STAT.0008.001.0001 at 0004.
- ¹⁴ Exhibit 1-0004, Case Study 1, STAT.0008.001.0001 at 0004.
- ¹⁵ Exhibit 1-0004, Case Study 1, STAT.0008.001.0001 at 0004.
- ¹⁶ Exhibit 1-0004, Case Study 1, STAT.0008.001.0001 at 0004.
- ¹⁷ Exhibit 1-0004, Case Study 1, STAT.0008.001.0001 at 0006.
- ¹⁸ Exhibit 1-0006, Case Study 1, STAT.0003.001.0001 at 0002.
- ¹⁹ Exhibit 1-0008, Case Study 1, STAT.0010.001.0029.
- ²⁰ Exhibit 1-0002, Case Study 1, NSW.0110.01013.0060; Exhibit 1-0023, Case Study 1, STAT.0011.001.0732 at 0737.
- ²¹ Exhibit 1-0002, Case Study 1, NSW.0110.01001.0147.
- ²² Exhibit 1-0002, Case Study 1, NSW.0110.01001.0180.
- ²³ Exhibit 1-0025, Case Study 1, STAT.0001.001.0043 at 0057.
- ²⁴ Exhibit 1-0029, Case Study 1, STAT.0023.001.0015; Exhibit 1-0029, Case Study 1, STAT.0023.001.0017; Exhibit 1-0002, Case Study 1, TRAN.CRT.0001.0001 at 0001 and 0008.
- ²⁵ Exhibit 1-0002, Case Study 1, NSW.0003.01002.0123.
- ²⁶ Exhibit 1-0023, Case Study 1, STAT.0011.001.0002 at 0012.
- ²⁷ Exhibit 1-0025, Case Study 1, STAT.0001.001.0043 at 0058; Transcript of M Walk, Case Study 1 at 369:20.
- ²⁸ Exhibit 1-0028, Case Study 1, STAT.0019.001.0044 at 0045.
- ²⁹ Exhibit 1-0030, Case Study 1, STAT.0020.001.0001 at 0005.
- ³⁰ Exhibit 1-0026, Case Study 1, STAT.0018.001.0001 at 0008.
- ³¹ Exhibit 1-0002, TRAN.CRT.0001.0001 at 0004-0005; Exhibit 1-0002, TRAN.CRT.0001.0026 at 0027.
- ³² Exhibit 1-0002, Case Study 1, TRAN.CRT.0001.0001 at 0008-0009.
- ³³ Exhibit 1-0002, Case Study 1, TRAN.CRT.0001.0026 at 0032.

- 34 Exhibit 1-0012, Case Study 1, STAT.0014.001.0001 at 0007.
- 35 Exhibit 1-0007, Case Study 1, STAT.0009.001.0010 at 0013.
- 36 Transcript of W Metcalfe, Case Study at 110:11-16.
- 37 Exhibit 1-0007, Case Study 1, STAT.0009.001.0010 at 0013-0014.
- 38 Exhibit 1-0007, Case Study 1, STAT.0009.001.0010 at 0014.
- 39 Exhibit 1-0006, Case Study 1, STAT.0003.001.0001 at 0002.
- 40 Exhibit 1-0006, Case Study 1, NSW.0003.01002.0015; Exhibit 1-0007, Case Study 1, STAT.0009.001.0010 at 0011.
- 41 Exhibit 1-0006, Case Study 1, NSW.0003.01002.0015.
- 42 Exhibit 1-0008, Case Study 1, STAT.0010.001.0001 at 0007.
- 43 Transcript of A J Currie, Case Study at 135:28-42.
- 44 Exhibit 1-0008, Case Study 1, STAT.0010.001.0001 at 0008.
- 45 Exhibit 1-0008, Case Study 1, STAT.0010.001.0028.
- 46 Transcript of A Currie, Case Study at 136:14-21.
- 47 Submissions of Scouts Australia NSW, Case Study 1, p. 1 at para. 6.
- 48 *Penton v Calwell* (1945) 7 CLR 219; *Adam v Ward* [1917] AC 309.
- 49 *Defamation Act 1974* (NSW) s 22.
- 50 *Cush v Dillon; Boland v Dillon* (2011) 85 ALJR 865.
- 51 *Civil Law (Wrongs) Act 2002* (ACT) s139A; *Defamation Act 2005* (NSW) s 30; *Defamation Act 2006* (NT) s 27; *Defamation Act 2005* (Qld) s 30; *Defamation Act 2005* (SA) s 28; *Defamation Act 2005* (Tas) s 30; *Defamation Act 2005* (Vic) s 30; *Defamation Act 2005* (WA) s 30.
- 52 *Harbour Radio Pty Limited v Keysar Trad* [2012] HCA 44.
- 53 Exhibit 1-0008, Case Study 1, STAT.0010.001.0029.
- 54 Transcript of A Currie, Case Study at 157:7-8.
- 55 Exhibit 1-0009, Case Study 1, STAT.0012.001.0107 at 0110.
- 56 Exhibit 1-0010, Case Study 1, STAT.0021.001.0001 at 0012.
- 57 Transcript of A Currie, Case Study 1 at 130:2-4, 18-21.
- 58 Transcript of A Currie, Case Study at 130:14-15, 30-31.
- 59 Transcript of A Currie, Case Study at 138:16-20.
- 60 Exhibit 1-0008, Case Study 1, STAT.0010.001.0029 at 0031.
- 61 Exhibit 1-0008, Case Study 1, STAT.0010.001.0033.
- 62 Exhibit 1-0008, Case Study 1, STAT.0010.001.0035.
- 63 Exhibit 1-0008, Case Study 1, STAT.0010.001.0035.
- 64 Transcript of A Currie, Case Study at 146:18-23.
- 65 Exhibit 1-0008, Case Study 1, STAT.0010.001.0036.
- 66 Transcript of N Turney, Case Study at 216:13-14.
- 67 Transcript of A Currie, Case Study at 143:33-44.
- 68 Exhibit 1-0008, Case Study 1, STAT.0010.001.0029 at 0030.
- 69 Transcript of A Currie, Case Study at 137:31-33.
- 70 Transcript of A Currie, Case Study at 132:29-33.
- 71 Exhibit 1-0008, Case Study 1, STAT.0010.001.0001 at 0011.
- 72 Transcript of A Currie, Case Study at 137:35-47, 138:1-8.
- 73 Transcript of A Currie, Case Study at 148:37-40.
- 74 Exhibit 1-0003, Case Study 1, STAT.0004.001.0001 at 0004.
- 75 Exhibit 1-0003, Case Study 1, STAT.0004.001.0001 at 0005.

- 76 Exhibit 1-0009, Case Study 1, STAT.0012.001.0192 at 0202.
- 77 Exhibit 1-0009, Case Study 1, STAT.0012.001.0192 at 0204.
- 78 Exhibit 1-0009, Case Study 1, STAT.0012.001.0192 at 0205-0218.
- 79 Transcript of P Olah, Case Study 1 at 178:2-9.
- 80 Submissions of Scouts Australia NSW, Case Study 1, p. at para. 37(b).
- 81 Exhibit 1-0008, Case Study 1, STAT.0010.001.0001 at 0016.
- 82 Exhibit 1-0010, Case Study 1, STAT.0021.001.0001 at 0014.
- 83 Exhibit 1-0008, Case Study 1, STAT.0010.001.0048 at 0055.
- 84 Exhibit 1-0011, Case Study 1, SCO.2020.01001.0001 at 0005.
- 85 Exhibit 1-0010, Case Study 1, STAT.0021.001.0001 at 0011.
- 86 Exhibit 1-0012, Case Study 1, STAT.0014.001.0001 at 0011.
- 87 Transcript of N Turney, Case Study at 208:40-44.
- 88 Transcript of N Turney, Case Study at 213:9-11.
- 89 Transcript of N Turney, Case Study at 215:2-5.
- 90 Exhibit 1-0018, Case Study 1, NSW.0003.01003.0532.
- 91 Exhibit 1-0015, Case Study 1, STAT.0016.001.0001 at 0004.
- 92 Transcript of N Turney, Case Study at 209:45-46.
- 93 Transcript of N Turney, Case Study at 209:46-47.
- 94 Exhibit 1-0002, Case Study 1, NSW.0003.01002.0340; Exhibit 1-0002, Case Study 1, NSW.0003.01002.0334; Exhibit 1-0002, Case Study 1, NSW.0003.01002.0325; Exhibit 1-0002, Case Study 1, NSW.0003.01002.0322; Exhibit 1-0002, Case Study 1, NSW.0003.01002.0355.
- 95 Transcript of N Turney, Case Study at 248:23.
- 96 Exhibit 1-0021, Case Study 1, STAT.0002.001.0007.
- 97 Exhibit 1-0002, Case Study 1, NSW.0003.01006.0001; Exhibit 1-0021, Case Study 1, STAT.0002.001.0001
- 98 Exhibit 1-0002, Case Study 1, NSW.0003.01006.0001; Transcript of P Amloh, Case Study 1 at 255:1-3.
- 99 Transcript of N Turney, Case Study at 226:31-34.
- 100 Exhibit 1-0015, Case Study 1, STAT.0016.001.0011 at 0012.
- 101 Exhibit 1-0021, Case Study 1, STAT.0002.001.0008.
- 102 Exhibit 1-0021, Case Study 1, STAT.0002.001.0001 at 0001.
- 103 Transcript of Amloh, Case Study at 255:36 to 256:7.
- 104 Transcript of Amloh, Case Study at 255:36 to 256:7.
- 105 Exhibit 1-0015, Case Study 1, STAT.0016.001.0030.
- 106 Exhibit 1-0019, Case Study 1, STAT.0015.001.0027.
- 107 Exhibit 1-0019, Case Study 1, STAT.0015.001.0028.
- 108 Exhibit 1-0019, Case Study 1, STAT.0015.001.0001 at 0006; Exhibit 1-0019, Case Study 1, STAT.0015.001.0028.
- 109 Exhibit 1-0002, Case Study 1, NSW.0003.01006.0001.
- 110 Exhibit 1-0002, Case Study 1, NSW.0003.01006.0001.
- 111 Exhibit 1-0002, Case Study 1, NSW.0003.01006.0001 at 0002.
- 112 Exhibit 1-0015, Case Study 1, STAT.0016.001.0029.
- 113 Transcript of N Turney, Case Study 1 at 219:18-24.
- 114 Exhibit 1-0025, Case Study 1, STAT.0001.001.0043 at 0051.
- 115 Exhibit 1-0015, Case Study 1, STAT.0016.001.0034.

- ¹¹⁶ Transcript of N Turney, Case Study at 239:44-240:1; Transcript of N Turney, Case Study at 240:17-20.
- ¹¹⁷ Exhibit 1-0002, Case Study 1, NSW.COMS.501.001.1628; Exhibit 1-0002, Case Study 1, NSW.0110.01001.0143.
- ¹¹⁸ *Commission for Children and Young People Act 199* (NSW) s 33(1). ‘Child-related employment’ means any employment that involves direct contact with children where the contact is not directly supervised, and includes any employment of a kind prescribed by the regulations but does not include any employment of a kind excluded by the regulations.
- ¹¹⁹ *Commission for Children and Young People Act 199* (NSW) s 34(a)(b).
- ¹²⁰ *Commission for Children and Young People Act 199* (NSW) s 34(c).
- ¹²¹ *Commission for Children and Young People Act 199* (NSW) s 37(4).
- ¹²² *Commission for Children and Young People Act 1998* (NSW) s 37(2).
- ¹²³ *Commission for Children and Young People Act 1998* (NSW) s 37(1).
- ¹²⁴ Exhibit 1-0002, Case Study 1, NSW.0110.01001.0147.
- ¹²⁵ Exhibit 1-0025, Case Study 1, STAT.0001.001.0043 at 0051.
- ¹²⁶ Exhibit 1-0002, Case Study 1, NSW.COMS.501.001.1629; Exhibit 1-0002, Case Study 1, NSW.COMS.501.001.1628; Exhibit 1-0002, Case Study 1, NSW.0110.01001.0143.
- ¹²⁷ *Commission for Children and Young People Act 1998* (NSW) s 33(1).
- ¹²⁸ Exhibit 1-0025, Case Study 1, STAT.0001.001.0043 at 0051.
- ¹²⁹ Exhibit 1-0023, Case Study 1, STAT.0011.001.0700 at 0701; Exhibit 1-0023, Case Study 1, STAT.0011.001.0709.
- ¹³⁰ Exhibit 1-0023, Case Study 1, STAT.0011.001.0700 at 0702.
- ¹³¹ Exhibit 1-0023, Case Study 1, STAT.0011.001.0700 at 0703.
- ¹³² Exhibit 1-0023, Case Study 1, STAT.0011.001.0700 at 0703; Exhibit 1-0023, Case Study 1, STAT.0011.001.0715.
- ¹³³ Exhibit 1-0023, Case Study 1, STAT.0011.001.0718.
- ¹³⁴ Exhibit 1-0023, Case Study 1, STAT.0011.001.0719; Transcript of K Boland, Case Study 1 at 282:4-9.
- ¹³⁵ Exhibit 1-0023, Case Study 1, STAT.0011.001.0719.
- ¹³⁶ Exhibit 1-0002, Case Study 1, NSW.0110.01001.0180.
- ¹³⁷ Exhibit 1-0027, Case Study 1, STAT.0005.001.0006 at 0008; Exhibit 1-0026, Case Study 1, STAT.0018.001.0001 at 0005.
- ¹³⁸ Exhibit 1-0002, Case Study 1, NSW.0003.01002.0113.
- ¹³⁹ Exhibit 1-0025, Case Study 1, STAT.0001.001.0043 at 0057; Transcript of K Boland, Case Study 1 at 288:6-9. Ms Boland considered that the application was actually ‘re-submit’ for a new WWCC rather than a review.
- ¹⁴⁰ Exhibit 1-0023, Case Study 1, STAT.0011.001.0732 at 0733-0734.
- ¹⁴¹ Exhibit 1-0025, Case Study 1, STAT.0001.001.0043 at 0057.
- ¹⁴² Exhibit 1-0029, Case Study 1, STAT.0023.001.0012; Exhibit 1-0023, Case Study 1, STAT.0011.001.0728.
- ¹⁴³ Exhibit 1-0029, Case Study 1, STAT.0023.001.0015.
- ¹⁴⁴ Exhibit 1-0029, Case Study 1, STAT.0023.001.0015.
- ¹⁴⁵ Exhibit 1-0029, Case Study 1, STAT.0023.001.0017 at 0018.
- ¹⁴⁶ Exhibit 1-0002, Case Study 1, TRAN.CRT.0001.0001 at 000 and 0008.
- ¹⁴⁷ Exhibit 1-0029, Case Study 1, STAT.0023.001.0019.

- 148 Exhibit 1-0002, Case Study 1, TRAN.CRT.0001.0001 at 000 and 0008.
- 149 Exhibit 1-0029, Case Study 1, STAT.0023.001.0020.
- 150 Exhibit 1-0029, Case Study 1, STAT.0023.001.0020.
- 151 Exhibit 1-0023, Case Study 1, STAT.0011.001.0784 at 0787.
- 152 Transcript of Boland, Case Study at 286:44 to 287:4.
- 153 Exhibit 1-0002, Case Study 1, NSW.0003.01002.0123.
- 154 Exhibit 1-0023, Case Study 1, STAT.0011.001.0784 at 0788.
- 155 Transcript of Boland, Case Study at 289:20-25.
- 156 Exhibit 1-0023, Case Study 1, STAT.0011.001.0002 at 0040.
- 157 Transcript of Boland, Case Study at 289:6-12.
- 158 Exhibit 1-0023, Case Study 1, STAT.0011.001.0002 at 0023.
- 159 Exhibit 1-0023, Case Study 1, STAT.0011.001.0002 at 0025-0026.
- 160 Exhibit 1-0023, Case Study 1, STAT.0011.001.0002 at 0024.
- 161 Exhibit 1-0023, Case Study 1, STAT.0011.001.0002 at 0077.
- 162 Transcript of Boland, Case Study at 309:22-31.
- 163 Exhibit 1-0023, Case Study 1, STAT.0011.001.0002 at 0081-0082.
- 164 Exhibit 1-0023, Case Study 1, STAT.0011.001.0002 at 0084-0085.
- 165 Exhibit 1-0023, Case Study 1, STAT.0011.001.0002 at 0086.
- 166 Exhibit 1-0023, Case Study 1, STAT.0011.001.0002 at 0086.
- 167 Exhibit 1-0023, Case Study 1, STAT.0011.001.0002 at 0086.
- 168 Exhibit 1-0023, Case Study 1, STAT.0011.001.0002 at 0082.
- 169 Transcript of Boland, Case Study at 320:37.
- 170 Exhibit 1-0023, Case Study 1, STAT.0011.001.1173 at 1175.
- 171 Exhibit 1-0023, Case Study 1, STAT.0011.001.1173 at 1236-1238.
- 172 Exhibit 1-0023, Case Study 1, STAT.0011.001.1079 at 1083.
- 173 Transcript of Boland, Case Study at 317:8-12.
- 174 Transcript of Boland, Case Study at 333:45-47; Transcript of Boland, Case Study at 334:2-3.
- 175 Transcript of J Henderson, Case Study at 405:28-31.
- 176 Exhibit 1-0027, Case Study 1, STAT.0005.001.0001 at 0002.
- 177 Exhibit 1-0027, Case Study 1, STAT.0005.001.0006 at 0008.
- 178 Exhibit 1-0027, Case Study 1, STAT.0005.001.0001 at 0003.
- 179 Transcript of J Henderson, Case Study at 416:42-47.
- 180 Exhibit 1-0027, Case Study 1, STAT.0005.001.0001 at 0003.
- 181 Exhibit 1-0002, Case Study 1, NSW.0003.01002.0113.
- 182 Exhibit 1-0027, Case Study 1, STAT.0005.001.0001. Ms Henderson's transcript however notes the dates of her term as Chairperson from 2004/05 to 2007.
- 183 Exhibit 1-0027, Case Study 1, STAT.0005.001.0001 at 0003-0004.
- 184 Transcript of J Henderson, Case Study 1 at 422:16-22.
- 185 Transcript of J Henderson, Case Study at 422:40-42.
- 186 Transcript of I Eggins, Case Study at 338:30-34.
- 187 Exhibit 1-0024, Case Study 1, STAT.0006.001.0001 at 0002.
- 188 Transcript of I Eggins, Case Study at 341:3-5; Exhibit 1-0024, Case Study 1, STAT.0006.001.0005 at 0006.
- 189 Exhibit 1-0024, Case Study 1, STAT.0006.001.0005 at 0007.
- 190 Exhibit 1-0024, Case Study 1, STAT.0006.001.0005 at 0008.

- ¹⁹¹ Mr Lancaster was excused from giving evidence to the Royal Commission as he had reasonable excuse for not complying with the summons that was served on him.
- ¹⁹² Exhibit 1-0024, Case Study 1, STAT.0006.001.0001 at 0002.
- ¹⁹³ Exhibit 1-0024, Case Study 1, STAT.0006.001.0001 at 0002.
- ¹⁹⁴ Transcript of I Eggins, Case Study at 351:24-30.
- ¹⁹⁵ Transcript of Barwick, Case Study at 441:44-47.
- ¹⁹⁶ Exhibit 1-0025, Case Study 1, STAT.0001.001.0043 at 0064-0065.
- ¹⁹⁷ Exhibit 1-0026, Case Study 1, STAT.0018.001.0001 at 0006.
- ¹⁹⁸ Transcript of Elphick, Case Study at 392:35-36.
- ¹⁹⁹ Exhibit 1-0030, Case Study 1, STAT.0020.001.0001 at 0005.
- ²⁰⁰ Exhibit 1-0030, Case Study 1, STAT.0020.001.0001 at 0003; Exhibit 1-0030, Case Study 1, STAT.0020.001.0001 at 0004.
- ²⁰¹ Exhibit 1-0030, Case Study 1, STAT.0020.001.0001 at 0004.
- ²⁰² Exhibit 1-0002, Case Study 1, NSW.0110.01013.0019.
- ²⁰³ Exhibit 1-0028, Case Study 1, STAT.0019.001.0001 at 0006.
- ²⁰⁴ Transcript of Barwick, Case Study at 443:43-45.
- ²⁰⁵ Exhibit 1-0023, Case Study 1, STAT.0011.001.0002 at 0066.
- ²⁰⁶ Exhibit 1-0023, Case Study 1, STAT.0011.001.1079 at 1081.
- ²⁰⁷ *Children and Young Persons (Care and Protection) Act 1998* (NSW), 137(1)(a), provides that an 'authorised carer' includes the principal officer of a designated agency. This section remains in force.
- ²⁰⁸ Exhibit 1-0023, Case Study 1, STAT.0011.001.0002 at 0069.
- ²⁰⁹ Transcript of J Henderson, Case Study at 419:27-31.
- ²¹⁰ Transcript of J Henderson, Case Study at 408: 20-31.
- ²¹¹ Transcript of J Henderson, Case Study at 418: 22-25.
- ²¹² Transcript of J Henderson, Case Study at 419: 37-39.
- ²¹³ Transcript of Elphick, Case Study at 384:1-20; Transcript of Elphick, Case Study at 386:26-37.
- ²¹⁴ Exhibit 1-0026, Case Study 1, STAT.0018.001.0001 at 0002.
- ²¹⁵ Exhibit 1-0023, Case Study 1, STAT.0011.001.1079 at 1083.
- ²¹⁶ Transcript of Elphick, Case Study at 391:14-19.
- ²¹⁷ Transcript of Elphick, Case Study at 385:39-40.
- ²¹⁸ Exhibit 1-0030, Case Study 1, STAT.0020.001.0001 at 0004-0005.
- ²¹⁹ Transcript of J Henderson, Case Study at 426:33-37.
- ²²⁰ Transcript of Barwick, Case Study at 433:6-13.

