Royal Commission
into Institutional Responses
to Child Sexual Abuse

REPORT OF CASE STUDY NO. 2

YMCA NSW's response to the conduct of Jonathan Lord

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June 2014

CHAIR

The Hon. Justice Peter McClellan AM

COMMISSIONERS

Justice Jennifer Coate
Professor Helen Milroy

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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 on systemic issues but be informed by an understanding of individual cases. The Royal Commission must make findings and recommendations to better protect children against sexual abuse and alleviate the impact of abuse on children when it occurs.

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

Public hearings

A royal commission commonly does its work through public hearings. These involve intensive investigation, research and preparation by Royal Commission staff and Counsel Assisting. Although a hearing might only take a few days in 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, to attempt that task, a great many resources would be needed over an indeterminate, but lengthy, period. For this reason, the Commissioners have accepted criteria by which 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 is informed by whether the hearing will advance an understanding of systemic issues and provide an opportunity to learn from previous mistakes, so that our findings and recommendations have a secure foundation. In some cases, the relevance of the lessons learned will be confined to the institution that is the subject of the hearing. In other cases, they will be relevant 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 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
- more importantly, the devastating impact it can have on 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. At 31 May 2014, the Royal Commission had held 1,677 private sessions and more than 1,000 people were waiting to attend one. Many accounts from these sessions will be recounted in later Royal Commission reports in a de-identified form.

Research program

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

This case study

YMCA NSW's response to Jonathan Lord's conduct

This is the report on the public hearing that examined the response of YMCA NSW to the conduct of Jonathan Lord. This was appropriate for a case study for several reasons.

Lord is a convicted paedophile, sentenced to 10 years in prison for 13 offences involving 12 children. He met many of the boys he abused through his work at YMCA NSW and committed numerous offences on YMCA premises and during YMCA excursions.

Two parents of children attending YMCA Caringbah's outside school hours care (OSHC) initially made us aware of the case in a private session. After further investigation, we found issues of concern about management's responses at various levels, and about how a child safe organisation should operate.

These were particularly concerning as:

- YMCA NSW is the largest provider of OSHC services in NSW, and YMCA Australia is the second largest provider across Australia
- the organisation states that it is 'leading the industry' and that 'YMCA NSW is recognised in industry, and by external audits and peak bodies, as a leader in child safety'.[1]

The investigation and prosecution of Lord also warranted scrutiny as part of our project to consider aspects of the criminal justice system more broadly.

Post-hearing developments

Since the public hearing for this case study, there have been a number of developments. Significantly, YMCA NSW's Chief Executive Officer, Phillip Hare, resigned on 19 May 2014. Section 5.5 overviews the post-hearing developments.

General issues

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

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

Executive summary

Key points

This case study report begins by outlining the offences Jonathan Lord committed when working for YMCA NSW, and the institutional context he was working within. The case study illustrates systemic failures in the way that YMCA NSW recruited Lord and trained its staff. We heard expert evidence that its child protection policies were too complex and staff were not sufficiently aware of them. In fact, staff regularly breached them and failed to report conduct by Lord that was contrary to the policies.

It focuses on how Lord was able to groom and sexually abuse a number of children without his conduct being reported.

We then assessed how YMCA NSW responded when allegations about Lord's abuse emerged. YMCA NSW's response to the Royal Commission itself calls into question its commitment to being a child safe organisation and implementing significant reform.

However, YMCA NSW is now taking positive steps to address the problems identified in this case study. We will review these measures during our work and assess their effectiveness in protecting children.

1 Jonathan Lord, YMCA NSW and the OSHC sector

In August 2009, Jonathan Lord joined YMCA NSW as a casual childcare assistant for its outside school hours care (OSHC) services in Caringbah. He was 23 years old, with no experience of working in the childcare industry. Lord went on to work in several roles over the next two years, including as a coordinator at two of the five local YMCA centres.

On 30 September 2011, Lord was suspended because of allegations that he had sexually abused a child on an excursion that day. His employment was terminated in November.

By early 2013, Lord had been convicted of 13 offences involving 12 children:

- eleven counts of aggravated indecent assault on a person under 16 years
- two counts of sexual intercourse with a child under 10 and under authority.

The parents of several of Lord's victims gave us evidence about the effects of these offences on their children. The boys, who ranged in age between 6 and 10, remain angry and ashamed. One was devastated by Lord's betrayal. Another fears ever seeing him again.

Lord has been sentenced to 10 years' imprisonment, with a non-parole period of 6 years.

YMCA NSW's services, such as before and after school care and vacation care, often involve children spending lengthy periods of time with unrelated adolescent or adult males. Organisations of this kind face a significant risk of child sexual abuse.

Since Lord's arrest, YMCA NSW has come under scrutiny from the OSHC sector regulator. The Early Childhood Education and Care Directorate in the Department of Education and Communities enforces the national law and regulations in New South Wales. The Directorate is monitoring YMCA NSW to ensure it improves its child protection.

During Lord's employment, YMCA NSW had over 80 policies in place and many referred to child sexual abuse and maltreatment.

Professor Stephen Smallbone, a psychologist from the School of Criminology and Criminal Justice at Griffith University, was called by the Royal Commission to discuss the merit of these policies.

Although YMCA NSW was given an opportunity to call an expert of its choice to respond to Professor Smallbone, it did not avail itself of that opportunity.

Professor Smallbone gave evidence that YMCA NSW policies were too complex, sometimes inconsistent and inadequately communicated to staff and parents.

- **Finding 1:** YMCA Caringbah did not have an effective system for ensuring that staff and parents were aware of and understood its child protection policies.
- **Finding 2:** There was a serious breakdown in the application of YMCA NSW's child protection policies at YMCA Caringbah.

2 Recruitment, screening, induction and training

When YMCA NSW hired Lord, it had one main policy on child protection, which included the process for recruiting staff.

- **Finding 3:** YMCA NSW failed to comply with the *YMCA Safeguarding Children Policy 2006* in its recruitment and screening of Jonathan Lord, primarily through the conduct of the responsible manager, Jacqui Barnat, who did not:
  - discuss with Jonathan Lord, when reviewing his CV, his most recent employment and whether he had previously been the subject of an employer investigation
  - contact the current or most recent employer of Jonathan Lord
  - contact three referees
  - record the oral reference given by a staff member
  - ask relevant questions to the only referee for whom she recorded her enquiries
  - complete the written account of the reference check
  - carry out background checking.
- **Finding 4:** YMCA NSW failed in its responsibility to sufficiently train Jacqui Barnat, and other staff at YMCA Caringbah, in complying with the recruitment and screening aspects of the *YMCA Safeguarding Children Policy 2006*.

Because Ms Barnat did not conduct Lord's recruitment properly, she did not discover that Lord had recently been fired from YMCA Camp Silver Beach in the USA due to 'questionable' behaviour with a young camper. This information would likely have halted Lord's application with YMCA NSW.

- **Finding 5:** Had YMCA NSW followed the recruitment and screening procedure in the *YMCA Safeguarding Children Policy 2006*, it is likely that Jonathan Lord would not have been employed.

YMCA NSW's failures also extended to screening checks. At the time, the *Commission for Children and Young People Act 1998* (NSW) specified requirements for pre-employment Working with Children Checks (WWCCs).

Anyone in child-related employment needed WWCC clearance before they began working with children. However, Lord and several other YMCA Caringbah staff did not have this clearance when they started at YMCA NSW.

- **Finding 6:** YMCA NSW allowed Jonathan Lord access to children at the Caringbah Centre (Our Lady of Fatima Before and After School Care) before:
  - he had applied for a Working With Children Check or made any declaration as contained in that application
  - a screening request was logged with the relevant authority
  - a clearance was obtained.
- **Finding 7:** YMCA NSW failed to comply with section 37 of the *Commission for Children and Young People Act 1998* (NSW) when carrying out background checking procedures on Jonathan Lord and other staff at YMCA Caringbah.

During our inquiry, the Commissioners will review the actions taken by YMCA NSW to address its failures in recruitment and its screening practices.

Along with these failures, YMCA NSW did not ensure that its Caringbah staff had a formal induction or adequate training, leaving them ill-equipped to apply the policies in place or understand the importance of reporting breaches of those policies. The manager, Ms Barnat instead relied mostly on 'buddying' and on-the-job learning. In one case, Ms Barnat failed to arrange child protection training that Childcare Assistant Danielle Ockwell requested. Ms Ockwell worked directly with Lord and was well placed to detect and report his behaviour had she been trained to understand the significance of what she was observing.

These failures meant that several staff were unaware of crucial policies and procedures and that Lord's conduct with children would go unreported for two years.

- **Finding 8:** YMCA Caringbah failed to comply with the *YMCA Safeguarding Children Policy 2006* relating to the formal induction of its outside school hours care staff.
- **Finding 9:** YMCA NSW failed to adequately train its staff in its child protection policies.
- **Finding 10:** YMCA NSW failed to comply with the *YMCA Safeguarding Children Policy 2006* on the training of Caringbah outside school hours care staff, as:
  - staff directly delivering children's programs and services did not regularly access training in child protection
  - not all staff/volunteers were required to attend the appropriate training, at least once annually, and updates on child protection in line with each centre's training schedule.
- **Finding 11:** Jacqui Barnat failed as a manager by not providing Childcare Assistant Danielle Ockwell with child protection training when she asked for it in September 2011.
- **Finding 12:** YMCA NSW's failure to provide adequate child protection training to its Caringbah outside school hours care staff during Jonathan Lord's employment contributed to Jonathan Lord's conduct with children being unreported.

3 Failure to report policy breaches

Lord regularly breached YMCA NSW child protection policies, for example by babysitting and attending outside activities with children from YMCA NSW. Childcare staff were prohibited from babysitting children who attended YMCA programs to maintain a clear separation between personal and professional relationships.

Although some staff and parents knew that Lord babysat for children outside YMCA hours, they never reported his conduct. In fact, other staff also babysat YMCA children, as did manager Ms Barnat.

- **Finding 13:** Between 2009 and 2011, not all YMCA Caringbah staff were aware of and understood the YMCA NSW policies about babysitting and outside activities with children attending YMCA NSW outside school hours care.
- **Finding 14:** Between 2009 and 2011, Jonathan Lord and other YMCA Caringbah outside school hours care staff babysat and engaged in outside activities with children enrolled in YMCA services, contrary to YMCA NSW policies.
- **Finding 15:** Jacqui Barnat was aware that staff she supervised babysat and engaged in outside activities with children enrolled in YMCA services, and she did not enforce YMCA NSW policies relating to that conduct.
- **Finding 16:** Jacqui Barnat's failure to comply with the YMCA NSW babysitting policy, and to enforce that policy with her staff, enabled Jonathan Lord to babysit and attend outside activities without being reported.
- **Finding 17:** Jacqui Barnat babysat children while believing that it was contrary to YMCA NSW policy to do so.
- **Finding 18:** YMCA Caringbah's failure to ensure that parents knew of and understood YMCA NSW child protection policies contributed to Jonathan Lord not being reported for his conduct in babysitting and attending outside activities with children attending YMCA NSW outside school hours care.

A further area where Lord repeatedly breached policies was allowing children to sit on his lap, sometimes when other staff were present. He also used his mobile phone at work to groom children so he could offend against them. Both these activities were in breach of YMCA NSW policy.

YMCA Caringbah staff did not identify this behaviour as contrary to the policies.

- **Finding 19:** YMCA NSW failed to ensure that YMCA Caringbah staff understood the policies relating to the inappropriate touching of children, including children sitting on staff members' laps and that contributed to Jonathan Lord not being reported.
- **Finding 20:** YMCA NSW failed to ensure that all YMCA Caringbah staff understood the policies relating to photography, mobile phones and other electronic devices. This contributed to Jonathan Lord not being reported for conduct that was contrary to these policies.

The final area where Lord breached YMCA NSW policy was having unsupervised contact with children. Although policy required at least two staff to be present at all times,

Caringbah staff did not always comply. For example, Lord was sometimes the only staff member present when he drove children in the YMCA bus or other vehicles.

- **Finding 21:** YMCA Caringbah staff breached YMCA policies and did not comply with the minimum staff:child ratios at all times, including when transporting children.

The extent of these policy breaches suggests a breakdown in communication between management and staff. Although YMCA NSW did have a reporting system called Ethics Point, it was ineffective. Some junior staff stated that they felt uncomfortable speaking to their managers or worried that nothing would be done about their concerns.

- **Finding 22:** YMCA Caringbah did not have in place an effective confidential reporting system that staff were aware of and felt comfortable using.
- **Finding 23:** YMCA Caringbah did not have a culture of vigilance and shared personal responsibility for the safety of children.

4 Events after the allegations against Lord

We also assessed how YMCA NSW responded when allegations of Lord's abuse emerged.

One of Lord's victims disclosed his abuse on 30 September 2011. His parents immediately spoke to YMCA Caringbah and then to NSW Police at Miranda.

YMCA NSW responded quickly to the allegations. It suspended Lord and removed him from the care of children at their centres. It also sought guidance from the police's Joint Investigation Response Team (JIRT), which managed the investigation, on how best to handle the incident.

- **Finding 24:** It was appropriate for YMCA NSW to suspend Lord immediately and seek guidance and advice from NSW Police and the Joint Investigation Response Team on what they could and could not communicate to staff and parents.

JIRT and YMCA NSW met on 17 October to discuss the investigation because YMCA NSW was planning to hold an information session with parents. According to JIRT Coordinator Detective Senior Sergeant Baker, JIRT advised that, although YMCA NSW could not disclose any names or JIRT practices, it could decide what else it communicated.

- **Finding 25:** It was not unreasonable for YMCA NSW to:
  - interpret the police advice from 17 October 2011 in a conservative way
  - limit the information it shared with parents, schools and the community about the Jonathan Lord incident.

During this time, JIRT set up a specific phone hotline and issued two media releases about the investigation. But it did not consider attending YMCA NSW's information session, due to concerns over contaminating evidence.

Several parents of children who had been groomed or abused by Lord criticised JIRT for the way it communicated with them and managed the interviews with their children. We will consider JIRT's operation as part of our Criminal Justice Project and at a public forum.

While the JIRT investigation was taking place, YMCA NSW asked staff to sign a confidentiality agreement. Liam Whitley, General Manager of Children's Services, claimed this was in response to a police request. However, Senior Constable Leanne Kelly, who was responsible for the investigation, refuted his evidence. She told us the agreement was unnecessary.

- **Finding 26:** We accept the evidence of Plain Clothes Senior Constable Leanne Kelly about the confidentiality agreement.
- **Finding 27:** While it was not unreasonable for YMCA NSW to have proceeded with caution relating to the information it shared after 17 October 2011, having staff sign confidentiality agreements went beyond necessary caution.
- **Finding 28:** In requiring staff to sign the confidentiality agreement, YMCA NSW was motivated in part to protect its reputation rather than the integrity of the police investigation.

We also considered how YMCA NSW communicated with and supported staff, who were shocked by the allegations and felt ill-equipped to respond to enquiries from parents.

- **Finding 29:** YMCA NSW did not ensure staff were kept informed and supported following the allegations against Jonathan Lord.

Similarly, YMCA NSW did not communicate well with parents. There were delays at crucial times and misinformation in both its media releases and its information sessions.

- **Finding 30:** YMCA NSW management failed to provide frank, practical and timely information to parents. YMCA NSW did not:
  - promptly provide key information to parents
  - address why Jonathan Lord had been able to offend, or how it would identify and address internal failures to become a safer organisation for their children
  - promptly equip parents with the necessary tools to discuss safety issues with their children, in case other children had been abused or needed support.

5 YMCA NSW's response to the Royal Commission

The public hearing highlighted further areas of concern relating to YMCA NSW's actions since Lord was prosecuted.

For example, it has failed to critically analyse the events of Lord's employment and abuse, despite the importance of doing so as part of best practice in child protection. A critical analysis of how Lord was recruited and able to sexually abuse children was an essential part of a proper institutional response to ensure the system errors, failures and oversights were addressed to reduce risk to children in YMCA programs.

- **Finding 31:** YMCA has not critically analysed, either internally or with external help, how Jonathan Lord was recruited and supervised, nor how he engaged in the offending behaviour for which he was convicted, while working for YMCA NSW for two years.

YMCA NSW is, however, addressing several general issues that have arisen from the Royal Commission. It is implementing measures to update systems, carry out third party reviews and improve policies.

During our inquiry, the Commissioners will further review YMCA NSW and the measures it takes to enhance the safety of children in its care.

Also of concern is the attitude of YMCA NSW's management when appearing as witnesses before the Royal Commission. Several senior managers, including Mr Whitley and Chief Executive Officer Phillip Hare, refused to acknowledge failure on their part and tried to deflect blame to junior staff.

- **Finding 32:** We recommend that the YMCA consider whether Liam Whitley, General Manager of Children's Services, and Phillip Hare, Chief Executive Officer, are fit and proper to hold these positions.

This case study also outlines issues with Ms Barnat's testimony. Her evidence at a private hearing on 26 September 2013 conflicted with her evidence at the public hearing.

- **Finding 33:** Part of the evidence of Jacqui Barnat referred to in section 5.3 of this report may be found by a court to be false or misleading testimony under section 21 of the *Royal Commissions Act 1923* (NSW). We are satisfied this evidence should be referred to the NSW Director of Public Prosecutions to consider her prosecution.

The attitude of YMCA NSW's management calls into question its commitment to being a child safe organisation. Professor Smallbone outlined the risks that organisations face if they interact with children, and the measures they must take to prevent and respond to abuse.

- **Finding 34:** To keep children safe, an organisation must create and maintain a protective environment that minimises rather than accentuates the risk of abuse. The fact that the abuse occurred in the way it did at YMCA Caringbah calls into question the child safety practices of YMCA NSW. The actions of YMCA Caringbah during and after Jonathan Lord's offending are not the actions of a child safe organisation, due to its:
  - failure in Jonathan Lord's recruitment
  - failure to adhere to background checking procedures on Caringbah staff
  - failure to effectively induct Caringbah staff
  - failure to effectively train Caringbah staff in child protection matters
  - failure to implement its child protection policies at YMCA Caringbah, including in relation to babysitting and outside activities
  - tolerance for babysitting, inappropriate touching of children, including children sitting on a staff member's lap and inappropriate use of mobile phones and other electronic devices
  - failure to comply with staff:child ratios at all times
  - absence of an effective confidential reporting system
  - absence of a culture of shared personal responsibility for child protection
  - lack of procedures to ensure that staff were kept informed and supported and key information was provided promptly to parents, following the allegations against Jonathan Lord in September 2011.

- **Finding 35:** The following failures by YMCA NSW senior managers do not permit confidence in their capacity to carry out the significant reforms needed to ensure the safety of children in the organisation's care. They did not:
  - accept responsibility for staff not reporting Jonathan Lord's policy breaches and other concerning behaviour
  - know the requirements of the *Commission for Children and Young People Act 1998* (NSW) relating to carrying out background checking procedures
  - implement their child protection policies
  - properly analyse the events leading to Jonathan Lord's recruitment, induction, training and supervision.

The Commissioners were generally disappointed by YMCA NSW's response to the Royal Commission. It rejected most of Counsel Assisting's proposed findings, despite clear evidence supporting those findings. Submissions from several parents and current and former YMCA Caringbah childcare staff mostly accepted the proposed findings.

However, we are pleased to learn of the changes that YMCA NSW is now implementing to become a safer organisation for children.

- **Finding 36:** YMCA NSW is taking a range of positive steps to address the identified problems and improve the protection of children in its care.

During the Royal Commission, the Commissioners will look again at the YMCA in Caringbah or more generally, to see how the organisation has responded to the findings and recommendations in this report. We will review the measures YMCA NSW is taking and the effectiveness of its policy and practices in protecting children.

1 Jonathan Lord, YMCA NSW and the OSHC sector

1.1 Jonathan Lord

Key points

This section outlines Lord's employment with YMCA NSW and his sexual abuse of several young boys during this time. It discusses the allegations made against him, his prosecution and sentencing, and the impact of his abuse.

In the first half of 2009, a friend from Jonathan Lord's church suggested him to YMCA as a possible employee for its outside school hours care (OSHC) services. Lord was 23 years old, with no experience of working in the childcare industry.

Lord's CV and referee details were given to the (then) Children's Services Coordinator at YMCA NSW, Jacqui Barnat, who oversaw his recruitment and employment. He began work that August as a casual childcare assistant for OSHC services in Caringbah.

Lord had several roles with YMCA Caringbah over two years:

Date	Role at YMCA NSW
Aug 2009	Childcare Assistant (casual, one to three days a week)
Feb 2010	Coordinator, St Patrick's Centre (permanent part-time, including school holidays at Laguna Street Public School and St Patrick's vacation care)
Nov 2010	Childcare (OSHC) Supervisor, St Patrick's Centre (part-time)
Jan 2011	Childcare Coordinator, Caringbah Public School Centre

On 30 September 2011, Lord's duties with YMCA NSW were suspended with full pay, pending an investigation into allegations that he had sexually abused children.[2] On 8 October, he sexually abused AO while babysitting.[3] By this time, AO was no longer attending the Caringbah centre. YMCA NSW officially terminated his employment on 8 November 2011.[4]

Lord had abused at least one child before joining YMCA NSW

When he joined YMCA NSW, Lord had already sexually abused at least one young boy.

AQ was 7 or 8 years old, and Lord was a trusted friend of AQ's family, having met them through the church in 2002. Lord lived near AQ and sexually abused him multiple times between 2008 and mid-2009.

Once in early 2009, AQ and Lord were watching television while AQ's parents were in another part of the house. Lord put his hand down AQ's underpants and rubbed AQ's penis. The abuse ended when AQ's family moved house in June 2009.[5]

Shortly thereafter, and immediately before joining YMCA NSW, Lord flew to the USA to work as a camp counsellor at YMCA Camp Silver Beach in Jamesville, Virginia. He was placed there by an Australian-based recruitment agency known as Camp America. However, on 8 July 2009, Lord was dismissed 'due to "questionable" behaviour with an 8 year old camper. He was caught alone in a cabin with a camper, with the lights off'.[6]

Lord's abuse continued with YMCA NSW children

While employed with YMCA NSW, Lord groomed and sexually abused several boys, both at YMCA NSW and elsewhere. They were aged between 6 and 10. He met many of the boys that he abused through his employment with YMCA NSW and committed many of his offences on YMCA premises and during excursions.

Child	Evidence of sexual abuse
AI	In early 2010, while working at YMCA NSW, Lord befriended 9-year-old AI who lived on the same street. In July, Lord pulled down AI's tracksuit pants after taking him fishing. He asked to lick AI's penis but AI replied, 'No, that's disgusting.'[7] Lord then asked if he could have a closer look at AI's penis and bent his head down close to it. From time to time, Lord invited AI to come to his house and play video games. In January 2011 and again later that year, he assaulted AI by slipping his hands down AI's pants. AI also told police that once he asked Lord if he could play on the computer. Lord replied, 'Not unless you let me go into the bedroom with you.'[8]
AF and AG	Brothers AF and AG attended vacation care at Laguna Street Public School in the 2010 Christmas holidays. On his first day at the centre, AF recalls Lord asking, 'Do you want to be my friend?'[9] On the last day, Lord wrote him a note with words similar to 'Dear AF, I think you are awesome. I will miss you. I will see you soon'.[10] A few months later, Danielle Ockwell, a childcare assistant at YMCA Caringbah, noticed that Lord's mobile phone screensaver was a photo of AF. Ms Ockwell said, 'Oh that's AF from vacation care,' to which Lord replied, 'Yes, that's the boy, I've forgot his name.'[11] Lord sexually abused AF and AG.
AO and AP	Lord first offended against AO, aged 8, shortly after moving to the Caringbah Public School Centre in January 2011. AO's mother was a colleague of Lord's mother, and knew that Lord worked for the YMCA in child care.[12] She employed Lord to babysit her son almost every Saturday from December 2010 until 8 October 2011 while she worked. AO told the police about a number of incidents between February and October 2011 where Lord touched his penis on the outside of his clothes. Once when babysitting AO and AO's friend, AP, Lord touched AP's penis on the outside of his clothes while AP was on his lap.[13] AO's mother gave evidence that Lord went to AO's laser tag birthday party voluntarily and unpaid. She said AO and his friends fought over who would be on Lord's team. He 'had a way with children'.[14]

Child	Evidence of sexual abuse
AK and AL	In March and September 2011, Lord abused AL, aged 9, twice during after school care at YMCA Caringbah. AL was sitting on Lord's lap while reading or drawing. Lord rubbed AL's penis with his hand on the outside of his clothes.[15] Lord sexually abused AK, AL's 8-year-old brother, in similar circumstances.[16] In August 2011, Lord offered babysitting services to the boys' mother, stating that 'he did not have a set rate but that he tried to help people where he could'.[17] He also asked 'that this be kept quiet as he did not offer his services to everyone'. He repeated his offer two weeks later but she declined both times.[18]
BA	Ms Danielle Ockwell recalled an occasion in 2011 when Lord called her mobile phone while she was at work at St Patrick's and asked to speak to BA. Lord and BA spoke for about 5 to 10 minutes on her phone. Lord then sent Ms Ockwell a text message asking her to ask BA's mother if she wanted him to babysit. Ms Ockwell gave evidence that she ignored the text message and told Lord that she had not had a chance to pass it on.[19] Lord later offered his services as a free babysitter to BA's mother directly. Once, Ms Ockwell recalled him telling her that he was babysitting BA that evening. He then phoned Ms Ockwell the next day and reported that it had gone well. She recalled thinking it was strange that Lord said about BA, 'Yeah, I love him'.[20] While babysitting BA in May 2011, Lord put his hands down BA's underwear and touched his penis.[21] In July 2011, Lord offered to take BA out in the school holidays.[22] BA's mother was uncomfortable with his interest in her son and discouraged any further contact.[23]
AH	AH has Asperger's Syndrome, an autistic spectrum disorder. From July 2009 to October 2011, he attended Caringbah vacation care. Sometime between February and October 2011, Lord took him into a storeroom to get sports equipment. While there, Lord kissed AH on the lips. He also placed his mouth over AH's penis and sucked for a few seconds.[24] This was an offence of sexual intercourse with a child under 10 and under authority. In early 2011 during vacation care, AH, then aged 8, and his sister went on an excursion to a farm. On the bus trip home, Lord sat between them. He put his hand underneath AH's underpants and rubbed AH's penis. Lord also told the police that he sucked on AH's penis during this incident. AH told Lord, 'Please stop now,' and he did.[25] Lord encouraged AH to touch and lick his penis. He told AH that it was a secret.[26] On a cinema excursion with other children and staff in 2011, Lord told the police that he kissed AH, and touched and kissed his penis, while sitting in the back row of the cinema. AH also put his hands down Lord's pants and rubbed Lord's penis.[27]
AE	In July 2011, on an excursion to a rock-climbing centre, AH and his friend AE, aged 8, sat with Lord while he was driving the minibus. Lord dared both children to show each other their privates, which they did. Lord also dared them to kiss each other, but they refused. AE told the police that Lord used one hand to drive while putting the other up AE's shorts, lifting his underpants and touching his penis.[28]

Child	Evidence of sexual abuse
	AE's mother recalls that AE returned that day saying he was good at rock climbing and that he and his friend had received an extra treat at McDonald's from Lord.[29] During those school holidays, AE also asked his mother whether Lord could come over to babysit.[30] AE's mother said, 'I didn't think this was particularly out of the ordinary even though all of the child care centres and preschools my children had previously attended had policies which prevented babysitting … by staff.'[31] She did not engage Lord, however, as her other children said they did not want a new babysitter.[32]
AV	Between July and September 2011, Lord sexually abused AV. At 6 years old, AV was the youngest victim. Lord touched AV's penis on the outside of his clothes: once when playing with AV on his lap at after school care and once when playing video games at before school care. Lord also arranged to watch AV's brother's football game one Saturday. AV's mother said she 'just saw him as a young guy who liked kids'.[33] In mid-2011, Lord told her that 'he would be happy to babysit for the kids and that he often babysat for YMCA families'.[34] She declined as 'I felt I did not know him well enough to have him in my home'.[35]
AR	On 16 September 2011, 9-year-old AR helped Lord and others set up for a movie night at the Caringbah Public School Centre to celebrate the start of the school holidays. Lord hugged AR from behind and put his hand down AR's underpants to touch his penis.[36] Later that month, Lord sexually abused AR again at vacation care. Several children were watching a movie in a quiet corner. Lord asked AR if he wanted to sit on his lap and AR agreed.[37] Lord rubbed and 'played' with AR's penis beneath his underpants. After about 10 or 20 seconds, AR told Lord to 'get off'.[38] Lord continued to abuse him before AR got up and left. AR's mother had previously observed that Lord appeared fond of her son, which made her feel proud and at ease with his after school care.[39]

AF disclosed Lord's abuse in September 2011

On 30 September 2011, AF was again abused by Lord. His little brother, AG, was also abused. That morning, Lord phoned the boys' mother to confirm they were coming on an excursion to Hornsby. He, Ms Barnat and five other childcare staff were supervising around 50 children from Laguna Street Public School vacation care. The bus could not accommodate everyone comfortably, so staff 'squeezed' into seats with pairs of children. Lord sat between AF and AG, then asked if AF would like to sit on his lap.[40]

On the way, AF was playing a card game with another child while on Lord's lap. Lord touched AF's chest under his shirt and put his hand into AF's pocket and rubbed his penis. Lord then put his hand down AF's jeans, outside his underpants, and touched his penis despite AF telling him to stop. AF later said to the police, 'I had to tell him do you want to play cards so I would get him away from touching my private part.'[41]

On the way back, Lord again touched AF's penis and asked AF if he had ever played a game where two best friends tongue wrestle.[42]

At home, AF told his mother about the abuse on the bus. At 5 pm that night, his parents went:

- first to YMCA Caringbah and reported the incident to Shane Demir, Manager of the Caringbah Centre, and to Ms Barnat
- then to Miranda Police Station.

That evening, Mr Demir and Ms Barnat phoned Lord and asked him to come to the centre as an allegation had been made about him, and they wished to hear his version of events.

While Lord made his way over, the police contacted Mr Demir and told him not to speak with Lord about the nature of the allegations. Lord was then sent home without being given the details. YMCA management phoned him later that evening to say that he would be suspended from his duties with full pay, pending an investigation.

AF's disclosure prompted more children to report abuse

Around a week later, AK and AL's mother was talking to her boys about 'stranger danger' and being careful when they were out of the house.[43] During the discussion, AL told her about the events of March 2011. She reported this to the police, who then interviewed AL.

On 13 October 2011, YMCA NSW emailed parents from its OSHC programs. An attached letter told them that two serious allegations had been made directly against a staff member. This person was 'in a position of direct provision of care to children through our Sutherland Shire region Before, After School and Vacation Care Centres'.[44]

The same day, Lord and his mother visited AO's mother at home. Lord's mother told AO's mother about the allegations and that Lord denied them.[45] AO's mother agreed to give a character reference and recommended a solicitor. That evening, AO's mother asked AO if Lord had ever touched him inappropriately. AO said that Lord had done so every Saturday since the first time they met. He then started crying and put his blanket over his head, saying that he did not want to talk about it.[46]

BA's mother also questioned her son that evening. He also disclosed that he had been abused by Lord.[47]

On 14 October, Lord was arrested at Miranda Police Station. He declined to be interviewed and was charged with four counts of 'aggravated indecent assault, person under 16' and released on conditional bail.[48] Shortly after, relatives took him to Sutherland Hospital, concerned he would commit suicide. He was released from hospital on 24 October.[49]

Once parents began to be aware of the allegations, a second group of children were identified as victims. On 24 October, Lord was arrested again, charged with further offences at Miranda Police Station and refused bail. The police laid extra charges of 'aggravated indecent assault, person under 16' on 31 October.[50]

On 25 November, the police attended the Metropolitan Remand and Reception Centre at Lord's request. During an interview with his solicitor present, Lord made admissions relating to the charges. He then gave the police a handwritten document that said he had abused four other children that they had not known about.[51]

On 18 January 2013, Lord was sentenced to 10 years in prison with a non-parole period of 6 years.[52] After plea bargaining, he was sentenced for 13 offences involving 12 children:

- eleven counts of aggravated indecent assault on a person under 16 years
- two counts of sexual intercourse with a child under 10 and under authority.

Ten further offences were taken into account, each concerning an act of indecency towards a person under 16 years.

Parents told us about the impact of abuse

During our public hearing, parents of the children abused by Lord gave evidence of some of the ongoing impacts.

AH's mother observed her son was angry, depressed and miserable throughout 2011, and he rejected physical contact with his dad and grandparents. She said, 'It was extremely sad to see and I didn't know what was causing it.'[53] She thinks AH blames himself that Lord has gone to jail.[54] AH has conflicting emotions over everything that happened because he thought Lord was his friend.[55] He also becomes distressed when he is reminded of the YMCA, including when the Village People's song 'YMCA' is played at family functions or in movies.[56]

AO's mother also gave evidence that her son is very angry and embarrassed about what happened.[57] AO cries when he is reminded of Lord. She is constantly called into school about events that have triggered emotional reactions in AO relating to Lord.[58]

BA's mother said that her son was devastated at the betrayal of a very important friend and is now mistrustful of adults and their motives.[59] BA is afraid to be alone and has expressed fear of ever coming face to face with Lord again.[60] In her view, a sentence of six years without parole does not seem long enough given he stole the innocence and childhood of so many children.[61]

Many parents also gave evidence about the difficulties their children had in disclosing the abuse. When AP's mother asked whether Lord had abused him, AP said that it was private between him and Lord and that he did not want to talk about it.[62]

When AO's mother asked her son why he had not told her about the abuse, he replied, 'Because I didn't think you'd believe me.'[63] She thinks her son saw that she liked Lord, and thought he would upset her.[64]

AE's mother also asked her son why he hadn't told her. He said that he thought he had done something wrong and Lord told him to keep it a secret.[65]

1.2 Staff and structure at YMCA NSW

Key points

This section provides further context for this case study by overviewing YMCA operations, YMCA NSW's management structure and the staffing structure of YMCA Caringbah. In particular, it looks at the key role of the Child Protection Manager.

The National Council of the YMCAs of Australia is a federation of 28 member associations. One of these is YMCA NSW, a not-for-profit organisation governed by a board of directors who are volunteers elected by its members.[66]

YMCA NSW services include camping, children's services and recreational services.[67] In each, there is the opportunity for children to spend significant time with unrelated adolescent or adult males.

YMCA NSW began providing OSHC services in Bankstown in the late 1980s. It has since expanded to 98 centres across the state.[68] We did not receive any evidence to show an organisational link between YMCA NSW and YMCA Camp Silver Beach, where Jonathan Lord worked in 2009.

Children's Services at YMCA NSW has a split management structure

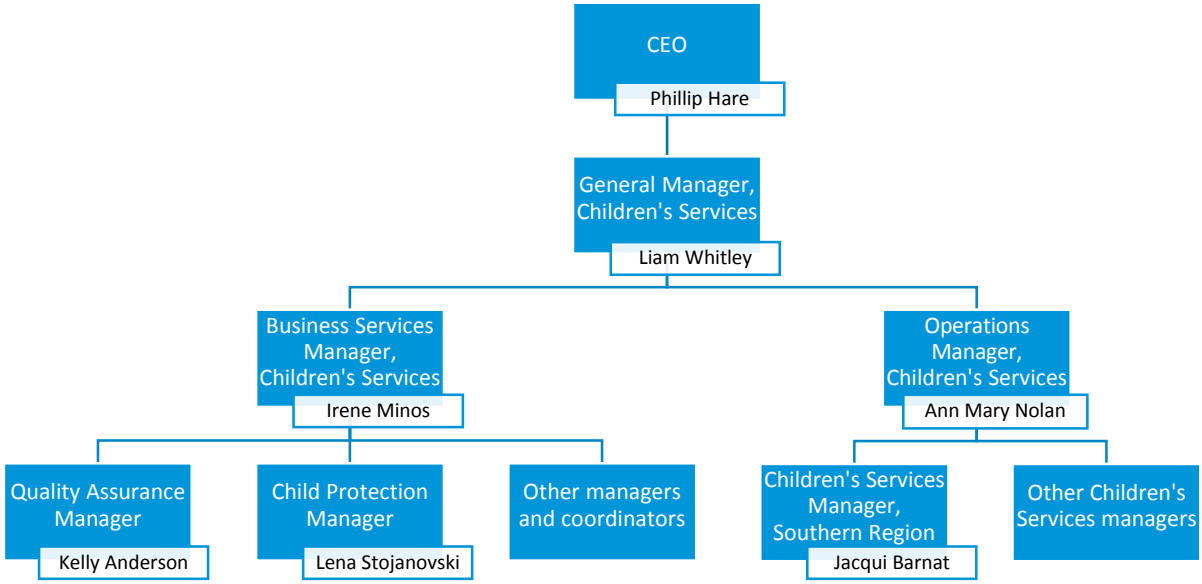
YMCA NSW is led by a chief executive officer (CEO) and an executive management team that includes the general managers of each division. Phillip Hare was CEO from 2006 until he resigned in May 2014. He worked at YMCA continuously for 25 years,[69] after completing his studies in 1988.[70] Mr Hare holds a Bachelor of Applied Science in physical education and a Graduate Diploma of Business Administration.[71]

The Children's Services Division is responsible for OSHC. At the time of the public hearing, Liam Whitley had been the division's General Manager since it was set up in late 2010 and reported directly to the CEO.[72] Mr Whitley has worked at YMCA for 21 years,[73] mainly in managing recreation centres and in marketing.[74] Before 2010, he had not worked exclusively in children's services.[75] Mr Whitley's qualifications are two TAFE diplomas in Management and Marketing Management.[76] He does not have qualifications in children's services and has not considered completing a Certificate IV in OSHC.[77]

Children's Services is split into Business Services and Operations branches. Ann Mary Nolan, as Operations Manager, oversees 10 Children's Services managers, who in turn oversee a region of OSHC centres.[78] Jacqui Barnat was the Children's Services Manager for the Southern Region at the time of the hearing.[79]

In 2012, after the allegations against Lord, YMCA NSW added the role of Child Protection Manager to its organisational structure. This role, currently held by Ms Lena Stojanovski,[80] initially reported to the Business Services Manager.[81]

The following diagram shows YMCA NSW's reporting structure at October 2013:



The organisation has made some further staffing changes since the public hearing, which we discuss in section **5.5**.

Child Protection Manager should report to the Operations Manager or CEO

Ms Nolan gave evidence that the Child Protection Manager is responsible for:

- implementing the Australian Childhood Foundation accreditation process in all YMCA NSW programs, not just children's services[82]
- training staff and managing mandatory reporting processes.[83]

Mr Whitley said the role extended beyond the Children's Services Division but it was his job to communicate child protection information to other general managers so that it could be shared across the whole organisation.[84]

During the public hearing, Counsel Assisting suggested that the position of Child Protection Manager should report to the Operations Manager or CEO of YMCA NSW.[85] YMCA NSW accepted that the role should report to the Operations Manager of the Children's Services Division, who is currently Ms Nolan.[86]

A role dedicated to child protection and reporting to senior management is crucial. It forms part of the management structure that can provide a safe environment for children.

YMCA Caringbah runs five centres in the region

YMCA Caringbah is at 5 Jacaranda Rd, Caringbah (Caringbah Centre). This centre was set up in 1968 and provides various facilities and programs including sport, recreation and, more recently, child care.

YMCA Caringbah runs five before and after school care centres:

- Caringbah Centre (which children from Our Lady of Fatima Catholic Primary School attend)
- Caringbah Public School
- Laguna Street Public School
- Lilli Pilli Public School
- St Patrick's Catholic Primary School Sutherland.

YMCA NSW runs vacation care from the St Patrick's and Laguna Street centres and a creche at the Caringbah Centre.

OSHC children are also collected by a YMCA-operated bus from three other local schools (St Aloysius Cronulla, St Francis De Sale and Burraneer Bay Public School) and brought to one of the five centres.

The centres provide child care from 7 am to 9 am and from 3 pm to 5 pm. At each, there are two staff members: a childcare coordinator and a childcare assistant. The coordinator implements YMCA NSW's OSHC program and oversees the centre's administration. The assistant supports the coordinator.

YMCA Caringbah's childcare coordinators report to, and are supervised by, the Children's Services Manager. Childcare assistants also report to the manager through the centre coordinators.

The table below lists the positions of YMCA NSW staff relevant to this case study:

YMCA NSW staff	Role during Lord's employment	Role during public hearing
Phillip Hare	CEO	CEO
Liam Whitley	General Manager, Children's Services	General Manager, Children's Services
Ann Mary Nolan	Children's Services Program Manager	Operations Manager, Children's Services
Kelly Anderson	Children's Services Manager, Southern Region	Quality Assurance Manager, Children's Services
Jacqui Barnat	Children's Services Coordinator, Caringbah Centre	Children's Services Manager, Southern Region
Shane Demir	Manager, Caringbah Centre	–
Alicia Dellaca	Childcare Assistant and 2010 Holiday Adventures Supervisor, Caringbah Centre	Childcare Assistant, Caringbah Centre
Sheree Ockwell	Childcare Coordinator, Lilli Pilli Public School Centre	Childcare Coordinator, Lilli Pilli Public School Centre

YMCA NSW staff	Role during Lord's employment	Role during public hearing
Danielle Ockwell	Childcare Assistant, Caringbah Public School Centre	Childcare Assistant, Caringbah Public School Centre
Shannon Noble	Childcare Assistant, Lilli Pilli Public School Centre	Childcare Assistant, Lilli Pilli Public School Centre
Chloe Starr	Childcare Coordinator, St Patrick's Centre, and 2011 Holiday Adventures Supervisor	Children's Services Team Leader, YMCA Caringbah
Michelle Bates	Childcare Assistant, St Patrick's Centre	Childcare Coordinator, Caringbah Centre
Carine Beer	Childcare Assistant and later Childcare Coordinator, Laguna Street Public School Centre	Childcare Coordinator, Laguna Street Public School Centre
Erin Turner	Childcare Coordinator, St Patrick's Centre and later Assistant Manager, Caringbah Centre	– (Now Outbound Manager, Camp America)

From July to October 2012, Catharine Clements was the Child Protection and Compliance Manager. She began after Lord's employment was terminated.

1.3 Outside school hours care

Key points

This section considers the NSW outside school hours care (OSHC) sector as a whole to explain the regulatory context that YMCA NSW operated in. It looks at how the state's 615 providers are assessed against national legislation. YMCA NSW is the largest provider and runs almost 8 per cent of OSHC services in New South Wales. Since Lord was arrested, the state's regulator has visited YMCA Caringbah three times to monitor compliance.

OSHC services look after primary school children, 98 per cent of whom are between 5 and 12 years old.[87] Demand for OSHC is mostly from working parents who need child-minding services,[88] so it includes:

- before school care
- after school care
- vacation care during school holidays and pupil-free days.

OSHC providers commonly use facilities at or close to primary schools, such as school buildings or nearby community halls.[89] Before the regulatory authority approves an OSHC centre:

- it must assess the facility's physical environment
- the provider must show that it has the right to occupy and use the facility.

YMCA Caringbah runs OSHC services at one centre and four schools in the region. It has a licence agreement with each school or the Minister of Education and Training on behalf of government schools.[90] The licence fee is based on hours of use and space available.[91]

Being on school premises, many children who come to OSHC are students of that school even though the OSHC service is entirely separate. This is true for most children in this case study, although some were collected by bus from nearby schools.

YMCA NSW is the state's largest OSHC provider

There are around 3,900 OSHC services in Australia, run by 1,850 providers.[92] In 2010, some 30,000 staff cared for over 340,000 children.[93] Of the providers:

- 60 per cent are government and community organisations
- 40 per cent are private for-profit providers.[94]

The National Council of the YMCAs of Australia operates 233 OSHC centres nationally.[95] The combined number of services run by its member associations makes YMCA Australia the second largest provider in the country, after Camp Australia.

In New South Wales, there are around 1,130 OSHC services and 615 providers.[96] YMCA NSW is the largest provider with 98 services. It employs 500 staff and cares for almost 11,500 children.[97]

The Productivity Commission reports that, of the state's approved OSHC services with a stated management type:

- 43.8 per cent are community managed
- 28.2 per cent are privately managed
- 9 per cent managed by government
- 4.6 per cent are managed by non-government schools.[98]

According to the 2010 National Early Childhood Education and Care (ECEC) Workforce Census, OSHC staff are less likely to have an ECEC-related qualification than staff in other forms of care, such as preschool or day care. The OSHC sector also has high rates of part-time and casual employment, with most staff aged under 30.[99]

Unified national regulatory framework came into force in 2012

In July 2009, the Council of Australian Governments endorsed the *Early Childhood Development Strategy*, with the following vision:

> by 2020 all children have the best start in life to create a better future for themselves and for the nation.[100]

Late 2009 saw a new national partnership agreement to set up a jointly governed, unified national quality framework. This replaced separate licensing and quality assurance processes for ECEC and OSHC services.

As part of the agreement, New South Wales enacted the:

- *Children (Education and Care Services) National Law* (national law) through an application act
- Education and Care Services National Regulations (national regulations).

These started on 1 January 2012 and the sector's regulation changed from variable regulatory regimes in each state and territory to comparable regimes across Australia. [101]

Under the national law, any person or organisation wishing to provide an education and care service to children needs two types of approval:

- Provider Approval is based on the applicant's eligibility as a 'fit and proper person' to provide the service. For organisations, each person with management or control of the service must be a fit and proper person.[102]
- Service Approval then authorises an approved provider to run a specific service at a specific site.

The national law and regulations also specify requirements for the safety, health and wellbeing of children. Criminal sanctions may apply to approved providers, nominated supervisors and family day care educators who do not comply.[103]

The framework is governed by the independent Australian Children's Education and Care Quality Authority, which has given regulatory authorities a policy manual to help them apply the new legislation.[104]

Early Childhood Education and Care Directorate oversees the NSW sector

The regulatory authority for the NSW sector is the Early Childhood Education and Care Directorate at the Department of Education and Communities, which has 11 regional offices.[105] Its assessment and compliance staff work 'on the ground' with all services regulated under the national law. They ensure compliance by regulating, inspecting, documenting and investigating breaches and complaints.[106]

Before 2012, however, OSHC services in New South Wales did not have to comply with any specific regulatory requirements and were not yet subject to the national law.[107] This was the case when Lord's offences were exposed. Parents AW and AT gave evidence of their considerable frustration at the time because they could not engage with any authority responsible for overseeing YMCA Caringbah or the OSHC sector generally.[108]

Instead, the (then) Department of Education, Employment and Workplace Relations funded the independent National Childcare Accreditation Counsel (NCAC) to help improve childcare services.[109] NCAC administered quality assurance in OSHC services from July 2003 to 2011. An OSHC service did not have to register with NCAC. However, services that did register could seek accreditation in a five-step process. A family with children enrolled in an unaccredited OSHC service could not claim childcare benefit.

Directorate has visited YMCA Caringbah three times since Lord was arrested

Ms Ruth Callaghan, General Manager of the Directorate, gave evidence about its inspections of YMCA Caringbah's OSHC services after Lord's employment was terminated:

Date	Visit to YMCA Caringbah	Outcome
12 Jan 2012	'Unannounced visit in the wake of the Lord matter, particularly around child protection issues and policies'[110]	The assessment and compliance officer found that the service was meeting requirements, but made some suggestions on the transportation policy and keeping children in line of sight.[111]
4 Jun 2012	'Educational visit', mainly to inform the service about its obligations under the national law	Directorate staff did not find any regulatory breaches.[112]
30 May 2013	Monitoring visit	The visit found areas of non-compliance, such as staff records not showing any relevant training, there being no record of a Working with Children Check for one educator, and the national law and regulations not being available for staff.[113]

On 25 June 2013, YMCA NSW asserted that all areas of non-compliance had been fixed.[114]

YMCA Caringbah is 'working towards' the national quality standard

Later, on 20 and 21 August 2013, the Directorate assessed YMCA Caringbah's service against the seven quality areas in the National Quality Standard.[115] On 23 October, it was rated as 'Working Towards National Quality Standard', the second lowest of five ratings.[116]

The service was rated as:

- 'meeting the standard' for five quality areas
- 'working towards' the standard for quality areas 1 and 3, which relate to educational programs and practice and the physical environment.

The Directorate's report shows that the service met the national standard and its sub-elements for children's health and safety, and held all the relevant documents on child protection.[117] The report also commended YMCA Caringbah for 'establishing and maintaining positive relationships with children and their families'.[118]

However, the October 2013 report did not identify issues raised:

- at the public hearing about recruitment, induction, training and supervision of staff at Caringbah and YMCA NSW's level of compliance with its child protection policies
- later, in the monitoring visit in November 2013, about staff induction and their knowledge of child protection policies.[119]

Directorate has since found a lack of understanding of child protection

During her oral evidence, Ms Callaghan was asked whether the Directorate could check that OSHC staff knew the service provider's policies and could implement them.[120] Ms Callaghan said that, although officers would not 'quiz someone' about a policy, they might ask questions about how policies were put into action in the centre.[121]

In a supplementary statement, Ms Callaghan stated that under the national regulations, the onus is on approved providers to ensure staff follow policies and procedures. Monitoring visits then aim to gauge staff understanding of these documents.[122] If a visit finds a lack of understanding, the Directorate may issue a compliance direction for the provider to deliver education and training to its staff by a certain date.[123] The Directorate would then visit again to measure the level of compliance.[124]

In this statement, Ms Callaghan commented on an unannounced visit to YMCA Caringbah after the hearing. Two officers attended OSHC at the Caringbah Centre on 8 November 2013 and found:[125]

- Danielle Ockwell was 'the responsible person' that day,[126] but did not have child protection knowledge that was 'as in-depth' as expected for that role.[127]
- A relief staff member had better knowledge and could articulate child protection procedures and knowledge of the 'Keep Them Safe' website.[128]
- A new staff member (who had started on 18 October) was 'very unsure' of child protection and procedures, including who to contact at YMCA if there was an issue.[129] Jacqui Barnat was present when this staff member was questioned. The Directorate officers discussed with her the need for all staff to be aware, before they started work, of procedures about 'who to report to and contact phone numbers as a very minimum'.[130]

- There was no Working with Children Check available on site for the bus driver and the relief staff member.[131]
- All the staff induction checklists were signed and dated on the same day, raising concerns as to 'the extent of the induction and the extent to which a new staff member could possibly remember all procedures'.[132]

Counsel Assisting submitted that this highlights the need for the Directorate, and other supervisory authorities, to ensure not only that the policies and procedures of OSHC providers comply with the national law, but also that providers implement them in their day-to-day practice.[133]

Ms Callaghan said the public hearing and the Directorate's operational work more broadly have highlighted the need to develop standardised questions for its staff to use. These would help them to determine whether providers are complying with and understand their child protection obligations.[134]

There is not enough evidence in this case study to reach a firm conclusion about the efficacy of the:

- national law in regulating the OSHC sector
- Directorate in monitoring compliance.

However, these matters will be evaluated in our broader study of regulation and oversight.

1.4 Child protection policies

Key points

This section discusses YMCA NSW's child protection policies. We conclude that these policies were too complex, sometimes inconsistent and inadequately communicated to staff and parents.

Professor Stephen Smallbone, a psychologist from the School of Criminology and Criminal Justice at Griffith University, was called by the Royal Commission to give evidence about both the merit of YMCA NSW's child protection policies and best practice relating to the situational prevention of child sexual abuse.

Professor Smallbone holds a Bachelor of Arts, a Graduate Diploma in Psychology and a Doctor of Philosophy or PhD. He worked as a prison psychologist in Queensland from 1990 to 1997, specialising in the assessment and treatment of adult sexual offenders. In 1998, he joined Griffith University as a lecturer in the School of Criminology and Criminal Justice. Since 2001, he has been the Director of the Griffith Youth Forensic Service, which provides court-referred assessment and intervention services for youth sexual offenders and their families in Queensland. This research is mainly concerned with understanding and preventing sexual violence and abuse. He has published around 60 books, chapters, journal articles and government reports on this topic.[135]

Although YMCA NSW was given an opportunity to call an expert of its choosing to respond to Professor Smallbone, it did not avail itself of that opportunity.

According to Professor Smallbone, rules about adult–child and child–child relationships should be unambiguous, widely disseminated, and supported by staff supervision and training.[136] Where adults interact with children, even excellent policies will not mean an organisation is child safe unless there is a clear understanding of how the policies actually affect staff behaviour and experience.[137] These propositions are plainly correct.

YMCA NSW gave us two 'complete' Caringbah policy folders, one from 2009 and one that was said to be current.[138] Each folder has more than 80 policies. According to YMCA NSW, its main child protection policy was the *YMCA Australia Safeguarding Children and Young People Policy 2006* (*YMCA Safeguarding Children Policy 2006*).

Child protection policies can better meet best practice

Although YMCA NSW had many policies in place when Lord worked there, Counsel Assisting submitted they did not meet Professor Smallbone's criteria of being unambiguous, widely disseminated and supported by supervision and training.[139]

Professor Smallbone identified 33 policies that refer to sexual abuse.[140] He was critical of the fact that there were so many different policies and their content in certain respects:

- Various policy documents touched on issues relating to sexual abuse and child maltreatment, but none dealt with this comprehensively.[141]
- Descriptions of sexual abuse indicators were inaccurate and unhelpful in the versions of the child protection policy from when Lord was employed and at 1 July 2013.[142]

- The child protection policy was concerned exclusively with responding to incidents after they had happened (and even then only in a limited way) and did not deal at all with how abuse occurs or how to prevent it.[143]
- There was no policy to guide YMCA NSW's response to allegations of sexual abuse beyond its immediate reporting requirements.[144]
- The *OSHC Parent Handbook*, at August 2009, gave no information about child protection and no direction about the concerns parents should report.[145]

Of further concern was the fact that more than one policy dealt with the same issue, and then sometimes inconsistently.[146] For example, the 2010 Staff Handbook for the Caringbah and St Patrick's YMCA Holiday Adventures Program said:

> You are doing a good job when … your children are always hanging on you, holding your hand or asking for piggyback rides.[147]

Ms Nolan observed that this information was inconsistent with the Code of Conduct and would send the wrong message to staff who only read the handbook.[148]

Counsel Assisting submitted that this evidence suggests that YMCA NSW's child protection policies were not in line with best practice.[149] YMCA NSW acknowledged these problems and submitted it can improve its policies to align with Professor Smallbone's description of international best practice. It noted its commitment to implementing his suggestions.[150]

Staff and parents did not understand policies

Having strong policies is an essential foundation for child protection, but staff must also understand them. YMCA NSW policies were poorly known and understood by staff, if at all.

Ms Barnat conceded that:

- her staff still have a limited understanding of child protection policies
- training for childcare assistants and coordinators, whom she supervises, is ineffective
- the policies are too complex for many staff to comprehend.[151]

Professor Smallbone advised that YMCA NSW needs to do a great deal of work to improve, simplify and more effectively disseminate relevant policy material.[152]

YMCA NSW had no effective system for telling staff about changes or new policies.[153] Some staff were even unaware where to find policies.[154] At times, the policy folder was missing or incomplete.[155]

Nor did YMCA NSW have an effective system for giving parents information about policies. Ms Barnat gave evidence that the centres have a 'parents desk' where a policy would be placed for parents to review and comment. She said that parents are shown this desk during orientation.[156]

Ms Danielle Ockwell said that the parents desk had a lot of information on it, such as the centre's guidelines, policy folder and other information about the centre. However, she said that she had never seen parents reading the policy folder.[157]

Parent AN gave evidence that when 'AO was attending YMCA Caringbah, I was never aware of any of YMCA's policies or of the YMCA Code of Conduct. I was never aware of a "parents

table" or anything similar. I was not aware that YMCA had any policies regarding babysitting, and I was not aware that babysitting was not allowed'.[158]

Counsel Assisting submitted that we should make a finding that YMCA did not have an effective system for ensuring that staff and parents were aware of and understood its child protection policies.[159]

YMCA NSW rejected this submission. It argued that the fact that some staff and parents gave evidence that they were not aware of policies does not show that YMCA Caringbah did not have an effective system for ensuring they did. It also submitted that any finding about its system should not apply across the whole institution.[160]

We accept that YMCA Caringbah did not have an effective system in place.

Finding 1

YMCA Caringbah did not have an effective system for ensuring that staff and parents were aware of and understood its child protection policies.

YMCA Caringbah failed to apply policies

Professor Smallbone expressed the view that evidence about the level of understanding of YMCA child protection policies by Caringbah staff between August 2009 and September 2011 showed that there was a wholesale breakdown in applying these policies.[161]

Professor Smallbone concluded that staff were:

- unaware of the detail of relevant policies
- unsure how to identify concerning events or behaviours
- unsure how and to whom they could or should express concerns.[162]

For example, Ms Barnat admitted that she was unaware of the *YMCA Safeguarding Children Policy 2006* during Lord's employment.[163] In a memo to staff on 7 October 2011, she acknowledged that 'at times we are a little "carefree" with some aspects of [YMCA NSW's policies and procedures]' and that this 'could potentially put you, the children and/or the YMCA at risk'.[164]

Further, the rationale behind some policies was poorly understood by staff. This contributed to a lack of vigilance over child protection, as the importance of applying the policy and its direct relevance to the safety and protection of children, may not have been known by all staff.[165]

YMCA NSW's CEO, Phillip Hare, conceded that YMCA policies prohibited each of Lord's behaviours when he groomed and offended against children.[166] Although several staff saw Lord engaging in prohibited conduct, nobody reported this to management.[167]

Counsel Assisting submitted the evidence is consistent with a complete breakdown in the application of YMCA NSW's child protection policies at YMCA Caringbah.[168]

YMCA NSW acknowledged that this represented a breakdown. However, it argued that the proposition there was a 'complete' breakdown is untenable and unnecessary.[169]

30

In our opinion, the evidence justifies a finding that there was a serious breakdown in the application of these policies.

> **Finding 2**
>
> There was a serious breakdown in the application of YMCA NSW's child protection policies at YMCA Caringbah.

For a detailed discussion of YMCA NSW's child protection policies and further findings relating to these policies, please see sections **2**, **3** and **5.4**.

2 Recruitment, screening, induction and training

2.1 Lord's recruitment

Key points

This section considers YMCA NSW's recruitment and screening policies. It concludes that YMCA NSW failed to identify and act on 'red flags', and did not follow best practice or its own policy in Lord's recruitment. It is likely that, had it followed its policy, Lord would not have been employed by YMCA NSW.

To assess YMCA NSW's recruitment of Lord, we sought to establish the standards that are appropriate when employing someone to work with children.

Professor Smallbone gave evidence about the procedures he considers appropriate when recruiting childcare staff. Formal screening procedures, such as Working with Children Checks (WWCCs), are the 'bottom line standard' and only provide a limited degree of protection.[170]

Professor Smallbone said that employers should supplement these routine background checks with careful reference checks and structured interviews.[171] Interviews, in particular, give an organisation the chance to provide clear information to applicants about its:

- commitment to children's safety
- policies and procedures to prevent child abuse.[172]

YMCA NSW did not challenge Professor Smallbone on the evidence he gave about recruitment, screening, induction and training.

YMCA NSW policy addressed recruitment and screening

In 2009, the *YMCA Australia Safeguarding Children and Young People Policy 2006* (*YMCA Safeguarding Children Policy 2006*) covered recruitment and screening.[173] It was the overarching child protection policy for the YMCAs of Australia, including YMCA NSW.[174]

The policy states that 'the Board is legally and morally responsible for ensuring that appropriate policies and practices are in place to minimise, if not eliminate, the risk of child abuse, and to appropriately respond to any allegations that arise'.[175]

Further, 'the Chief Executive Officer or Manager is accountable to the Board for ensuring that the … Policy, and any related policies, as well as any decisions the Board may take in relation to child protection from time to time are implemented, monitored, reported on and evaluated in a timely and diligent fashion'.[176]

While Professor Smallbone criticised some aspects of the policy, he generally agreed that it met best practice in recruitment and screening.[177]

The policy included the following steps:

> Step 3: All applicants (staff and volunteer) who are short-listed for interview are to be asked whether they have ever been a subject of an employer investigation or been charged with a criminal offence involving children, violence, drug dealing or dishonesty.

Step 4: The current employer or most recent employer of all applicants short-listed for interview will be contacted for suitability and screening purposes. This is to be made clear to the applicant on short listing so that they are aware that this is a prerequisite of YMCA employment.

Step 5: A minimum of three (3) reference checks are to be conducted for all applicants (staff and volunteers) short-listed for interview. These should not be written references. They should be direct contacted via phone. The results of these are to be documented, diligently evaluated and placed on file prior to any offer of employment (paid or voluntary) being made.[178]

Appendix E to the policy provided a list of sample questions for reference checks. The first of those questions was 'Are your [sic] related to the applicant?'.[179]

All of these steps were relevant to Lord's recruitment.

Lord lacked experience and qualifications

In July 2009, Lord was dismissed from YMCA Camp Silver Beach in the USA 'due to "questionable" behaviour with an 8 year old camper. He was caught alone in a cabin with a camper, with the lights off'.[180] A month later, he applied for a casual childcare position with YMCA Caringbah and Jacqui Barnat was mainly responsible for his recruitment.[181]

Ms Barnat gave evidence that she learnt about the recruitment process by working side by side with other managers, and attending 'middle management training sessions' between 2004 and 2008. However, she admitted that she could not recall the content of these sessions that related to recruitment.[182]

Lord's CV was a simple one-page document,[183] containing personal details and a 'work experience' section.[184] It did not include any:

- significant childcare work experience, except a reference to experience as a cabin counsellor at a summer camp and as a youth leader
- qualifications or education related to child care.

Ms Barnat gave evidence that it is not uncommon for staff coming into the children's service or childcare field not to have qualifications. She said casual staff do not necessarily need a qualification and they can obtain it during employment.[185]

It is understandable that applicants for a casual or junior childcare position might be young and without substantial experience or qualifications. However, as Professor Smallbone stated and Ms Barnat conceded, in these cases there is a special need for a thorough induction and in-house training.[186] Further, an unqualified candidate's motivation for wanting to work with children should be thoroughly explored during recruitment, particularly if there is a 'red flag' in the application.

Ms Barnat failed to identify 'red flags' in Lord's CV

Ms Barnat did not identify any 'red flags' in Lord's CV. It is plain that she should have done so. This was a significant failure in her management of the recruitment process.

Professor Smallbone observed that recruitment staff should be alert to signs of unusual attitudes about children, such as if applicants:

- profess to have 'special relationships' with children
- disagree with the need for rules about child protection
- think certain rules should not apply to them
- have a desire to work with children that seems focused on meeting their own psychological or emotional needs.[187]

Lord said one of his career ambitions was 'to work with kids and help them to experience life, love and friendships in an environment where there are no walls or boundaries'.[188]

Professor Smallbone said that this statement should have raised questions about whether Lord understood:

- the importance of boundaries for children
- his responsibilities for maintaining personal and professional boundaries.

The sentence is significant in an otherwise short document.[189] Professor Smallbone emphasised that boundaries are one of the most critical issues in the childcare sector.[190]

Erin Turner was a colleague of Lord's at YMCA Caringbah but is now Outbound Manager for Camp America. She gave evidence about her employment at both YMCA Caringbah and Camp America. Ms Turner said she had been trained by Camp America to vet applications and spot red flags, about four weeks before giving evidence to the Royal Commission.[191] Before this training, she would not have recognised the red flags in Lord's application.[192] Now, she would explore an applicant's background, work experience and reference checks further.[193]

Another missed red flag was Lord's statement that 'This year I flew to America to work at a summer camp as a Cabin Counsellor in Virginia. Sadly I had to come home early because of a personal family matter'.[194]

Ms Barnat did not ask Lord details about the camp or the matter that brought him home, even though Camp America was likely his most recent employer.[195] Nor did she ask if he had been the subject of an employer investigation.[196] This meant Ms Barnat did not follow Step 3 or Step 4 of the *YMCA Safeguarding Children Policy 2006*. She conceded that, had she followed Step 4, she would have contacted Camp America.[197]

Full enquiries would have likely halted Lord's application

Had Ms Barnat followed YMCA NSW policy properly, it is probable that Lord would not have been employed. In particular, had she contacted Camp America, she would have likely uncovered the incident in the USA.

Ms Barnat,[198] Mr Whitley[199] and Mr Hare[200] all individually speculated that the result of such an enquiry would have depended on:

- who Lord referred YMCA NSW to speak to at Camp America
- the quality of that person's knowledge of Lord and his dismissal.

None of these witnesses accepted that enquiring at Camp America would definitely have revealed the reasons for Lord's return to Australia. This is contrary to the evidence, as Camp America records situation logs for staff in an online database. [201] If Lord's name had been entered in this database, the reasons would have been explained.[202]

Lord's log is in evidence.[203] In a follow-up report of his dismissal, his supervisor wrote:

> We might have lost the best counsellor we have here for no reason, or we might have caught someone very bad and protected the rest of the kids who come to our camp.[204]

Mr Whitley accepted that if the reasons for Lord's dismissal from the camp had been known, YMCA NSW would not have employed him,[205] and that a proper enquiry should have been made.[206] However, Mr Whitley stated that he would not consider this to be a failure. Rather Lord's recruitment was certainly 'not conducted correctly'.[207] This statement reflects poorly on Mr Whitley's appreciation of the importance of a rigorous recruitment process in ensuring the safety of children in YMCA NSW's care.

Ms Nolan also initially refused to describe this as a failure even though she stated that 'the policy wasn't followed and therefore it was done incorrectly'.[208] She then conceded that the process did fail.[209] Ms Nolan gave evidence that, had she received Lord's CV in 2009, she would not have progressed his recruitment to an interview because of his comments about boundaries, his early departure from the American camp and his general inexperience.[210]

Similarly, Mr Hare first stated that 'the recruitment process wasn't to the standard we would expect'.[211] He later conceded that, based on the evidence, he would consider the recruitment process that led to Lord's employment as a failure.[212] Mr Hare should have immediately recognised that failure.

Ms Barnat did not conduct three appropriate reference checks

Ms Barnat also failed to comply with Step 5 of the *YMCA Safeguarding Children Policy 2006*, by not conducting at least three reference checks.

Lord nominated two referees, a youth pastor and Mr Charlie Yankos, who Lord offered as a 'work experience' reference. Ms Barnat did not phone the youth pastor and Mr Yankos turned out to be Lord's stepfather.[213]

There is a written record of Ms Barnat phoning Mr Yankos on 21 August 2009.[214] It raises many issues:

Issue	Evidence
Did not complete the record fully or accurately	The record was poorly completed, suggesting that it was not thorough.[215] Ms Barnat spelt Mr Yankos's name incorrectly in her notes on the CV.[216] She also misspelt it on the reference check.[217] Ms Barnat signed the document because she was satisfied with it,[218] despite accepting that it was incomplete and poorly completed.[219]
Did not follow YMCA policy	Ms Barnat did not familiarise herself with the *YMCA Safeguarding Children Policy 2006*,[220] including the sample questions for referees in Appendix E.[221] She cannot recall asking Mr Yankos whether he was related to Lord but accepts that she would have recorded the answer had she asked the question. The document has no such reference.[222]
Did not ask several questions	Of the 13 questions on the telephone reference check form,[223] four (2, 5, 7 and 8) were left blank. Based on Ms Barnat's evidence that if she asked a question she would have recorded the answer, it is apparent that Ms Barnat did not ask Mr Yankos these questions.
Did not cover Lord's work experience	One of these questions was fundamental: 'Confirm employment details, position, key work responsibilities / duties, length of service.' Ms Barnat recorded Mr Yankos as Lord's 'supervisor'. However, she did not find out where he had supervised Lord or details of Lord's role, duties and length of service. Nor did she find out whether the role involved work with children.[224]
Did not record detailed responses	For the questions Mr Yankos did answer, the responses Ms Barnat recorded are brief.[225]

Ms Barnat's notes also record that two current staff members, including a centre supervisor, had referred Lord.[226] She considered that the supervisor's recommendation constituted a personal reference[227] although there is no written account of what that person told her.[228]

YMCA NSW tried to distance Ms Barnat from responsibility for failures

Despite these issues, Ms Barnat maintained that her actions did not fall below best practice and that she did what she needed to do.[229] This proposition is untenable and reflects poorly on Ms Barnat's capacity to hold a management role in any organisation working with children.

Ms Barnat also gave evidence that, after allegations were made against Lord, she discussed his recruitment with Irene Minos and Ms Nolan as more senior managers at YMCA NSW.[230] They did not criticise her actions, even though she had not followed YMCA policy.[231]

Ms Nolan was Ms Barnat's direct manager at the time of the public hearing.[232] She confirmed that Ms Barnat did not face any disciplinary action for failing to follow policy in Lord's recruitment.[233] Ms Nolan noted that she has previously 'performance managed' staff for policy breaches, including issuing formal warnings and terminating employment.[234] We believe that Ms Barnat should have been disciplined.

During the public hearing, YMCA NSW made a number of comments that tended to evade responsibility for its management's failures. For instance, in its opening remarks, YMCA NSW said:

> Jonathan Lord offered two referees and obtained a Working with Children Check. He presented himself as a respectable member of his community. He made a general reference to having been involved with a children's camp in the United States and, as is now apparent, he lied about the circumstances in which he returned to Australia ...[235]

When giving evidence on the final day of the hearing, Mr Hare accepted that the recruitment process had failed and that these remarks did not acknowledge that failure.[236]

YMCA NSW also asserted:

> That Jonathan Lord was able to infiltrate an organisation with industry-leading practices and win the trust of co-workers and parents demonstrates a critical need for the YMCA and all organisations that work with children to improve their focus on training staff to identify grooming behaviour.[237]

We do not accept that Lord infiltrated YMCA NSW. Rather, YMCA NSW let him in. Lord applied for a job and because of significant failures in recruitment, screening, management, supervision, and training, his employment continued and his conduct was not reported and he sexually abused YMCA children.

YMCA NSW's recruitment processes failed in multiple ways

Counsel Assisting submitted that a detailed finding should be made as to how YMCA NSW failed in its recruitment of Lord, mainly through the conduct of Ms Barnat.

YMCA NSW accepted its recruitment processes in 2009 were deficient in a number of areas. It acknowledged that, when recruiting Lord, Ms Barnat did not:

- know, acquire knowledge of, or follow YMCA policy
- contact his most recent employer
- contact three referees
- record an oral reference from a staff member
- adequately complete the written account of the reference check.

However, YMCA NSW submitted that responsibility for these actions lies with the institution for not training Ms Barnat well enough on how to recruit staff and apply policy.[238] YMCA NSW argued that any findings on these matters should not be critical of Ms Barnat.

Further, YMCA NSW rejected any suggestion that Ms Barnat should have interrogated Lord about previous employer investigations as this assumes that she knew or should have known that Camp America had investigated Lord. It submitted that it is speculative to reason that Ms Barnat would have discovered the fact through a phone reference check.[239]

YMCA NSW also rejected any suggestion that Ms Barnat did not competently record Mr Yankos's name. It submitted that this assumed Lord provided the name correctly and pronounced it in a way that only allowed for one possible spelling. According to YMCA NSW, this is speculation.[240]

We accept that YMCA NSW is responsible for not adequately training Ms Barnat and other staff on recruitment. However, we remain concerned that Ms Barnat has not accepted her failures and learned from them.

Finding 3

YMCA NSW failed to comply with the *YMCA Safeguarding Children Policy 2006* in its recruitment and screening of Jonathan Lord, primarily through the conduct of the responsible manager, Jacqui Barnat, who did not:

- discuss with Jonathan Lord, when reviewing his CV, his most recent employment and whether he had previously been the subject of an employer investigation
- contact the current or most recent employer of Jonathan Lord
- contact three referees
- record the oral reference given by a staff member
- ask relevant questions to the only referee for whom she recorded her enquiries
- complete the written account of the reference check
- carry out background checking.

We see merit in YMCA NSW's suggestion that a finding should be made about its responsibility for not training Ms Barnat and other staff well enough on recruitment.

Counsel for the current and former YMCA Caringbah childcare staff submitted that Ms Turner's evidence places us in a unique position to understand how that training would have applied to, and probably halted, the recruitment of Lord by both organisations.[241] We accept that YMCA NSW adopting such training would substantially help staff when assessing applications from potential childcare staff.[242]

Lord's recruitment was not the only example of poor recruitment practices being adopted at YMCA Caringbah. Ms Sheree Ockwell gave evidence that when she applied for a job at YMCA NSW, a manager there asked her to phone one of her own referees and record the reference for her personnel file.[243]

It is clear that YMCA NSW must address broader issues concerning recruitment, screening policies and effective staff training.

Finding 4

YMCA NSW failed in its responsibility to sufficiently train Jacqui Barnat, and other staff at YMCA Caringbah, in complying with the recruitment and screening aspects of the *YMCA Safeguarding Children Policy 2006*.

Had YMCA NSW followed policy, it likely would not have employed Lord

Counsel Assisting submitted that had YMCA NSW followed the recruitment and screening procedure in the *YMCA Safeguarding Children Policy 2006*, it is likely that Lord would not have been employed.[244]

YMCA NSW rejected this suggestion as speculative because it is unknown:

- if Camp America would have disclosed the information in the situation log
- what both Lord and Mr Yankos would have told YMCA NSW had they been asked certain questions (assuming they were not asked).

Further, YMCA NSW argued that there is no evidence that anyone in Australia could have searched the situation log in 2009. Nor is there evidence of how Camp America would have approached an enquiry about Lord or what privacy issues it might have considered if this had been done without Lord's consent. A critical fact is that Camp America made no report of why it sent Lord home.[245]

We do not accept YMCA NSW's submissions on this issue.

It is standard practice for employers to check references with a candidate's past or current employers. There is no reason to conclude that Camp America would not have helped if YMCA NSW had enquired about Lord. The information was in a database that existed for that very purpose.

If there were any privacy concerns, Lord's consent to disclose the information should have been sought. Had he not consented, YMCA NSW should not have employed him.

Finding 5

Had YMCA NSW followed the recruitment and screening procedure in the *YMCA Safeguarding Children Policy 2006*, it is likely that Jonathan Lord would not have been employed.

During the Royal Commission, the Commissioners will review the actions taken by YMCA NSW to address its failures in recruitment and its screening practices.

For another finding relating to recruitment and YMCA NSW as a child safe organisation, please see section **5.4**.

2.2 Working with Children Checks

Key points

This section considers the requirements for Working with Children Checks (WWCCs) under the *Commission for Children and Young People Act 1998* (NSW) (CCYP Act) and YMCA policy. We find that Lord and several other Caringbah childcare staff started working with children without WWCC clearance. This meant YMCA NSW failed to comply with both the CCYP Act and its own policy.

When YMCA NSW employed Lord, Part 7 of the CCYP Act required employers to carry out background checks on 'a preferred applicant before employing them in primary child-related employment'.[246] This was called the Working with Children Check.

Section 33(1) of the CCYP Act defined child-related employment as:

> any employment … that primarily involves direct contact with children where that contact is **not directly supervised** by a person having the capacity to direct the person in the course of employment … [emphasis added]

The CCYP Act described the object of the WWCC as:

> to protect children by prohibiting certain people from being involved in child-related employment … by means of background checking … (s 31)

It also provided:

> The safety and welfare of children and, in particular, protecting them from child abuse, is the paramount consideration. (s 32)

Of particular note, the CCYP Act said:

> Some or all of the procedures of background checking may be deferred in a particular case if the employer can establish that it was **not reasonably practicable** to carry out those procedures in the circumstances. In that case, those procedures are to be carried out **as soon as reasonably practicable** after the person is employed. [emphasis added] (s 37(3))

Other sections of the CCYP Act relevant to the WWCC are summarised as follows:

- Background checking includes checks for relevant criminal records and employment proceedings completed against the person, and other relevant probity checks. (s 34)
- Employers fulfil some of these obligations if they engage an approved screening agency to carry out the checks **and** receive the results from that agency. [emphasis added] (s 37(4A))
- The Commission can serve a notice on an employer if it considers that the employer has not complied with these sections. A person who fails, without reasonable excuse, to comply with a notice is guilty of an offence. (s 41)

Lord and other staff began working with children without WWCC clearance

On 25 August 2009, Lord signed a contract with YMCA of Sydney as a casual childcare assistant,[247] and he began work, reporting directly to Ms Barnat.[248] However, YMCA NSW did not request a WWCC on Lord until 15 September 2009. Lord was cleared to work with children sometime later, on an unknown date but at least several weeks after he had started.

Other Caringbah staff also began working with children before they had received WWCC clearance, as this table shows:

Staff	Work or trial shifts started	WWCC form completed by staff	WWCC result dated
Ms C Beer	around 2001 (until 2006)[249]	Unknown	12 Mar 2002[250]
	29 Mar 2011[251]	29 Mar 2011[252]	24 Nov 2011[253]
Ms A Dellaca	on or around 23 Feb 2006[254]	23 Feb 2006[255]	19 Apr 2006[256]
Ms S Ockwell	19 Jun 2006[257] (contract signed 26 Jun)[258]	19 Jun 2006[259]	2 Aug 2006[260]
Ms D Ockwell	18 Apr 2007[261]	3 May 2007[262]	20 Dec 2007[263]
Ms S Noble	Mar 2010 (contract signed 18 Mar)[264]	18 Mar 2010[265]	31 Mar 2010[266]
Ms M Bates	30 May 2011[267]	1 Jun 2011[268]	23 Jun 2011[269]

Lord was engaged in child-related employment from the outset

YMCA NSW submitted that it had not breached the CCYP Act, even though Lord and others started working with children before obtaining WWCC clearance. It gave two reasons to support this conclusion.

First, YMCA NSW submitted that because Lord and other casual childcare assistants worked on 'supervised shifts',[270] they were not engaged in 'child-related employment' within the meaning of the CCYP Act.[271] As a result, a WWCC was not required for Lord or any other childcare assistants.

We do not accept this submission. The evidence is that at each centre there were two staff members rostered on each shift: a childcare assistant and a childcare coordinator. The position description for a childcare assistant states that 'the prime role of the OSHC Assistant is to assist the Coordinator to oversee the development implementation and evaluation of the daily routines and programs …'.[272] Other duties include helping the coordinator to:

- supervise the daily functions of the services relating to various administrative tasks
- complete various planning and evaluation tasks
- complete various marketing and liaison tasks
- complete various tasks relating to occupational health, safety and welfare.

The position description states that an OSHC assistant reports to, and is accountable to, the childcare coordinator.[273] Although this represents a formal reporting structure, it does not follow that a coordinator was directly supervising a childcare assistant's contact with children. Neither does the fact that both are physically present on a shift together.

Childcare staff must be in constant contact with children. While a childcare coordinator plainly has the lead role in running a centre, both staff are jointly engaged in caring for a large number of children. Ms Bates gave evidence that 'a supervisor is pretty much just like the assistant'.[274]

We do not accept that the direct contact between a childcare assistant and the children in his or her care is directly supervised by a childcare coordinator. This practical reality is shown by the fact that Lord committed many instances of sexual abuse in the presence of one or more supervisors or coordinators. There is no evidence of any special arrangements for additional supervision when a staff member started work without WWCC clearance.

We are satisfied that Lord and other childcare assistants were engaged in primary child care under the CCYP Act and that YMCA NSW was required to carry out background checking procedures in line with that Act.

There were no urgent circumstances to prevent a WCCC before employment

Second, YMCA NSW submitted that, even if it needed to carry out a WWCC for Lord and other casual childcare assistants, it employed these staff 'on an urgent basis' and it was not reasonably practicable to carry out the WWCC before employing them.

Clause 3.3.4 of the *Working with Children Employer Guidelines 2008* said:

> Should a situation arise where it is not practicable for the Working with Children background check to be undertaken prior to the commencement of employment, a request for checking must be completed as soon as possible after the person commences. In any case, the request should be sent immediately.
>
> In these cases you must request the employee complete a Prohibited Employment Declaration ... You should also consider modifying the work requirements of the new employee until the check is completed. Modifications may include limiting the access of the person to children or providing additional supervision in the interim.

Each of the relevant staff completed WWCC consent forms and Prohibited Employment Declarations on or before their first days. YMCA NSW submitted that these forms should be regarded as evidence of urgency.[275]

We do not accept this submission. Except for Ms Dellaca, whose case we discuss below, there is no evidence that Lord or other relevant staff were employed on an urgent basis. Rather, the evidence suggests that it was the usual practice at Caringbah to allow new staff to start work without a WWCC, provided they completed a WWCC consent form and Prohibited Employment Declaration.

Both Ms Nolan and Mr Hare gave evidence that, if applicants signed a declaration, they could work with children before a check was complete.[276] This belief is not correct. Neither

Ms Nolan or Mr Hare referred to the fact that this exception to the law only applied when it was not reasonably practicable to carry out a check before employment.

Organisations should only use exceptions to the legislated procedures in exceptional cases. If a person was employed in urgent circumstances, we would expect those circumstances to be recorded on their personnel file.

Further, there is no evidence that once Lord and other staff had started work, YMCA NSW carried out their WWCCs 'as soon as reasonably practicable'. In Lord's case, three weeks went by before a check was requested. YMCA NSW could not explain this delay.

In Ms Dellaca's case, she began work in late February 2006 when YMCA NSW was extremely short-staffed.[277] However, there is no evidence to explain why her WWCC was not completed until 19 April 2006, almost two months later.

We are satisfied that YMCA NSW failed to comply with section 37 of the CCYP Act in the way it carried out background checking procedures for Lord and other staff.[278]

Finding 6

YMCA NSW allowed Jonathan Lord access to children at the Caringbah Centre (Our Lady of Fatima Before and After School Care) before:

- he had applied for a Working With Children Check or made any declaration as contained in that application
- a screening request was logged with the relevant authority
- a clearance was obtained.

YMCA NSW failed to comply with its own policies

Consistent with the CCYP Act, Step 7 of the *YMCA Safeguarding Children Policy 2006* stated that background checks should be documented and recorded before YMCA employed any staff or volunteers with access to children or young people.[279]

The policy did not anticipate circumstances where it would be impracticable for YMCA NSW to carry out these checks before employment started.

We are satisfied that YMCA NSW failed to comply with Step 7 of this policy with Lord and other staff at YMCA Caringbah.

Finding 7

YMCA NSW failed to comply with section 37 of the *Commission for Children and Young People Act 1998* (NSW) when carrying out background checking procedures on Jonathan Lord and other staff at YMCA Caringbah.

2.3 Staff induction

Key points

When Lord was hired, YMCA NSW had an induction policy for all new staff and volunteers. This section considers whether Lord and other staff were provided with a formal induction program in line with this policy. We conclude that YMCA NSW failed to comply with its own induction processes.

The *YMCA Safeguarding Children Policy 2006* outlined a threefold induction process:

- receiving internal and regulatory policies
- signing a confirmation that those policies are read and understood
- being made aware of child abuse risks and indicators as well as mandatory reporting obligations.

All of this was to be completed within 30 days of starting work.[280] The full text of the policy was:

> **7. INDUCTION & TRAINING PROCEDURES**
> All new program/service staff and volunteers are to participate in a formal induction program within 30 days of their appointment and are to be provided with access to appropriate written and web-based documentation outlining the YMCA's policies, operating procedures and legislative/regulatory environments as they relate to children's programs/services.
>
> All new program/service staff and volunteers are to be provided with personal copies of the SC&YP Policy and code of conduct and need to sign a confirmation of acceptance form prior to commencing employment. This form acknowledges that the policies have been received, read and understood. This form will also record any updated training that is undertaken throughout the term of employment and is up to the staff member to keep updated. (Appendix F: Staff Confirmation/Acceptance form)
>
> All new staff and volunteers, during their induction, are also made aware of the risk of child abuse, indicators of child abuse and mandatory notification obligations and responsibilities.
>
> All new staff will receive training in an overview of the *developmental assets* program in the area of empowering and educating children on their rights to be safe and to feel safe.

Effective staff induction is fundamental to child safety

Professor Smallbone gave evidence that induction offers an early opportunity to ensure staff start with a clear understanding of the organisation's attitudes, values, commitments, policies and procedures on child protection. This should happen as soon as practicable after their appointment, and ideally before work with children begins.[281]

Professor Smallbone also stated that OSHC staff should have formal qualifications equal to their role, or should be expected to gain such qualifications.[282] As Ms Barnat observed, it is usual for childcare staff to have limited qualifications.[283] This means that comprehensive induction and training is fundamental to the safety of the children.

The *YMCA Safeguarding Children Policy 2006* does not specify what constitutes a 'formal induction' or how new staff are to be made aware of the:

- risk and indicators of child abuse
- mandatory notification obligations and responsibilities.

The policy requires new staff to be given access to policies and a copy of the Code of Conduct. But granting *access* to material is not an effective way of ensuring that staff understand the organisation's attitudes, values, commitments, policies and procedures on child protection.[284]

YMCA NSW failed in Lord's induction

When Lord joined YMCA Caringbah, he had no qualifications for the role and limited experience of working with children. This made it particularly important for him to have a thorough, formal induction.

Counsel Assisting submitted that YMCA NSW failed in Lord's induction as it did not follow best practice or its own policy.[285] She referred to Ms Barnat's evidence, which showed she:

- was responsible for staff induction[286]
- had no prior knowledge of the 'Induction & Training Procedures'[287]
- did not carry out 'formal' inductions with staff, but instead had them mainly undertake 'on-the-job training' and 'buddying'[288]
- has no memory of Lord's induction[289]
- could not recall whether she gave Lord the *YMCA Safeguarding Children Policy 2006*.[290]

No documents record what, if any, induction process was carried out when Lord began.

On 30 May 2011, after working at YMCA NSW for almost two years, Lord completed a Childcare Induction Checklist and initialled each entry in the 'Signed by Supervisor' column. Ms Barnat countersigned the form and dated it the same day.[291] There is no evidence that Lord completed such a form when he first started work.

The checklist listed a range of documents and ended with a declaration:

> In signing this Induction Checklist I agree that I have read and fully understood all related documentation, policies and procedures.

Ms Barnat has no memory of what, if anything, she did when countersigning the form to satisfy herself that Lord had actually done so.[292]

All staff had to complete induction checklists in 2011

Ms Barnat gave evidence that Lord completed the induction checklist in mid-2011 as he was transferring to a new YMCA Caringbah OSHC centre.[293] Counsel Assisting submitted that this evidence should not be accepted and that Lord completed the checklist because Ms Barnat required all Caringbah OSHC staff to do so in 2011. This process had not been followed previously.[294]

The evidence shows that Ms Barnat sent a memo to the childcare centre coordinators on 31 March 2011, to 'recap on a couple of key items that are very important to be completed at the end of next week,' including:

> I will be putting a copy of the childcare inductions in your trays. Please photocopy this and complete with every staff member that works in your centre. It is important that all staff are aware of the elements that are mentioned on this checklist. Moving forward every new staff member that sets foot in your centre MUST have one completed.[295]

Ms Dellaca, Ms Sheree Ockwell and Ms Beer all gave evidence that they were also required to sign an induction checklist in 2011:[296]

- Ms Dellaca did not read the policies before completing the document.[297]
- Ms Beer remembers sighting various documents in 2011, but she had not read all the relevant policies[298] when she completed the checklist on 22 June 2011.[299]

Ms Bates completed a Childcare Induction Checklist dated 11 May 2012 and signed by 'D Ockwell' as Ms Bates's supervisor, which she was not.[300]

We are satisfied that Ms Barnat's evidence should be rejected.

Other childcare staff were not properly inducted

The failure to adequately induct Lord was not an isolated incident. Several staff did not receive, or could not recall receiving, an induction when they started work at YMCA Caringbah.[301] For example:

Staff	Evidence about induction
Ms Dellaca	Ms Dellaca did not have an induction when she started in 2006.[302] Nor did she when rejoining YMCA NSW in 2011.[303] Until she completed her Certificate IV equivalent in OSHC, everything she learnt about child care was 'on the job', mainly by modelling Ms Barnat. She assumed that if she did as Ms Barnat did, she would meet YMCA's expectations and proper practice.[304]
Ms D Ockwell	Ms Ockwell did not recall receiving an induction.[305] Nor did she recall any training, although her asthma, first aid and anaphylaxis certificates were updated.[306] She first saw 'the policy folder' when she moved from casual to permanent part-time employment after three months.[307] Ms Barnat showed it to her but Ms Ockwell did not feel she was expected to read or know all the policies.[308]
Ms Bates	Ms Bates did not receive training when she started at YMCA NSW.[309] She was given 'an induction package' and 'told to go through the induction checklist', meaning that she was asked to familiarise herself with the policies listed.[310] But she did not do so and did not return the form to YMCA NSW.[311]

Staff	Evidence about induction
	She knew there was a policy folder at each OHSC centre in Caringbah but did not know where they were, nor what they contained other than 'a whole lot of things that I was meant to follow – a whole lot of rules and guidelines'.[312] There was 'possibly' an expectation that she would read the policies,[313] but she ignored that expectation.[314]
Ms Beer	Ms Beer did not receive any formal induction in March 2011 when she rejoined YMCA Caringbah.[315]
Ms Starr	Ms Starr had no recollection of an induction process.[316] Nor did she recall being told about the policies in place when she started in 2009.[317] She accepted that she signed an Induction Plan Sign-off in October 2010,[318] although she did not remember doing so.[319] She did not recall being given access to the policies listed in the sign-off,[320] nor when she read the Code of Conduct.[321]
Ms Noble	Ms Noble did not recall being shown any YMCA policies on her trial shift.[322] But she recalled completing an induction checklist with a list of policies early in her employment. However, she was not certain whether she had seen all of them, because the 'policy book was sometimes missing some policies'.[323]

Counsel Assisting submitted that Jonathan Lord, Alicia Dellaca, Danielle Ockwell, Michelle Bates, Sheree Ockwell, Shannon Noble, Carine Beer and Chloe Starr were not adequately inducted at the start of their employment.

YMCA NSW disputed that some of these examples meant its induction was inadequate. For example, it argued that because Ms Barnat could not recall Lord's induction, there is no evidence about whether he had a formal induction. Without such evidence, no finding could be made relating to him.[324]

Further, YMCA NSW submitted that Ms Dellaca and Ms Danielle Ockwell's signatures on the YMCA of Sydney's Staff Code of Conduct[325] and Position Familiarisation[326] are evidence of a formal induction process. The Induction Plan Sign-off shows that Ms Noble[327] and Ms Starr[328] received a formal induction, as does the New Employee Induction Checklist for Ms Sheree Ockwell.[329] These documents are distinguished from the Induction Checklist circulated by Ms Barnat in 2011.[330]

In addition, without a definition of 'adequately inducted', YMCA NSW argued that no finding can be made for any of the named staff except Ms Bates.[331]

However, we are satisfied that the evidence shows Lord and other staff at YMCA Caringbah did not receive a formal induction in line with YMCA policy. Ms Barnat conceded that, although she was responsible, she did not carry out 'formal' inductions, but mainly had staff do 'on the job training' and 'buddying' instead.[332]

YMCA NSW did not follow policy or best practice

Taken as a whole, this evidence suggests the YMCA NSW did not comply with its own policy, when inducting Lord and other staff at Caringbah.

YMCA NSW accepted this to be the case, at least in part, as there is no evidence that the childcare staff witnesses were given personal copies of the *YMCA Safeguarding Children Policy 2006*. However, it submitted that the balance of Section 7 of the policy was substantially complied with.[333]

Yet Ms Barnat admitted that she had no prior knowledge of the 'Induction & Training Procedures' of the *YMCA Safeguarding Children Policy 2006*, making compliance with the policy highly unlikely.

We conclude that YMCA Caringbah failed to formally induct new childcare staff during the time relevant to this case study. In particular, staff were not:

- inducted within 30 days of starting
- given personal copies of the policy
- made aware of the risk and indicators of child abuse or mandatory reporting obligations.

Finding 8

YMCA Caringbah failed to comply with the *YMCA Safeguarding Children Policy 2006* relating to the formal induction of its outside school hours care staff.

2.4 Staff training

Key points

This section explores whether YMCA NSW gave childcare staff effective training in line with the *YMCA Safeguarding Children Policy 2006*, and looks at the implications of this for Lord's behaviour. It concludes YMCA NSW failed to adequately train staff or follow its own policy.

Professor Smallbone gave evidence, which could not be doubted, that child-related organisations should train all staff in child protection. That training, ideally with expert external trainers, should:

- give staff a clear and valid understanding of sexual abuse and its dynamics, including the characteristics of abusers and victims and how, when and where sexual abuse is more likely to occur[334]
- empower staff with the knowledge and competencies to prevent sexual abuse, identify risks, report concerns, and respond to discovery, disclosure and allegations of abuse.[335]

When Lord was employed, the *YMCA Safeguarding Children Policy 2006* contained the General Code of Conduct for All Staff and Volunteers (Code of Conduct).[336] It said:

> Program/service staff and volunteers engaged in the direct delivery of children's programs and services are required to regularly access training in child protection and related matters and will be supported by the YMCA Association to do so.[337]

The policy, including the versions in place in June 2009[338] and April 2011,[339] also said:

> All staff/volunteers will be required to attend the appropriate training and updates regarding child protection in accordance with each [YMCA Centre's/YMCA Association's] training schedule. Training will be held at least once annually.

Lord did not receive child protection training until July 2011

When Lord started working at YMCA NSW, he had no relevant qualifications and very little experience. There is no evidence that he gained a relevant qualification while he was there. Given Lord's lack of qualifications and experience, YMCA NSW should have given him comprehensive child protection training as soon as practicable.[340]

YMCA NSW produced a letter outlining 'Key Children's Services Training conducted from 2008–2013' ('Key training' table), and the staff who attended.[341] This shows:

Year	YMCA NSW training sessions on child protection	Caringbah attendees
2008	None	–
2009	January: Child Protection / Resilience in childhood	None
2010	None	–
2011 (before Sep allegation)	July: Coordinators Training Day – Duty of care / Staff Code of Conduct[342]	None

In evidence, Mr Whitley said that Lord (and one other YMCA Caringbah staff member) attended the training day in July 2011 and that the table was inaccurate in that respect.[343]

If Mr Whitley's recollection is correct, Lord did not receive any training on child protection until July 2011. By that time, he had already abused AE, AH, AI, AL, AO, AQ, AV and BA and was grooming AF, AK, AP and AR.[344]

Training of other childcare staff was inadequate

The failure to train Lord was not an isolated incident. Counsel Assisting submitted that YMCA NSW failed to adequately train all Caringbah OSHC staff in child protection between 2008 and 2011. In fact, most staff at Caringbah had no child protection training at all from YMCA NSW.[345]

In Professor Smallbone's view, the training of staff who worked with Lord, particularly his immediate co-workers, might have helped them reconsider their responses to many of his abuse-related behaviours.[346] Professor Smallbone also said that combatting the following stereotype by effective training and education is central to preventing sexual abuse:

> A whole lot of ideas are invoked by the use of the term 'paedophilia' that lead people to think that sexual abusers are especially cunning, that they're determined to find children, that they will go to extraordinary lengths to do that and that they can't be deterred by usual circumstances.[347]

Counsel Assisting submitted that YMCA Caringbah staff did not have a 'clear and valid conception of sexual abuse and its dynamics'.[348] For example, Ms Dellaca gave evidence that her understanding of the demographics of a typical offender was likely to be from media and television: 'it would be somebody older, unmarried, and took that sort of sexual orientation through the means of desperation rather than choice'.[349] Similarly, Ms Turner stated that she did not put Lord 'in the category of child molesters' as she had a mental 'picture of a child molester', which was nothing like Lord.[350]

Counsel Assisting also submitted that, contrary to YMCA policies, YMCA Caringbah staff did not regularly receive training in child protection.

YMCA NSW rejected this proposition and argued that Ms Barnat regularly supplied training in staff meetings and policy updates.

According to YMCA NSW, Caringbah region staff meetings typically ran for one or two hours and included child protection training and information about policy changes.[351] The meetings were mainly for coordinators and permanent part-time staff.[352] There was an expectation that staff would attend even if they were not rostered on.[353] Ms Barnat gave evidence that she would circulate an agenda before each meeting, allowing staff to give feedback[354] and suggestions based on needs at the time.[355] Coordinators and supervisors would also receive memos by email or their in-trays telling them about policy updates.[356]

YMCA NSW conceded that training before the Lord incident did not focus enough on the need for awareness about child abuser stereotypes.[357] This meant that staff did not understand the demographics of a typical offender and did not have a 'clear and valid conception of sexual abuse and its dynamics'.

Caringbah childcare staff rejected YMCA NSW's submission. They believe that the policy reviews at staff meetings and the child protection training did not equip staff to respond appropriately during Lord's employment.[358]

In our view, the evidence is clear. The 'Key training' table shows that, contrary to YMCA NSW policy, training was not held annually and Caringbah staff were not required to attend, leaving them inadequately trained initially and without on-going formal training in child protection. We agree with the view expressed by Professor Smallbone that adequate training of the staff working with and around Lord would likely have assisted in his earlier detection.

We also accept the childcare staff submission. Ms Danielle Ockwell's inadequate knowledge at the Early Childhood Education and Care Directorate's monitoring review in 2013 suggests that policy reviews at staff meetings and child protection training were ineffective.[359]

Finding 9

YMCA NSW failed to adequately train its staff in its child protection policies.

YMCA NSW did not comply with its own policy on training

According to Counsel Assisting, the evidence on training also suggests that YMCA NSW did not follow its own policies in training Caringbah OSHC staff.[360]

YMCA NSW rejected this proposition and again pointed to Ms Barnat's evidence about her practice when running assistant and coordinator meetings.

It also argued that personnel files contradict the evidence of childcare staff about a lack of child protection training.[361] It believes the staff evidence was 'self-serving' and motivated by a desire to distance themselves from responsibility.[362] As a result, it submitted that we should be cautious about accepting this evidence.

As an example, YMCA NSW pointed to Ms Dellaca's statement that she only recognised Lord's unusual behaviour on 'reflection and further training'.[363] This was inconsistent with her oral evidence that training after Lord's offending came to light 'was very similar to the training that I was involved in prior to the Lord incident'.[364] YMCA NSW also highlighted staff meetings and policy memos involving Ms Dellaca,[365] and an external course as part of her Certificate IV in OSHC.[366]

Further, YMCA NSW emphasised that Ms Sheree Ockwell gave evidence that the training delivered by Ms Nolan after the Lord incident did not tell her anything that she did not already know. It submitted that this suggests that, rather than a lack of training, the failure to report Lord was because he had engaged in a trust building exercise.[367]

In addition, YMCA NSW submitted that Ms Starr attended staff meetings that involved child protection topics,[368] and Ms Turner attended external child protection training arranged by YMCA Caringbah.[369]

Caringbah childcare staff responded to the YMCA NSW submission. They argued we should reject the assertion that their evidence of not receiving training was contrary to the meeting minutes because this proposition was not put to them.[370]

They also rejected YMCA NSW's conclusions about Ms Starr's evidence. They said it was absurd to suggest that a staff meeting on 16 August 2011 constituted 'training about what to do if a child made a disclosure of abuse'.[371]

The staff submitted that Ms Starr's evidence related to YMCA NSW's failure to prepare staff for the possibility of further victims disclosing Lord's abuse immediately after the allegations were made.[372]

Similarly, the staff rejected YMCA NSW's assertion that Ms Starr gave contradictory evidence on the basis that she is now aware of the 'Keep them Safe' website. Ms Starr's evidence was not challenged and the allegedly contradictory assertion was not put to her during her oral evidence.[373]

We accept the evidence of Caringbah childcare staff about the training they received. We reject the suggestion that discussions at staff meetings were adequate to meet YMCA NSW's own policies, in particular the Code of Conduct.

Finding 10

YMCA NSW failed to comply with the *YMCA Safeguarding Children Policy 2006* on the training of Caringbah outside school hours care staff, as:

- staff directly delivering children's programs and services did not regularly access training in child protection
- not all staff/volunteers were required to attend the appropriate training, at least once annually, and updates on child protection in line with each centre's training schedule.

Best practice in training will be considered further by the Royal Commission.

Ms Barnat should have arranged training for Danielle Ockwell

Ms Barnat gave evidence that she was primarily responsible for identifying the training needs of OSHC staff at YMCA Caringbah.[374] She would then convey those needs to her manager.[375]

Counsel Assisting submitted that Ms Barnat failed to discharge her responsibilities in training Ms Danielle Ockwell, who worked with Lord one-on-one each day from around February until September 2011. Ms Ockwell was the Childcare Assistant and Lord was her supervisor. Due to their close working relationship, Ms Ockwell was in a better position than any other staff member to detect signs that Lord was grooming and abusing children.

Counsel Assisting submitted that Ms Barnat ought to have been, and was, aware that Ms Ockwell had not had child protection training.[376]

The minutes of a meeting between Ms Barnat and Lord on 1 July 2011 stated:

> Do you have any training need? – Food Handling, Child protection (John to check certificate if expires), Danielle doesn't have??[377]

Counsel Assisting said there is no evidence that Ms Barnat took any steps to follow up Ms Ockwell's training after this meeting. Two months later, during her annual performance review on 9 September 2011, Ms Ockwell asked Ms Barnat for child protection training.[378]

Ms Barnat said it was the first time Ms Ockwell had requested this training since she started in 2007.[379]

Ms Barnat did not ask Ms Ockwell why she wanted the training, and Ms Ockwell did not volunteer a reason.[380] In evidence, Ms Ockwell said it was because she felt that some of Lord's behaviour was 'odd'[381] and that she was not aware of what to look for as an indicator that abuse was occurring.[382] Ms Barnat could not recall what steps, if any, she took to meet the request.[383] But she accepts that Ms Ockwell did not receive the training she sought.[384]

By this time, Lord had already sexually abused AE, AH, AI, AK, AL, AO, AP, AQ, AV and BA. Between 9 September 2011, when Ms Ockwell asked for training, and 30 September 2011, when Lord was suspended, he abused AR and AF.

In these circumstances, Counsel Assisting submitted that Ms Barnat failed as a manager in not providing Ms Ockwell with child protection training.

YMCA NSW argued that this suggestion is both unfair and unrealistic.[385] It submitted that, while Ms Barnat might not have delivered child protection training to Ms Ockwell in September 2011, Ms Minos and Ms Nolan delivered significant training following the Lord incident on 30 September.[386] In oral evidence, Ms Nolan stated that a Compulsory Child Protection Briefing document was shown to all children's services staff 'at the end of 2011, early 2012'.[387] According to YMCA NSW, this is evidence that there was no material delay in training Ms Ockwell, and therefore no failure by Ms Barnat.[388]

YMCA NSW submitted that Ms Ockwell also received training through staff meetings[389] and an external course as part of her Certificate IV in OSHC in 2010.[390] Despite no record of attendance in the 'Key training' table,[391] her 2009 performance review showed that she did attend the child protection training in January 2009.[392] It submitted that it was also likely that she attended the Regional Assistants' Meeting at Arncliffe on 27 May 2011, which focused on child protection.[393]

YMCA NSW concluded that Ms Ockwell accordingly received a considerable degree of training and 'paid little attention to it, could not keep abreast of it or has, perhaps because it is in her own interests for … this Royal Commission, forgotten it'. It submitted that her evidence was therefore 'self-serving'.[394]

YMCA NSW also noted that Ms Ockwell's evidence that she saw 'odd' behaviour in Lord is inconsistent with her 2011 performance review, where she wrote, 'I think I work well with John and we run a great centre and have open communication each day'.[395]

In response, Caringbah childcare staff submitted that lack of understanding of child protection policies is an ongoing issue, and their evidence was not 'self-serving'.[396]

The supplementary statement from Ms Callaghan, General Manager of the Early Childhood Education and Care Directorate, detailed an unscheduled monitoring review at YMCA Caringbah on 8 November 2013:

> Danielle Ockwell was the responsible person for that day. The two authorised officers believed from the questions asked of Danielle that her knowledge of child protection was not as in-depth as it should be for someone nominated as the 'responsible person'.[397]

The staff submitted that it would not be in Ms Ockwell's interests to continue to show insufficient knowledge of child protection, so her evidence was not 'self-serving'.[398]

We are satisfied that:

- Ms Barnat was aware Ms Ockwell did not have training in July 2011
- Ms Barnat could not recall what steps she took to ensure Ms Ockwell's explicit training request was met, and that Ms Barnat accepted Ms Ockwell did not receive the training she sought
- Ms Ockwell was best placed to identify Lord's behaviour and his offences might have been detected sooner if she had had appropriate training.

We do not accept YMCA NSW's submissions, especially as Ms Barnat was aware of the training need from early July.

We do not accept that Ms Ockwell received a considerable degree of training. Attendance at staff meetings that occasionally discuss child protection is not adequate. Even if Ms Ockwell did attend other training sessions, it is clear from her 2011 request and the Directorate's 2013 visit that she had a greater need.

We also accept the childcare staff submission that it would not be in Ms Ockwell's interest to continue to show she had insufficient knowledge of child protection. Ms Ockwell's evidence should not be criticised as 'self-serving'.

Finding 11

Jacqui Barnat failed as a manager by not providing Childcare Assistant Danielle Ockwell with child protection training when she asked for it in September 2011.

Inadequate training meant Lord probably perceived a low risk of detection

Professor Smallbone stated that if effective child protection training had been provided earlier, it might have alerted Lord to the basic principles of child safety and challenged any view he held that his sexual and related behaviour with children was not harmful.[399] Further, Professor Smallbone said that where an abuser perceives there to be a low risk of detection of their behaviour, they are more likely to enact the behaviour.[400]

Counsel Assisting submitted that by failing to require that Lord attend any child protection training until July 2011, YMCA NSW is likely to have created a perception in Lord that there was a low risk of anyone detecting his behaviour with children.[401] This created an environment conducive to Lord's behaviour going unreported.[402]

YMCA NSW submitted this was not correct.[403] It argued that Lord's inappropriate behaviour was detected by several staff but not reported to management at the time. The evidence of Ms Barnat's staff meetings is at odds with any suggestion that it was not reported due to a lack of training.[404]

However, we accept Counsel Assisting's submission that staff did not report Lord's offending behaviour because they did not identify it. We accept Professor Smallbone's opinion that, by failing to require Lord to attend any child protection training until July 2011, YMCA NSW is likely to have created a perception in Lord that there was a low risk of detection.

This perception is likely to have been fuelled by the inadequate training of other staff at YMCA Caringbah. While we do not suggest that training would have necessarily caused Lord to change his behaviour, we believe that it would have helped other staff be alert to any inappropriate actions.

Counsel Assisting also submitted that YMCA NSW failed to adequately train its staff in its child protection policies.[405]

YMCA NSW argued that such a finding is not open and should not be made without defining 'adequately'. It also argued that any finding on training should not apply to the whole institution.[406]

Caringbah childcare staff submitted that the question is not whether a record exists which indicates that some training was conducted, but whether the training was effective. The fact that no staff reported Lord's breaches of child protection policy shows that YMCA NSW training was ineffective.[407]

YMCA NSW submitted that all staff did in fact receive training on its policies and argued that an assertion about a lack of training cannot stand, given Ms Barnat's evidence that she delivered regular training on child protection issues. The real question is why the training that was delivered was not entirely effective in all of the circumstances revealed in this case study. It also observed that ensuring staff adequately understand relevant policies 'is an ongoing challenge which the institution is committed to overcoming'.[408]

YMCA NSW further submitted that Lord's colleagues were aware that some of his conduct breached policy and that they should have reported it. But for their own reasons and mainly because Lord had won their trust and friendship, they interpreted his conduct as harmless and chose not to report it.[409]

We reject this submission. We believe the childcare staff failed to identify the behaviour as something that should be reported, rather than failing to report a detected breach. This is directly attributable to YMCA NSW not providing adequate child protection training at YMCA Caringbah.

We conclude that YMCA NSW failed to adequately train its staff in its child protection policies. We are satisfied the fact that no staff reported Lord's breaches is evidence that training was ineffective.[410] We acknowledge YMCA NSW's concession that it is committed to overcoming the challenge of ensuring that staff adequately understand policies.[411]

We accept YMCA NSW's submission that some childcare staff attended Caringbah region meetings, which occasionally discussed child protection policies. However, there is no evidence that these discussions amounted to effective training on child protection. The contrary would appear to be the case.

Finding 12

YMCA NSW's failure to provide adequate child protection training to its Caringbah outside school hours care staff during Jonathan Lord's employment contributed to Jonathan Lord's conduct with children being unreported.

For more findings relating to YMCA NSW as a child safe organisation, see section **5.4**.

3 Failure to report policy breaches

3.1 Policies about babysitting and outside activities

Key points

This section sets out how Lord breached YMCA NSW child protection policies by babysitting and attending outside activities with children from YMCA NSW. It highlights the institutional failures that meant his conduct was never reported by staff or parents, even though some knew about it.

During Lord's employment, there was always a policy in place on staff babysitting or attending outside activities with children who took part in YMCA NSW programs.

The Code of Conduct annexed to the *YMCA Safeguarding Children Policy 2006* stated:

> It is not encouraged that program/service staff and volunteers engage children who participate in YMCA programs in non YMCA activities such as baby-sitting and weekend trips. All staff/volunteers are obliged to immediately report knowledge of such activities to their Manager or Supervisor. Under no circumstances can personal work be solicited by YMCA staff/volunteer while at the YMCA or can a YMCA uniform be worn to this personal work.[412]
>
> CONDUCT CONSIDERED UNACCEPTABLE … Take a child to your home, or encourage meetings outside the program activity.[413]

The *YMCA NSW Childsafe Code of Conduct*, dated July 2011 (*Childsafe Code of Conduct*), also directed:

> DO NOT … be involved with children and their families outside of the work environment i.e. babysitting or having them as friends on social network sites.
>
> DO NOT … take a child to your home or encourage meeting outside the program activity.[414]

Ms Nolan explained the reason for the 'no babysitting' policy:

> [It is] about the child protection side of things, but it's also about the fact that our staff become familiar with those families through their work with the YMCA, and if anything were to take place in that private setting, it's hard for families to create that division between the person as an individual and the person as the YMCA staff member. So not wanting to compromise the quality of the work that we do.

Ms Nolan also said that babysitting creates 'favourites'.[415]

Lord breached policies on babysitting and outside activities

Lord solicited babysitting work from parents whose children attended OSHC services at YMCA NSW. AL, AK, AV and AE, who Lord offered to babysit, were all sexually abused by him at OSHC. Lord's solicitation of parents is set out in section **1.1**.

Lord wanted to babysit children to have unsupervised access and opportunities to sexually abuse them.[416] During his employment, he babysat at least two children who attended OSHC services:

Child	Dates	Evidence
AO	Dec 2010 to Nov 2011	Lord babysat AO almost every Saturday (although he only cared for AO at YMCA NSW in early 2011). Each time he babysat, Lord sexually abused AO.[417] Lord was convicted for one offence against AO and another was taken into account on a Form 1.[418] Both offences involved rubbing AO's penis with his hand on the outside of AO's clothes.[419]
BA	12 May and 1 Jun 2011	In early 2011, Lord told BC, BA's mother, that he would be happy to help her if she ever needed a babysitter. BC thought Lord would be a good babysitter as she saw that all the kids loved him and another parent of children at the centre said that Lord babysat for them and that it was working out really well.[420] On 12 May, Lord put his hands down BA's pants and underwear and touched his penis while they were watching a movie.[421]
AP	3 Sep 2011	Lord also babysat AO's friend AP. AP was never formally enrolled in OSHC, but he and AO came to a YMCA NSW vacation care movie night at Caringbah Public School, while both boys were in Lord's care. On 3 September, while babysitting the boys, Lord touched AP's penis on the outside of his clothes when AP was sitting on his lap.[422]

Lord also breached, or tried to breach, the policy on outside activity with children at least twice. For example:

Child	Dates	Evidence
BA	Unknown	Parent BC said that once when she collected BA from after school care, Lord asked her if he could take BA and one of his friends to the movies in the city in the holidays. BC did not take him up on his offer.[423] Lord sexually abused BA while babysitting him.
AM	Jun 2011	Parent AU, the mother of AM and AV, said that Lord arranged with AM to come and watch AM play football on a Saturday. 'At the time I did not think it was suspicious. I just saw him as a young guy who liked kids. Jonathan spent a lot of time trying to get to know me and would enquire as to how my university study was going.'[424] AU was also aware from speaking to her children that 'they had grown very fond of Jonathan Lord because he made a big effort to entertain them and pay them attention'.[425] Lord later told the police that he had tried to sexually abuse AM, but AM had said, 'Don't touch me there.'[426]

Many staff did not know about, understand or follow policies

Staff other than Lord, including managers, were babysitting children from YMCA Caringbah OSHC and this was widely known.[427] For example, Ms Sheree Ockwell gave evidence that:

> I knew there was a policy against babysitting kids from the centre, but everybody used to do it including Jacqui, myself and other people I knew. There was no attempt to keep it a secret, people would talk about it openly. I think that Jacqui would have known that John was babysitting, possibly for free, on the weekends, although I can't be sure.[428]

Ms Starr also stated that:

> I was not aware that we were not supposed to babysit, but that didn't affect me because I didn't do it. I don't specifically remember which YMCA staff did babysit but I knew there were quite a few who did. I would often hear parents making arrangements with various staff for the weekends. I knew that John was one of the main babysitters, although I wasn't aware of which specific families he babysat for, I knew a lot of them were families involved with the YMCA.[429]

Finally, Ms Dellaca babysat YMCA children between 2006 and 2011 and was aware that Lord, Ms Sheree Ockwell, Ms Danielle Ockwell and Ms Barnat (then her supervisor) did so as well.[430] Ms Dellaca gave evidence that she did not know that it was prohibited until after the allegations against Lord.[431]

When Ms Dellaca first started work with YMCA, there seemed to be no restriction on babysitting at all. It was something that happened and was not covered up, rather it was talked about freely. However, at some point from 2007, she understood that babysitting was done but not really spoken about.[432]

Counsel Assisting submitted that the evidence suggests that YMCA Caringbah staff were not aware of and did not understand the YMCA NSW policies about babysitting and outside activities. YMCA NSW conceded this point, if limited to the period between 2009 and 2011.

It is plain, and YMCA NSW did not submit otherwise, that the YMCA Caringbah staff did not understand YMCA policies relating to babysitting.[433]

Finding 13

Between 2009 and 2011, not all YMCA Caringbah staff were aware of and understood the YMCA NSW policies about babysitting and outside activities with children attending YMCA NSW outside school hours care.

Finding 14

Between 2009 and 2011, Jonathan Lord and other YMCA Caringbah outside school hours care staff babysat and engaged in outside activities with children enrolled in YMCA services, contrary to YMCA NSW policies.

58

Ms Barnat, as a manager, did not follow or enforce policies

Counsel Assisting submitted that Ms Barnat was aware some staff she supervised babysat and engaged in outside activities with children enrolled in YMCA services. Yet she did not enforce YMCA NSW policies on that conduct.

However, YMCA NSW submitted it was ambiguity in the policy and lack of training, rather than Ms Barnat's management, that was problematic because Caringbah staff believed that babysitting was not prohibited.[434]

As a result, YMCA NSW submitted that the responsibility for any failure therefore lies with YMCA NSW.[435] The Code of Conduct was ambiguous in saying 'it is not encouraged' and did not send a clear enough message to staff that the activity was off limits.[436] YMCA NSW contended that this was the main contributor to inappropriate outside contact.

Further, YMCA NSW did not take steps to correct any misperception until around July 2011 when it amended the *Childsafe Code of Conduct* to expressly prohibit babysitting.[437] Ms Barnat altered her own babysitting activities and her staff management of this when, or slightly before, the amended code was introduced.[438]

We accept that YMCA NSW should be held responsible for policy failures. However, Ms Barnat should also be held responsible for her failures as a manager. These contributed to Lord having access to and abusing children.

Further, while we accept that lack of training was a contributing factor, we do not accept that ambiguous language was. We believe that staff did not understand the policy's importance. They followed Ms Barnat's example. The Code of Conduct clearly stated:

- It is **not encouraged** that program/service staff and volunteers engage children who participate in YMCA programs in non-YMCA activities ...
- All staff/volunteers are **obliged to immediately report** knowledge of such activities to their Manager or Supervisor.
- **Under no circumstances** can personal work be solicited by YMCA staff/volunteer while at the YMCA ...[439]
- CONDUCT CONSIDERED **UNACCEPTABLE** … Take a child to your home, or encourage meetings outside the program activity.[440]

[emphasis added]

Finding 15

Jacqui Barnat was aware that staff she supervised babysat and engaged in outside activities with children enrolled in YMCA services, and she did not enforce YMCA NSW policies relating to that conduct.

Finding 16

Jacqui Barnat's failure to comply with the YMCA NSW babysitting policy, and to enforce that policy with her staff, enabled Jonathan Lord to babysit and attend outside activities without being reported.

Ms Barnat knew about and should have followed policy from 2004

During a private hearing before the Chair of the Royal Commission on 26 September 2013, Ms Barnat was asked whether there was a rule about YMCA staff babysitting children who were enrolled in YMCA services. She responded that the rule was that it was not to happen, and that rule had been in place for as long as she had been at YMCA, which was from 2004.[441]

In her evidence during the public hearing, Ms Barnat conceded that she had babysat for YMCA children but asserted that she had not known this was a policy breach at the time.[442] We discuss Ms Barnat's evidence further in section **5.3**.

Ms Dellaca said she became aware that Ms Barnat was babysitting YMCA Caringbah children when she overheard discussions at the centre. Later, Ms Barnat stopped babysitting for one family and recommended Ms Dellaca as a replacement.[443]

Counsel Assisting submitted that Ms Barnat's evidence suggests that she was aware, from 2004, that babysitting of children enrolled in YMCA services by YMCA staff was contrary to YMCA NSW policy, yet she babysat children contrary to that policy.[444]

YMCA NSW rejected any finding to this effect because:

- It is not a fair reading of Ms Barnat's evidence and overstates the effect of the policy. Ms Barnat said she recalled the rule change to the *Childsafe Code of Conduct* in July 2011.[445] It is unclear when she first saw the *YMCA Safeguarding Children Policy 2006*, but she did not believe it applied to her in 2009.[446] Ms Barnat only accepted that babysitting was prohibited in this policy on the basis of Counsel Assisting's information.[447]
- Ms Barnat's evidence in the private hearing that she was aware of a rule against babysitting since 2004, a time which pre-dates the prohibition in the national policy, shows her confusion about this issue.[448] Any perceived inconsistency in her testimony cannot be relied on to establish her knowledge of the prohibition before its introduction in the 2011 code.
- The policy's ambiguity, and lack of training on that policy, supports the notion that it cannot be accepted that Ms Barnat was actually aware of the prohibition against babysitting before July 2011.[449]
- Ms Barnat's evidence is that she stopped babysitting YMCA NSW children before 2011.[450] This means the finding that she babysat at any time against the *Childsafe Code of Conduct* is neither open nor available. This evidence is further proof that she only became aware of the prohibition at around the same time.[451]

We have concerns about the reliability of Ms Barnat's evidence. Sections **2.3** and **5.3** discuss this further. We do not accept that the suggestion that she was confused is enough to negate her managerial responsibility to comply with YMCA polices and ensure her staff did so.

> **Finding 17**
>
> Jacqui Barnat babysat children while believing that it was contrary to YMCA NSW policy to do so.

60

Caringbah staff did not report Lord

The evidence revealed that other staff were aware that Lord was babysitting children from YMCA Caringbah OSHC, yet did not report it.

For example, parent BC (BA's mother) gave evidence that when she arranged for Lord to babysit BA, she phoned the centre to authorise Lord taking BA home. The staff member that BC spoke to did not tell her this would be against policy.[452]

Similarly, Ms Danielle Ockwell gave evidence that she was aware Lord babysat OSHC children for free. She did not consider it unusual, even though she had never babysat for free, and she 'just thought that he was a nice guy'.[453]

Ms Starr said:

> One thing that seems suspicious to me on reflection is how much [Lord] babysat. I now ask myself what sort of 24-year-old wants to spend every single weekend babysitting the entire time? I never used to babysit during this period but John would have babysitting jobs arranged for Friday, Saturday and Sunday nights and also things during the day. Whenever we would talk about our weekends I would tell him what I'd been up to and he would always just have been babysitting.[454]

None of the staff who were aware that Lord was babysitting children from YMCA NSW reported it to a supervisor or manager.[455]

Staff also knew about Lord attending AM's football game. AM's mother, AU, said that:

> The venue of the match was changed on the morning they were due to play. AM was worried that Jonathan Lord wouldn't know about the change in venue so I telephoned the Caringbah YMCA and said to the lady who answered the phone, 'I know this will sound very strange but do you have a way of contacting John Lord to tell him that the venue for my son's football match has changed?' The lady told me that this 'wasn't strange at all' and that Jonathan Lord often attended events of children from the YMCA. Jonathan Lord attended the football match and brought with him another little boy who he was babysitting on the day.[456]

Ms Danielle Ockwell also said she knew that Lord had gone to the weekend football game of a YMCA child but did not think there was anything strange about that. She had gone to weekend functions, such as a children's birthday party, herself.[457] She said that Ms Barnat knew that she was planning to go to a children's birthday party and told her 'that was cool'.[458]

We are satisfied that the culture at YMCA Caringbah was fundamentally flawed. Although the evidence does not enable findings to be made relating to the whole of YMCA NSW, because of the serious failure at Caringbah, we are concerned that there is a serious issue of organisational culture that senior management must address.

Parents were unaware of YMCA NSW policies so did not report Lord

The other people who could have prevented Lord from babysitting were the YMCA parents. Yet those who engaged Lord as a babysitter were not aware that YMCA NSW had a policy that prohibited babysitting, nor the reasons for this policy.[459]

BC said she wished she had known about the policy: 'Had I known he was breaking the rules, it would have given me cause to think twice about taking him up on it. It would also have given me cause to reflect upon why he would break the rules just to be able to babysit.'[460]

Counsel Assisting submitted that the evidence justified a finding that the failure of YMCA NSW to ensure that parents knew of and understood YMCA NSW's child protection policies contributed to Jonathan Lord not being reported for his conduct in babysitting and engaging in outside activities with children attending YMCA NSW OSHC.[461]

YMCA NSW submitted that such a finding is not open and should not be made because:

- until July 2011, there was no policy that prohibited babysitting and outside contact
- it would be illogical to make a finding that depends on YMCA NSW ensuring people outside its own institution have a certain state of mind – YMCA NSW cannot be found responsible for the state of mind of parents
- the experience of several parent witnesses was that Lord's grooming behaviour towards them was insidiously effective.[462]

We accept the evidence of parents who engaged Lord as a babysitter, particularly AN and BC, that they were not aware of the babysitting policy.[463] Applying the Briginshaw standard (which requires a high standard of proof), we are satisfied that, if they had been aware, they are likely to have questioned Lord's motivations and reported their concerns to YMCA NSW.[464]

Finding 18

YMCA Caringbah's failure to ensure that parents knew of and understood YMCA NSW child protection policies contributed to Jonathan Lord not being reported for his conduct in babysitting and attending outside activities with children attending YMCA NSW outside school hours care.

3.2 Policies about sitting on laps and inappropriate touching

Key points

This section sets out how Lord breached policies by allowing children to sit on his lap and by touching them inappropriately, sometimes when other staff were present. The fact that staff did not report this behaviour suggests YMCA NSW failed to ensure that they were aware of policies and able to identify inappropriate conduct.

When Lord began working with YMCA NSW, the Code of Conduct in the *YMCA Safeguarding Children Policy 2006* stated:

> CONDUCT CONSIDERED UNACCEPTABLE
> Cuddle, kiss, hug or touch children in an inappropriate and/or culturally insensitive manner.[465]

From 1 December 2009, the YMCA of Sydney's *Childsafe Code of Conduct* stated:

> DO NOT: hold, kiss, cuddle or touch children in an inappropriate and/or culturally or insensitive way. Children sitting on a staff members laps [sic] is considered inappropriate. Children needing a cuddle should be 'side cuddled' (adult to only allow child to cuddle the side of their body).[466]

This means there was always a policy about sitting on laps and inappropriate touching when Lord worked at YMCA NSW.

Between February and October 2011, Lord sexually abused AL, AK, AV, AR and AF while they were sitting on his lap at OSHC care. Section **1.1** details these offences.

Several YMCA Caringbah staff saw Lord with a child sitting on his lap or they saw him inappropriately touch a child. Ms Dellaca, Ms Danielle Ockwell and Ms Beer all gave evidence that they did not know about policies relating to children sitting on staff laps or inappropriate touching.

Ms Dellaca said that, from 2006 until September 2011, she was not aware of any policy saying that children sitting on laps was inappropriate.[467] Ms Ockwell was also unaware of this policy when she was working as Lord's childcare assistant.[468] Ms Beer gave similar evidence.[469]

Ms Bates said that 'at that point, everything was so informal – policies weren't being followed … and people were having kids on their laps and – it just – I didn't think anything out of the ordinary'.[470]

The YMCA Caringbah childcare staff gave evidence about how they responded to Lord's behaviour. Ms Dellaca said:

> On reflection, John did sometimes have children on his lap. At the time I didn't think it was suspicious by itself, but I did think that it wasn't a good look, as it made it look to the other children that he had favourites … I would sometimes pull him up on this by telling the child to sit on their bottom on the floor.[471]

Ms Danielle Ockwell saw Lord with children on his lap during before school care and possibly vacation care.[472] Once, she saw AL sitting on Lord's lap for most of the afternoon

but did not tell anyone.[473] She understood that there should not be unnecessary touching between staff and children but she did not consider that children sitting on laps constituted unnecessary or inappropriate touching.[474]

She considered that unnecessary touching was 'just like hugging and, yes, just like kissing and stuff like that'.[475] She also saw Lord hugging children but did not report this.[476]

Ms Beer gave evidence that she saw Lord with a child on his lap once during vacation care, but she did not 'think anything bad about it back then'.[477]

Ms Bates said she once felt uncomfortable, as she observed a physical interaction between Lord and a child, which she considered involved unnecessary touching.[478] She knew that unnecessary touching was wrong but she did not tell anyone about the incident.[479] She assumed that Lord 'was a more senior person because of his attitude'[480] and she 'just didn't feel like I was in place to say anything. She said, 'I didn't know him too well.'[481]

Counsel Assisting submitted that no staff reported their observations because they:

- were unaware this behaviour breached YMCA NSW policy
- did not characterise it as 'inappropriate'.[482]

Counsel Assisting submitted that the evidence supported a finding that YMCA NSW failed to ensure that YMCA Caringbah staff were aware of, and understood, policies relating to the inappropriate touching of children, including children sitting on staff members' laps.[483]

YMCA NSW rejected this submission because:

- The evidence from Ms Dellaca, Ms Danielle Ockwell and Ms Bates is entirely 'self-serving' and not capable of supporting the finding.[484]
- The representation of Ms Beer's evidence is not fair.[485] Her observations of Lord with a child on his lap only lasted for five seconds and may have resulted from children jumping 'all over the staff'.[486]
- The evidence relied on is not 'sufficiently probative' to allow for the finding to be reached in line with the Briginshaw standard.[487]

Caringbah childcare staff submitted that YMCA NSW failed to comply with *Practice Guideline 1* [67](a) by not examining them on the 'self-serving' nature of their evidence, and that its submission should be rejected.[488] Nor were they given a chance to respond to any proposed conflicting evidence.[489]

We granted time for extra submissions to be made in reply.

The rule of evidence in *Browne v Dunn* does not apply to proceedings before the Royal Commission which are inquisitorial in nature and not adversarial.[490] We do not accept the submission by the childcare staff that YMCA NSW was obliged to put to the relevant witness that their evidence was self-serving in to make a submission to that effect. Clause 67(a) has no application when it is not put that a witness should be disbelieved. Further, the submission from YMCA NSW was not based on any conflicting evidence.

In any event, we reject YMCA NSW's submission that the evidence of the childcare workers should be rejected because it was self-serving.

64

We are satisfied that YMCA NSW's failure to ensure Caringbah staff knew of and understood its child protection policies contributed to Lord not being reported for inappropriate touch.[491]

The fundamental problem is that YMCA NSW did not adequately train childcare staff in:

- the content of YMCA child protection policies
- the nature of sexual abuse and its dynamics
- the identification of risks and how to report concerns.

For more findings related to this policy, please see sections **2.4** and **5.4**.

YMCA NSW also submitted that none of Lord's co-workers observed or reported conduct that was the subject of a criminal charge.[492] That is true. However, the critical point is that staff did observe and fail to report Lord's grooming behaviour, all of which was prohibited by YMCA NSW policy. For more details of staff's observations of Lord, please see sections **3.3**, **3.4** and **3.5**.

The evidence clearly shows YMCA Caringbah staff were not aware of, or did not understand, this policy. YMCA NSW failed in its responsibilities.

> **Finding 19**
>
> YMCA NSW failed to ensure that YMCA Caringbah staff understood the policies relating to the inappropriate touching of children, including children sitting on staff members' laps and that contributed to Jonathan Lord not being reported.

3.3 Policies about mobile phones and other technology

Key points

This section sets out how Lord breached policies by using his mobile phone at work. Several times, he used his phone to groom children so he could offend against them. Other staff observed this conduct but did not report it.

During Lord's employment, there were always policies in place about staff use of technology such as mobile phones, video games and cameras. These stated:

> Mobile Phones are not permitted during the program.[493] [original emphasis]
>
> Program/service staff and volunteers are to ensure that parent/guardian permission is obtained in writing … in relation to any photos of children being taken.[494]
>
> CONDUCT CONSIDERED UNACCEPTABLE … Texting or emailing information directly to a child or young person's mobile or email address. All communication made should be directed to the parents/guardians.[495]
>
> Photos/videos are to be taken by YMCA issued cameras/video cameras. Staff are not to use their personal electronic devices to photograph or record the children, this includes mobile phones (personal or centre).[496]
>
> If at any time a team member feels that another YMCA worker has breeched [sic] these procedures they have a duty to immediately inform their direct Manager who must investigate the allegation. Breeches of these procedures may result in discipline action being taken or possible termination of employment [sic].[497]
>
> Computer games will only played [sic] that have a G or PG rating. Computer games may only be used and when used should be planned as part of a balanced program of activities. Parents/guardians should be notified that G and PG rated computer games may be played and permission sought either on the enrolment form or on the form provided on the sign in table.[498]

Staff were not aware of or did not understand mobile phone policies

Several YMCA Caringbah staff gave evidence about their knowledge of policies on mobile phone use.

Ms Sheree Ockwell stated that, between 2006 and September 2011, she did not know about any rule or policy relating to the use of mobile phones by OSHC staff while they were working. She used her mobile phone at work.[499] She was also unaware of any rules about the use of the internet or games on mobile phones.[500]

Ms Danielle Ockwell said that in early 2011, before she started working with Lord, she was not aware of any YMCA NSW policies on the use of mobile phones at work.[501]

Ms Beer said that, when she returned to YMCA Caringbah in 2011, she was told that she was not allowed to use her mobile phone at work, although she does not recall the reason given for this rule.[502]

Ms Bates knew from her previous training that staff should not use mobile phones, but nobody from YMCA NSW told her this when she started working at Caringbah in 2011. She understood it was for child protection reasons, due to the potential use of photography and the internet.[503]

In late 2010 or early 2011, Ms Starr became aware that staff were not to use their mobile phones at work and they were to keep them in their bags.[504] This was after she had seen Lord using his phone and playing games on it with children.[505]

Ms Starr recalled that Ms Barnat explained that the policy was 'because if [the phone] falls out of your pocket, the kids could access the internet or take pictures of each other'.[506]

YMCA NSW did not ensure staff understood these policies

Counsel Assisting submitted that YMCA NSW failed to ensure that all staff were aware of, and understood, the policies relating to photography, mobile phones and other electronic devices.[507]

YMCA NSW rejected this submission. It submitted that the training records and memos that Ms Barnat tendered show the photography policy was one of the most frequently discussed and reviewed by Caringbah staff. The same records show that YMCA NSW took regular steps to educate staff that carrying mobile phones while on shift was prohibited.[508]

It also submitted that the photography policy is unambiguously clear. YMCA NSW argued that Ms Barnat's evidence confirms that it was her practice to comply with this policy and that she took appropriate action when told about a potential breach. This is supported by Ms Beer's evidence that Ms Barnat told her about the prohibition on mobile phone use during her interview for the coordinator's position in June 2011.[509]

We accept the evidence of childcare staff. It is apparent that some staff were not aware of, or did not understand, these policies at the time of Lord's offences.

▶ **Finding 20**

YMCA NSW failed to ensure that all YMCA Caringbah staff understood the policies relating to photography, mobile phones and other electronic devices. This contributed to Jonathan Lord not being reported for conduct that was contrary to these policies.

3.4 Policies about one-on-one contact

Key points

This section sets out how Lord breached policies by having unsupervised contact with children. Although YMCA NSW required at least two staff to be present at all times, Caringbah staff did not always ensure this and bus drivers were left alone with children.

When Lord worked at YMCA NSW, there were always policies on staff-to-child ratios. These were to ensure that staff did not have unsupervised, one-on-one contact with a child:

> Program/service staff and volunteers are to avoid placing themselves in potentially compromising situations with children and ensure that, in all circumstances, government and YMCA prescribed staff:child ratios are adhered to.[510]
>
> Program/service staff and volunteers are not to travel, or be accommodated, alone with a child participant before, during or after a YMCA program, excursion or camp.[511]
>
> CONDUCT CONSIDERED UNACCEPTABLE … Transporting of an individual child or a group of children to or from YMCA programs in private vehicles without the written consent of the YMCA CEO/Manager. This is only an option when all other avenues of transport have been excluded. A code of conduct for travelling in cars needs to be adhered to at all times.[512]
>
> DO NOT: … Spend time alone with a child in a secluded environment; always ensure another adult is present of you are insight [sic] of another staff member.[513]
>
> Minimum staff numbers: There will be a minimum of 2 staff members present at all times.[514]
>
> DO NOT … Take children off the YMCA property without the written consent from their legal guardian, unless in the event of an emergency.[515]

Lord was able to access children in secluded environments

Several times while working at YMCA Caringbah, Lord was able to gain access to children in a secluded environment or out of sight of other staff.

Sometimes Lord was alone at the centre before other staff arrived:

- Parent AU said that 'there were occasions when I dropped my kids off at before school care and Jonathan Lord had opened the centre alone'.[516] AU's son was sexually abused by Lord twice during OSHC.[517]
- A file note of a conversation between Ms Barnat, Ms Nolan and Ms Danielle Ockwell on 13 October 2011 shows that two other parents dropped off their children early to before school care, leaving them alone with Lord before another staff member arrived.[518]

In other cases, Lord travelled alone with children in cars:

- Parent AT said her son told her that Lord would drive some children to YMCA Caringbah excursions in a YMCA car without another staff member present. Lord would pick which children would travel with him in the car.[519] Lord groomed AT's son, AJ, showing him pornographic images on a laptop and telling him rude and inappropriate jokes.[520]

- Parent AN said that when Lord was regularly babysitting her son AO, he drove AO home from after school care several times. YMCA Caringbah would have been aware of this, as Lord would have had to sign AO out when they left the centre.[521]
- In May 2011 when Lord babysat BA, he signed BA out of the centre and drove him home. BC, BA's mother, said she called the centre to confirm this arrangement, as she expected that YMCA Caringbah would need authorisation for another person to collect her son. The centre did not tell her that this was contrary to policy.[522]

We are satisfied that, while working at YMCA Caringbah, Lord was able to gain access to children in a secluded environment or out of sight of another staff member, which enabled him to sexually abuse children.[523]

YMCA NSW conceded that this finding could be made but submitted that we should be mindful of practical realities. YMCA NSW and other industry providers hire rooms from schools to deliver affordable child care, and these rooms are not purpose built. It is unlikely that they were built to provide 'good natural surveillance'.[524] Inevitably, there will be times when one staff member is beyond the line of sight of another.[525]

YMCA NSW also submitted that Lord was a committed offender who created opportunities to engage sexually with children.[526] He abused children on a bus when seven other staff members were present. He also abused a child in the child's own home with the parents in the next room.[527] The evidence clearly suggests that he was willing to manipulate his environment to pursue his criminal designs.[528]

We accept that because of the nature of some premises and the needs of particular children, a child could be with a supervisor and out of sight of anyone else for a short period. However, in this case, Lord breached YMCA NSW's policies for one-on-one contact, which were tailored to the working environment at YMCA facilities.

Caringbah staff did not always comply with staff:child ratios

These incidents involving Lord highlight a significant issue with staff:child ratios at YMCA Caringbah. YMCA NSW policy states that there must always be at least two staff present with children.

YMCA Caringbah has breached this requirement almost daily since around 2006 when transporting children to and from its OSHC services by bus.[529] During the bus service, the driver is the only staff member present.[530] Lord sometimes drove this bus.[531]

Also, a single child might be alone on the bus with the bus driver.[532] In May 2011, YMCA NSW distributed a form to parents stating: 'We have noticed an increase in the number of times where we will have the need to transport only one child to certain schools.' The form sought consent for children to travel by themselves on the YMCA bus to and from school, noting that they were not to sit in the front passenger seat in these cases.[533]

Ms Barnat gave evidence that she was not aware of the *YMCA Safeguarding Children Policy 2006* requirement that staff were not to travel alone with a child participant before, during or after a YMCA program, excursion or camp.[534] Mr Whitley, General Manager of Children's Services, also said he did not believe that Lord transporting children alone in a YMCA vehicle

would have breached any policies.[535] However, he accepted that a staff member being unsupervised with children could present a risk from a child protection perspective.[536]

Ms Dellaca also gave evidence that she knew of times when staff were left in a room alone with children at the Caringbah Centre. She also said that she once worked alone at an after school care shift at Laguna Street Public School.[537]

To us, the evidence is clear. YMCA Caringbah did not have at least two staff members present at all times. This was a failure to comply with its policy.

- **Finding 21:**

YMCA Caringbah staff breached YMCA policies and did not comply with the minimum staff:child ratios at all times, including when transporting children.

3.5 Staff supervision and reporting concerns

Key points

This section discusses the reporting structures at YMCA Caringbah and considers whether there was a breakdown in communication between staff and management. It draws on Professor Smallbone's opinion that an organisation must have a culture of shared personal responsibility for the safety of children, driven by management. It concludes that YMCA Caringbah did not have an effective confidential reporting system or culture of shared personal responsibility.

Professor Smallbone gave evidence that a formal system of supervision appears to have been in place for Lord, with regular meetings between Lord and Ms Barnat.[538] However, he also said that staff supervision in child-related organisations should not be restricted to formal hierarchical systems of line management.[539]

In Professor Smallbone's opinion, best practice requires:

- a widely shared, valid understanding of how abuse occurs
- an extended network of guardianship
- a culture in which responsible adults feel able to raise even small concerns
- procedures that allow for small pieces of relevant information to be connected.[540]

He identified a 'breakdown in guardianship' as a key factor in creating an environment that is highly conducive to child sexual abuse.[541] He believes there should be a culture where responsibility for preventing abuse is seen as the shared personal responsibility of all adults.[542]

Professor Smallbone further explained that what is required is not only compliance but also vigilance, observation and the exchange of views.[543] An organisation needs to:

- establish a clear set of rules and expectations so that individuals are not left on their own to recognise potential problems and to judge whether and how to voice concerns[544]
- encourage and support adults and children to raise even apparently trivial concerns[545]
- have a system to confidentially report concerns so relevant information can be connected
- instruct staff not to wait until there is a firm suspicion, as problematic behaviour like grooming may be observable long before forming a clear suspicion.[546]

YMCA NSW did not challenge Professor Smallbone on this evidence.

The confidential reporting system was ineffective

Although many staff saw Lord behaving in a way that breached policy or seemed odd, nobody reported this until the allegations were made in late 2011. This was partly because there was no effective system for reporting.[547]

Ms Barnat gave evidence that there was a system and nominated the YMCA NSW grievance procedure.[548] However, a formal grievance procedure is not a system of the kind Professor Smallbone describes – where staff are encouraged and supported to report lower threshold concerns confidentially.

Mr Hare identified an anonymous whistleblower program called Ethics Point that had been available 'for between three and four years'.[549] This was on their intranet and advertised on signs in staff rooms.[550]

YMCA NSW also highlighted Mr Whitley's oral evidence:

> Our open communication and transparency with all our staff means that they are empowered at any time to speak up, even … to contact one of our board members charged with responsibility under our whistleblower process, which appears on our staff intranet. So if there is a concern, and they can't talk to their direct manager or to another coordinator or whatever, there are mechanisms in place for staff to be able to do that, and that's been in existence for a number of years.[551]

Caringbah childcare staff conceded the existence of the whistleblower program, Ethics Point.[552] However, they submitted that 'none of the YMCA childcare staff mentioned an awareness of this program in their statements, none were questioned about their knowledge of its existence, and none of them used "Ethics Point" to report the behaviour of Jonathan Lord'.[553]

Counsel Assisting submitted that, whatever Ethics Point entails, the fact that no staff at Caringbah used it to report Lord shows that it was ineffective.[554] She proposed that we make a finding that YMCA NSW did not have an effective confidential reporting system that staff were aware of and felt comfortable using.[555]

YMCA NSW conceded that reporting processes may not have been entirely effective at Caringbah and that several staff may have been unaware of their extent. However, it argued that the evidence does not support an institution-wide finding.[556]

We accept that the evidence does not support an institution-wide finding. But it is clear that YMCA Caringbah did not have an effective confidential reporting system. While there is evidence of a YMCA system, no staff reported any concerns before the allegations were made against Lord. A formal grievance procedure is not an appropriate system for the confidential reporting of matters of concern, short of grievances. Ethics Point was clearly ineffective.

Finding 22

YMCA Caringbah did not have in place an effective confidential reporting system that staff were aware of and felt comfortable using.

There was no culture of shared personal responsibility

Counsel Assisting also submitted that there was no extended network of guardianship and there was a culture of not reporting policy breaches.[557]

Several Caringbah staff gave evidence about why they did not report breaches. For instance, Ms Danielle Ockwell stated that she did not feel comfortable raising her observations or concerns about Lord with:

- her manager, Jacqui Barnat: 'I didn't trust her and I was worried that if I raised an issue with her she wouldn't take it further'[558]
- more senior members of management, such as Ann Mary Nolan or Liam Whitley.[559]

Ms Ockwell also said that there was a YMCA 'communication book' where staff could write thoughts, concerns or information to be shared. However, she did not think of using the book to communicate her concerns[560] because Lord would have had access to what she wrote in it.[561]

As already mentioned, Ms Bates gave evidence that she did not report Lord's 'inappropriate behaviour' because she 'just didn't feel like [she] was in a place to say anything'.[562]

Ms Noble said:

> If I wanted to make a complaint about a supervisor, I would have access to Jacqui, but I do not think that I would feel comfortable with making a complaint about a supervisor. If I saw anything of concern relating to my child protection training I would tell Jacqui because I am a mandatory reporter. But with other things I would feel uncomfortable making a complaint, because although it is really good that we have lots of friendships with the team, things always seem to get back to people even if they are not meant to.[563]

Catharine Clements, Child Protection and Compliance Manager from July to October 2012, said that staff seemed uneasy about raising concerns with management.[564]

Ms Barnat said she had not reflected on her conduct as a supervisor and what she could do differently to be more available to staff, despite Ms Ockwell and Ms Clements's evidence: 'Well, it is really only the opinion of one or two staff … I don't necessarily believe that that means that's my overall performance.'[565] However, she conceded that she would benefit from a period of reflection on why staff did not tell her about their observations of Lord.[566]

Both Mr Whitley and Mr Hare gave evidence that the failure of junior staff to report what they saw was the fault of those staff and there was no failure by management.[567] Professor Smallbone believed this was a denial in the face of significant evidence to the contrary.[568]

Counsel Assisting proposed that we make a finding that YMCA NSW did not have a culture of extended guardianship.[569]

YMCA NSW submitted that the focus of this case study was the Caringbah region, so it is not open to find the institution as a whole did not have a culture of extended guardianship.[570]

We generally accept Counsel Assisting's submission but agree that there is not enough evidence to apply it to the organisation as a whole.

However, we prefer the language of adults having a shared personal responsibility to keep children safe rather than a culture of extended guardianship.

We believe that such a critical understanding of the role that childcare staff – and indeed all adults – play in protecting children should not be left to common sense. We accept Professor Smallbone's opinion that there should be a clear set of rules and expectations.

Finding 23

YMCA Caringbah did not have a culture of vigilance and shared personal responsibility for the safety of children.

Lord's 'friendships' with staff did not affect reporting

As well as responding to the findings proposed by Counsel Assisting, YMCA NSW submitted that the most readily available finding is that staff did not report Lord's observed policy breaches due to their relationship with him. It was not because they were unaware that his behaviour breached policy, or because they did not feel they could report these breaches.[571]

YMCA NSW submitted that any evidence from staff about how they failed to meet their obligations in reporting Lord is 'self-serving' and that we should be cautious in accepting it.[572]

In response, the staff highlighted Ms Noble's unchallenged statement.[573] Ms Noble had limited contact with Lord and did not witness any behaviour that made her suspicious or that breached YMCA NSW policy. Hence, her evidence that she did not feel comfortable complaining about a supervisor should not be seen as seeking to 'distance' herself from responsibility.[574] Of further support is:

- Ms Danielle Ockwell's evidence about confidential matters being passed on[575]
- Ms Clements' evidence about the perception of barriers between staff and management when it came to reporting concerns.[576]

YMCA NSW also submitted that, as Ms Danielle Ockwell could not say why she did not raise concerns about Lord with other coordinators, we should infer it was because of her own trusting feelings and the effectiveness of Lord's grooming behaviours.[577]

The staff submitted that Ms Danielle Ockwell had rejected this suggestion.[578] When asked whether she 'felt deeply uncomfortable about basically dobbing on someone who you considered to be a close friend', she had replied, 'No, I don't think that ever crossed my mind.'[579]

We reject YMCA NSW's assertion that the evidence of some staff should not be relied on as it is 'self-serving'. We accept the submissions by the staff on this point.

4 Events after the allegations against Lord

4.1 YMCA NSW's initial response to the allegations

Key points

This section looks at how YMCA NSW responded when allegations were raised against Lord on 30 September 2011. We conclude that YMCA NSW properly took immediate steps to suspend Lord, remove him from the care of children and cooperate with NSW Police.

Professor Smallbone identified elements of best practice for organisations responding to an allegation of sexual abuse. They should:

- quickly remove the subject of the allegation from any further contact with children in their care
- ensure the safety and welfare of the children involved
- inform and support parents and staff
- cooperate fully with police investigations
- have policies that specify how they will provide support services (such as debriefing, information sessions or counselling) to parents, children or staff.[580]

The YMCA NSW policy in September 2011 only briefly set out four steps for responding to allegations of sexual abuse:

1. Notify the group manager.
2. Stand down the staff member or volunteer immediately on full pay.
3. Investigate the allegation (by authorised personnel).
4. Reinstate the person only after all allegations have been dismissed to the Board or CEO's satisfaction.[581]

According to Professor Smallbone, best practice would require YMCA NSW to have a detailed policy on how:

- managers, supervisors and staff should respond to children, parents and other staff after an allegation
- they should respond to a police investigation
- the organisation will support and inform all concerned parties, if an incident is confirmed.[582]

YMCA NSW did not challenge Professor Smallbone on this.

Professor Smallbone stated that 'there seems to have been no policy to guide the YMCA's response to allegations of sexual abuse beyond its immediate reporting procedures'.[583]

YMCA NSW suspended Lord immediately

The first allegation of sexual abuse against Lord was made on 30 September 2011. That day, he helped supervise an excursion of around 50 children, including AF, from Laguna Street Public School vacation care to the 'circus factory' in Hornsby. At about 5 pm, AF's parents attended YMCA Caringbah and reported that Lord had sexually assaulted their son during the bus trip to and from the factory.

They spoke to Shane Demir, Manager of the Caringbah Centre, and Ms Barnat.[584] AF's parents then went to Miranda Police Station where they reported the assault.

Mr Demir and Ms Barnat phoned Lord and asked him to come to the centre as an allegation had been made about him, and they wanted to hear his version of events. While Lord made his way over, the police contacted Mr Demir and told him not to speak with Lord about the nature of the allegations, so Lord was sent home.

YMCA NSW management phoned him later that evening and said he would be suspended from his duties with full pay, pending an investigation.[585] On 4 October, the next working day, Liam Whitley, General Manager of Children's Services, wrote to Lord to formally confirm his suspension due to the serious nature of the allegations.[586]

Although YMCA NSW suspended Lord straight away, it did not inform the police about the allegations. Rather, the police contacted Mr Demir.[587] This was contrary to YMCA NSW's opening remarks to us, which stated that the organisation had immediately informed the police.[588]

However, Mr Whitley did contact Miranda Police Station on 30 September within a very short time of becoming aware of the allegations. He could not speak with the detective who had taken AF's statement as he was told that the detective would not be available until 4 October, due to the long weekend and rostering. Mr Whitley arranged to go to the police station that day.[589]

Miranda Police referred the report to the Joint Investigation Response Team

The next step in the investigation was Miranda Police Station referring AF's report to the Joint Investigation Response Team (JIRT) on 4 October 2011, the next working day.

JIRT has responsibility for investigating allegations of child abuse, including sexual abuse, and combines the expertise of several agencies:

- risk assessment and protective intervention services from the Department of Family and Community Services (FACS)
- criminal investigation and prosecution services from NSW Police and the Office of the Director of Public Prosecutions (DPP)
- therapeutic and medical services from NSW Health.

JIRT was created to facilitate more coordinated and timely responses to child protection matters and better outcomes for children.[590]

JIRT began investigating and met with YMCA NSW

The action taken by JIRT was as follows:

Date in 2011	Event
30 Sep	AF's parents reported the allegations of sexual abuse to Miranda Police Station after 6 pm. This was the Friday before the Labour Day long weekend.
4 Oct	Miranda Police referred the report about AF to JIRT at Kogarah.[591]
6 Oct	JIRT assigned the matter to Plain Clothes Senior Constable Leanne Kelly.[592]
10 Oct	The FACS helpline received a second notification about AL.[593] Senior Constable Kelly asked Ms Barnat for a list of staff who had been on the bus and where they had sat. Mr Whitley gave her the 4 October report and a diagram. Senior Constable Kelly also obtained an urgent provisional Apprehended Personal Violence Order against Lord relating to AT.[594]
11 Oct	The report about AL was also referred to Senior Constable Kelly.[595]
13 Oct	JIRT published a media release stating that it was investigating reports that two children were indecently assaulted while in 'child care organised by a Caringbah-based community organisation'.[596] JIRT also set up a hotline that afternoon, as more than one alleged victim had come forward. It was considered necessary to prioritise the flow of information from families, parents and caregivers to ensure correct 'child at risk' reporting requirements were put in place.[597]
17 Oct	YMCA NSW met with JIRT at Police Headquarters in Charles Street, Parramatta, at Mr Whitley's instigation.[598] Participants included: • Detective Superintendent Maria Rustja, Commander of the Child Abuse Squad and Acting Assistant Director, Practice Improvement • Detective Senior Sergeant Glyndwr Richard Baker, relieving Detective Inspector, Zone 4 Manager, of the Child Abuse Squad • Mr Whitley • Mr James Ellender, YMCA Marketing and Communications Manager.[599] Mr Whitley asked to discuss the investigation, as YMCA NSW was planning to hold an information session with parents.[600]

▶ **Finding 24**

It was appropriate for YMCA NSW to suspend Lord immediately and seek guidance and advice from NSW Police and the Joint Investigation Response Team on what they could and could not communicate to staff and parents.

Police advised YMCA NSW on communication protocols at 17 October meeting

Detective Senior Sergeant Baker, the JIRT Coordinator, gave evidence of what the police told YMCA NSW about sharing information in the meeting on 17 October 2011.[601]

The police said YMCA NSW should not disclose the names of the children assaulted, or any JIRT practices, to YMCA staff, parents or the public at the community information session that YMCA NSW planned to hold.[602]

The police also said that YMCA NSW should not reveal Lord's name[603] even though it was becoming clear that he had been suspended and the children knew he was absent.[604] Ultimately, however, the police suggested YMCA NSW could decide for itself what other information to disclose.[605]

In light of these restrictions, Detective Superintendent Rustja emphasised it might be difficult for YMCA NSW to hold an information session with parents and the public.[606] Mr Whitley responded that the session was unlikely to happen, although he said that he had to brief the CEO, Mr Hare.[607]

It was not unreasonable for YMCA NSW to interpret the advice of police at the 17 October meeting in a conservative way and accordingly limit the information it shared about the Lord incident.[608]

However, the State of New South Wales emphasised that there was enough clarity in the police guidance to YMCA NSW, including at the 17 October meeting, about the:

- nature of the investigation
- limits on the information that could be distributed to parents
- reasons for these restrictions.

This guidance allowed YMCA NSW to understand the information that was appropriate to be communicated to parents. The police did not tell YMCA NSW that it should not communicate with, or provide support to, the affected families, or to delay such communication and support.[609]

YMCA NSW submitted that Mr Whitley had to press for information from the police about the investigation. Mr Whitley gave evidence that:

- In the four weeks or so immediately after the 30 September allegations, he phoned the police nearly every day seeking updates.
- In the next three months, he called the police each week, then each month in the six months before Lord's sentencing.
- Although the police occasionally contacted him, it was not often and mostly only to ask for information.[610]

The State submitted that the advice given by the police to YMCA NSW was consistent throughout the investigation. The police said that anyone who:

- had information that might help should contact JIRT or Crime Stoppers
- believed their child might have been abused should contact the FACS Child Protection Helpline.[611]

The State submitted that the police also told YMCA NSW about a suppression order imposed by the Local Court at Sutherland when Lord came before it on 25 October 2011. The order prohibited publishing or otherwise disclosing of information that might reveal the identity of Lord, the victims, witnesses or any other party to the proceeding.[612]

The reasons for limiting disclosure, especially to avoid compromising evidence for future criminal proceedings, were made clear to YMCA NSW at the 17 October meeting and later.[613]

The State submitted that YMCA NSW's efforts to follow police guidance were overzealous and exacerbated a difficult situation for staff and parents.[614]

The evidence in this case study demonstrates that an effective police investigation confronts difficulties communicating information to interested parties. The decision about what and when to communicate should be left to the investigators. They are in the best position to appreciate how to ensure that the investigation is not compromised.

▶ **Finding 25**

It was not unreasonable for YMCA NSW to:

- interpret the police advice from 17 October 2011 in a conservative way
- limit the information it shared with parents, schools and the community about the Jonathan Lord incident.

4.2 Police and Joint Investigation Response Team procedures

Key points

This section outlines how NSW Police and JIRT investigated the allegations against Lord and communicated with parents and victims. It looks at potential gaps in JIRT procedures and the issues parents have raised about the interview process.

Hotline was established only after second disclosure

When AF disclosed his abuse, the police were aware that he came from a group of children who could be potential victims.[615] However, they did not set up a specific phone hotline until AL came forward over a week later.

Detective Senior Sergeant Baker accepted that it might have been better to have set up the hotline after the first allegations emerged, given the potential access a YMCA employee had to other children.[616]

On the other hand, Detective Superintendent Rustja gave evidence that the time frame for setting up the hotline was correct or 'about right'.[617] The Detective Superintendent and the State both asserted that JIRT needed enough evidence, in the form of a disclosure that could then lead to a charge, before communicating with the community. That evidence came on 10 October, and the hotline opened on 13 October.[618]

The State submitted that, in each case, 'a judgment must be made which balances the needs of the investigation and future prosecution with the need to inform the community'.[619] It asserted that, importantly, the risk of Lord having access to other children in the same category as AF was significantly mitigated when he was stood down from his position on 30 September.[620]

It is apparent, as Detective Superintendent Rustja indicated, that the Lord matter was not typical of child sexual abuse notifications that JIRT receives. Most relate to intra-familial abuse.[621] Detective Superintendent Rustja said that with intra-familial abuse, the response would be different. For example, there might be a need to respond the same day to reduce the risk to a child if the perpetrator is at a child's home.[622]

Counsel Assisting submitted that JIRT did not have many cases of multiple victims abused in an institutional context, and the evidence had revealed a gap in JIRT procedures.[623]

The State submitted that any criticism should be more limited than Counsel Assisting submitted and should be confined to sharing information about the hotline.[624] Detective Superintendent Rustja acknowledged that the hotline and its purpose were not adequately 'marketed' and that a new protocol would address this gap.[625]

The Detective Superintendent gave us a draft protocol, which JIRT agencies plan to use when responding to institutional abuse in future. After the hearing, we received a copy of the new JIRT Local Contact Point Protocol, which we will consider as part of our Criminal Justice Project.[626]

Finally, parents AN, AT, AW and AX also commented on the hotline and submitted that there seemed to be confusion about what constituted sexual abuse. The difficulties concerned whether sexual abuse depends on there being touching. In particular, the parents wanted case officers who took calls to receive further education so they could guide callers about whether to report conduct that did not involve touching but would otherwise be inappropriate or potentially criminal.[627]

Police did not consider attending the YMCA NSW information session

Detective Senior Sergeant Baker gave evidence that members of JIRT did not consider attending YMCA NSW's proposed information session. He accepted that it might have been appropriate for a member of JIRT or NSW Police to attend, so that parents could be given accurate information.[628] However, he said that he stood by the decision not to attend because of the risk of contaminating evidence at an early stage of the investigation.[629]

Further, as Detective Superintendent Rustja observed, that there were already a number of processes in place by 17 October to inform YMCA NSW and the affected community about what was happening: [630]

- The police issued media releases on both 13 and 17 October.
- YMCA NSW emailed parents about the allegations on 13 October.
- JIRT and FACS jointly set up a hotline the same day as a point of contact for families.
- Families had direct access to the police in JIRT, and counselling services were available.
- The police had many discussions, by phone and email, with YMCA NSW and particularly Mr Whitley.[631]

The State submitted that, in the circumstances, there was enough information available to YMCA NSW and in the public domain. It submitted that having the police attend an information session would have served no purpose.[632] In fact, there was a risk that attendees, including the police themselves, might have compromised the investigation by saying too much or identifying a victim.[633] The State submitted that 'there was no need, and it would have been inappropriate, for the police to take the extraordinary step of offering to personally attend' the session.[634]

Parents criticised some aspects of JIRT's approach

Seven parents of children who had been groomed or sexually abused by Lord gave evidence about their experiences with JIRT and the criminal justice system. These parents included AT, although no criminal charges were laid relating to Lord's interactions with her son.

While some parents said they had a positive experience with JIRT, others criticised the team. Their criticisms were as follows:

Aspect	Comments
Pre-interview	AN felt she did not know what to expect from the JIRT interview, or how she should prepare her son.[635]

Aspect	Comments
Interview	Some were unhappy that they were not: • allowed to sit in during their child's interview as a support person[636] • given a copy of the interview's video recording or transcript so they did not know the full nature of their child's disclosures.[637]
Other disclosures	Some felt JIRT was disinterested in, or did not act on, information they provided after the initial interview, including further disclosures.[638] AT said the same about her son's disclosures of inappropriate conduct by Lord that did not amount to physical abuse.[639]
Prosecution	Some felt that they were not properly informed of developments in the criminal case against Lord.[640]

Parents AN, AT, AW and AX recommended that we examine whether JIRT can improve the way it informs parents about:

- the investigation and interviewing of their children
- the criminal process itself after charging
- whether or not a support person is provided.

They suggested that a liaison officer act as a single point of contact.[641]

However, the parents accepted that there were challenges in 'a live and large and pressured investigation' and said that they do not seek any criticism of the JIRT officers involved.[642]

We have decided that JIRT's approach in this case study should be considered in a larger study of how the police respond to these problems around Australia. We will do this as part of the Criminal Justice Project.

Parents wanted to support their children during interviews

Some parents were critical that they could not join their children during police interviews. Parents AN, AT, AW and AX believe that this issue should be determined having regard to the child's best interests at the time and any long-term implications.[643] They believe there should not be a blanket exclusion of parents.

Parent AN gave evidence that she was not allowed to sit in when her son, AO, was interviewed. She said:

> When we arrived at the JIRT offices, the police took AO into a room without me. When the police officer came to collect AO from the waiting area, I stood up and went to walk into the interview room with him. The police officer said 'No' to me. I said, 'What do you mean, "No"?' The police officer said, 'No, this interview is just with AO. You will have to wait outside.' At no point was I asked whether I wished to be present while they interviewed AO …
>
> I was completely unprepared for the fact that they were going to take AO away from me and talk to him about a very traumatic experience without me being present.[644]

The parents also pointed to Professor Smallbone's evidence that 'parents are key to minimising any potential psychological harms' for children affected by sexual abuse. In his view, it is essential that parents are fully informed. [645]

The State submitted that current protocols do not need to change. While the child's best interests are the primary consideration, a parent's presence is generally unhelpful.[646] In most cases, JIRT specialists find that the child is happy to talk to the interviewer without a support person, and this happened with 11 of the 12 children in the Lord case.[647] The State observed that, while JIRT will arrange a support person if the child wishes, there is no statutory entitlement for a parent to insist on one.[648]

The State also submitted that Senior Constable Kelly did not accept AN's evidence about her son's interview. Senior Constable Kelly stated that her practice before the child is interviewed includes building rapport with the child and that she asked AO before the interview if he was prepared to talk on his own. He said that he was.[649]

Parents wanted to know more about interview content

Parents were also concerned about having access to the transcript of their child's interview with the police. Two parents had still not been given either transcripts of their child's interview or full and frank information about the disclosures.[650] They believe there would be merit in giving concerned parents the chance to see evidence at the JIRT, police or DPP offices at an appropriate time. This would help them to support their children in an informed way.[651]

The State resisted the suggestion that JIRT protocols need to change on this issue. It observed that, under current protocols:

- the police decide whether to provide interview transcripts case by case, depending on factors like whether the content is considered child abuse material or evidence in court proceedings
- parents can see video recordings in the JIRT offices.

However, it emphasised that the police can never provide electronic copies of recordings. The risk of circulation, particularly through social media, is too great.[652] This of course is a practice followed because many allegations relate to children abused in a family or similar situation where the prospect of misuse would always be present.

The State also responded to concerns expressed by:

- parent AN, that her son told the police more than he told her
- parent AX, that she does not know what her son said in the interview.

Senior Constable Kelly gave evidence that she had told AN that her son had disclosed no more to JIRT than he had already told her.[653] Senior Constable Kelly also said that she had spoken to AX about the content of her son AP's interview after AX had given her own statement on 15 November 2011.[654]

Parents felt JIRT was not interested in some disclosures

Some parents criticised JIRT for not being interested in, or not acting on, information that either came up after their child's first interview or did not amount to abuse.[655] For example, parent AT stated that, after she reported her son's disclosures, Senior Constable Kelly told her that:

> JIRT were so busy interviewing children who had made disclosures that they could not interview my son. She said words to the effect 'unless AJ disclosed actual sexual assault, we would not interview him at this stage. But that is evidence we may want to use later.' Following this conversation, neither Detective Kelly nor anyone else from JIRT contacted me in relation to my son's disclosures.[656]

The State also addressed this issue. Senior Constable Kelly gave evidence that the JIRT Referral Unit did not tell her of the extra disclosure that AO made during a counselling session. Nor did AN or AO tell her about an indecent assault of the kind described.

Further, the State submitted that AO and AJ (AT's son) were not interviewed about the times Lord showed them images on his phone and computer, because this did not amount to an indecent assault or act of indecency. Senior Constable Kelly said she asked for a description of the alleged photographs and determined that they did not disclose an offence. The police also examined Lord's computer but found no inappropriate images.[657]

The criminal justice system also faced criticism

Some parents also criticised elements of the criminal justice process more generally:

Aspect	Comments
Court processes	AN felt that she was not properly prepared for the court hearings. AX felt that the court process was not explained to her in layman's terms. AX and AU felt that JIRT and the Office of the DPP did not adequately explain or follow up on the processes for preparing victim impact statements and applying for compensation.[658]
Sentencing	BC felt that Lord's sentence was lenient and was disappointed that Lord could make a plea bargain by coming forward with the names of other victims and pleading guilty.[659]
Victim compensation	BC was disappointed with the reduction in compensation, and the time frames and complexity of the revised NSW victims' compensation scheme.[660]

These criticisms are commonly made of the criminal justice process. It is beyond the scope of this case study to resolve them but they raise issues that will be considered in our ongoing Criminal Justice Project.

4.3 YMCA NSW's communication with staff

Key points

The section outlines how YMCA NSW informed and supported staff after the allegations against Lord. The organisation required that staff sign a confidentiality agreement, which went beyond necessary caution. It did not have a clear procedure for supporting staff, who were shocked by the allegations and felt ill-equipped to respond to enquiries from parents.

Early communication involved memos and a confidentiality agreement

YMCA NSW initially communicated with its staff about the allegations against Lord in the following sequence:

Date	Communication
7 Oct 2011	YMCA NSW circulated two memos to all staff. The first said that an allegation had been made against an unnamed staff member who had been stood down with full pay until the end of a police investigation. It said: '[if] a parent asks a question in relation to an incident involving a child/family other than their own or the involvement of a YMCA staff member, please let them know you are unfamiliar with the incident.'[661] The second, from Mr Whitley, said: 'Just a quick note to inform you that John Lord is currently undertaking a leave of absence from work for personal reasons. The YMCA requests that you refrain from contacting John during this time and respect his privacy'.[662]
12 Oct 2011	YMCA NSW asked staff to sign a confidentiality agreement. There was no suppression order in place as Lord had not yet been arrested.[663]
13 Oct 2011	An email memo from Ann Mary Nolan, (then) Children's Services Program Manager, told staff that parents had received a letter about the allegations. It advised that parents would have a range of responses and many questions about their children. The memo said staff should tell parents they are not allowed to discuss the matter 'as per Police instructions'. If parents ask what to say to their children, staff should suggest they have a conversation and ask how the children feel being at their childcare centre.[664]

YMCA NSW held meetings with staff and management

YMCA NSW subsequently held a series of meetings with staff and management to discuss the incident:

Date	Communication
16 Oct 2012	YMCA NSW held a critical incident debrief meeting. Staff expressed their high levels of ongoing stress and a substantial sense of 'not knowing' about the allegations. Although the meeting record has a recommendation for a follow-up meeting, the next team meeting was not until 7 March 2013.[665]
7 Mar 2013	At this meeting, staff expressed 'ongoing anger and frustration toward management'. The meeting record shows that staff felt uninformed throughout the process and concerned that they had received formal warnings for what they considered to be 'minor breaches of policy'. Before the incident, these were relatively common and management was well aware and tolerant of them. Staff wanted the CEO to personally address them and explain why they had not been supported.[666]
20 Mar 2013	Mr Hare apologised to staff at a meeting, saying that 'YMCA NSW had made a number of mistakes, one critical error was failing to engage the Caringbah staff directly in the response to the JL critical incident'.[667] Mr Hare said that a formal analysis of all aspects of the incident would be conducted with a preliminary date set for late April. Staff would be invited to contribute. He had 'strong confidence that this analysis will guide a level of recovery for all personnel, lead to improved policies and practices for children's safety, and renewed confidence for all staff and management'.[668]

Despite Mr Hare's statement, there was no evidence that the analysis happened in April 2013, if at all.[669]

Evidence about the confidentiality agreement is conflicting

The confidentiality agreement staff were asked to sign was titled 'RE: Internal Investigation and Confidentiality agreement'.[670] It does not refer specifically to the incident on the 30 September excursion to Hornsby[671] or to a police investigation.[672] Rather, it focuses more broadly on keeping information about YMCA, its operations, members and customers confidential.

There was conflicting evidence about the origin of the agreement.[673] According to Mr Whitley:

- Senior Constable Kelly asked that staff from the Hornsby bus excursion sign a document and undertake not to speak to each other about the incident[674]
- he formed an impression that this was 'very important to the police'[675]
- to comply with her request, he used a YMCA NSW template to prepare an agreement.[676]

According to Senior Constable Kelly:

- she never told Mr Whitley that his staff should sign a document saying they would not talk to each other about the bus incident, their interviews or any other matter
- it is possible she said that she did not want staff to speak to each other about the allegation as this might contaminate their evidence

- it was not her practice to have a confidentiality agreement signed, as she would usually tell interviewees not to discuss their evidence and she would not delegate this task.[677]

Mr Whitley conceded the agreement does not read like one prompted by the police.[678] It is also somewhat odd that Ms Barnat was not asked to sign it even though she was on the excursion. Yet staff who were not on the excursion had to sign it, including Ms Turner, Ms Dellaca and Ms Sheree Ockwell.[679] Even YMCA Caringbah office staff had to sign it.[680]

It is apparent that Mr Whitley:

- has no record of his discussions with Senior Constable Kelly[681]
- did not ask Senior Constable Kelly whether the content of the proposed agreement met her request[682]
- did not send Senior Constable Kelly a copy of the agreement or tell her that it had been signed[683]
- asserts that the agreement related solely to the bus trip, not other incidents.[684]

Counsel Assisting submitted that Mr Whitley's evidence about the origin of the agreement should not be accepted and that Senior Constable Kelly's evidence should be preferred.[685]

YMCA NSW rejected this suggestion, noting it is underpinned by a 'cover up' case theory. It submitted we do not need to make a finding about either witness's credibility, and that:

- There is no reasonable basis for finding that YMCA NSW had a 'cover up' motive. It more likely intended to help protect the investigation's integrity and was overzealous. The organisation later acknowledged that the agreement was heavy handed and told staff to disregard it.[686]
- It is possible that both witnesses gave their evidence truthfully, but that either or both misunderstood the effect of their conversation. Senior Constable Kelly accepted that contamination was at the forefront of her mind and that she discussed this with Mr Whitley. She might then have inadvertently conveyed that staff signing a document would help protect evidence.[687]
- There is no objective evidence on which to properly base any finding about whose evidence should be preferred. However, Mr Whitley should not be disbelieved and his evidence should be preferred over that of Senior Constable Kelly.

The State agreed that the evidence overwhelmingly supports a finding that Senior Constable Kelly never requested the agreement.[688] Read objectively, the agreement cannot be interpreted as having been prompted by the police. It could be construed as an attempt to restrict staff discussion of 'confidential information', which was defined as 'belonging to the YMCA of Sydney which is not available in the public domain and which YMCA indicates is confidential'. The agreement refers to an 'internal investigation' and an investigation being conducted at YMCA Caringbah. No part refers to information that staff would be providing to the police.[689]

Further, the State submitted that the YMCA NSW intended to protect its own reputation by restricting the flow of information. It was submitted that the document's content is entirely inconsistent with its alleged purpose. The evidence of staff was that they were told it was to 'stop gossip' and because there was a police investigation, or they were not given an explanation.[690] This lack of clarity contradicts Mr Whitley's account that its purpose was 'very specific'.[691]

Finally, the State argued that if Senior Constable Kelly had requested the agreement, it could be expected that her superiors were involved, which they were not.[692]

We accept the submissions of both the State and Counsel Assisting. We are satisfied that a signed agreement was not sought by the police. The fact the Ms Barnat was not asked to sign the document is compelling evidence that the police did not request it but it was instigated by YMCA NSW management.

Finding 26

We accept the evidence of Plain Clothes Senior Constable Leanne Kelly about the confidentiality agreement.

The agreement was unnecessary and motivated in part by reputation

Counsel Assisting submitted that having staff sign confidentiality agreements went far beyond necessary caution.[693]

YMCA NSW accepted that this was the case. However, it submitted that the organisation quickly realised the confidentiality agreement was excessive and told staff they should ignore it.[694]

Finding 27

While it was not unreasonable for YMCA NSW to have proceeded with caution relating to the information it shared after 17 October 2011, having staff sign confidentiality agreements went beyond necessary caution.

Counsel Assisting submitted that, in requiring staff to sign the confidentiality agreement, YMCA NSW was motivated primarily to protect its reputation and not to protect the integrity of the police investigation.[695]

YMCA NSW rejected this suggestion and again argued it is underpinned by a 'cover up' case theory. It submitted that there is no evidence to support this theory, which was never squarely put to Mr Whitley or Mr Hare. It said that it was at odds with the way YMCA NSW responded to the allegations.[696] YMCA NSW was caught unawares and was simply doing its best to help the police – including preserving the investigation's integrity – while also trying to reassure and inform parents.[697]

The organisation also argued that the timing of the agreement is inconsistent with a 'cover up'. If it intended to conceal events, YMCA NSW would have likely asked staff to sign the agreement as soon as the allegations were made, or at least within a few days. Instead, this happened almost two weeks later and a day before Mr Whitley sent a letter to 500 parents. It said that it is illogical and unreasonable to suggest that YMCA NSW would use the agreement as some form of 'cover up' but then make a public statement.[698]

Further, YMCA NSW argued that nothing in Ms Starr, Ms Beer or Ms Dellaca's evidence suggests that they believed the agreement's purpose was to protect YMCA NSW's reputation. Their accounts are consistent with its purpose being to keep Lord's identity confidential, follow police instructions or protect the integrity of any criminal proceedings.[699]

We believe that YMCA NSW was motivated in part to protect its reputation, but there is not enough evidence to suggest that this was its primary motivation. It is significant that Ms Barnat was not asked to sign the agreement. This strongly suggests that the agreement aimed to close down discussion and avoid information being distributed unless it was sanctioned by management.

Finding 28

In requiring staff to sign the confidentiality agreement, YMCA NSW was motivated in part to protect its reputation rather than the integrity of the police investigation.

Shocked staff were ill-equipped to deal with enquiries

The frontline staff at YMCA Caringbah were shocked and disappointed, and felt betrayed and guilty about the fact that Lord was able to sexually abuse children while working at YMCA NSW.[700]

Further, they felt ill-equipped to cope with questions from parents. For example, Ms Dellaca gave evidence that:

> They basically put us in the 'firing line' of understandably irate parents, but at the same time they banned us from saying anything … Having signed the confidentiality agreement, I know I felt that I wasn't allowed to discuss any detail of the incident, including to confirm that it was John who was involved or otherwise.[701]

Ms Dellaca added:

> Any time YMCA managers would meet with any of us, we would be told that YMCA 'operates above industry standard'. There would be a spiel from management justifying the way they had acted and I just wanted them to speak to us like we're real people and not be so worried about trying to avoid blame. We needed support to deal with the situation and look at how to improve moving forward. Management seemed more concerned with avoiding the blame.[702]

Ms Beer gave evidence that she felt unable to answer questions from parents, because she only knew 'as much as they knew or less'.[703] Similarly, Ms Bates found that parents told her things that she had not known, and she had to find out information through the news and Google.[704]

Ms Danielle Ockwell also stated that it was hard going back to work:

> I had parents asking questions. I was told by Jacqui Barnat to tell parents that Jonathan Lord was on annual leave. I told some parents that Jonathan Lord was on annual leave when I knew that an indecent assault allegation had been made against him.[705]

YMCA NSW had no procedure to support staff

Ms Starr said that she did not receive any training or meet with anyone from management in the weeks after Lord's arrest. Nor was she given any guidance about what to do when taking calls from concerned parents.[706]

Ms Noble found management to be 'naïve' and was shocked that a business centred on child care did not have a 'proper procedure' for dealing with such a crisis.[707]

Counsel Assisting submitted that YMCA NSW had no appropriate procedure for ensuring staff were kept informed and were properly supported following the allegations against Lord.[708]

YMCA NSW rejected this suggestion. It argued the evidence clearly shows that YMCA NSW was not kept informed by the police. The fact that the police were hesitant to give YMCA NSW a copy of the non-publication order (made in open court), so it might better understand the parameters for its communication, suggests those officers wanted to limit the flow of information.[709]

We are satisfied that YMCA NSW did not have an appropriate procedure to deal with the issue as it emerged. There was a need to inform and support staff so that they knew how to both handle their personal response and interact with parents.

▶ **Finding 29**

YMCA NSW did not ensure staff were kept informed and supported following the allegations against Jonathan Lord.

4.4 YMCA NSW's communication with parents

Key points

This section examines the way the YMCA NSW communicated with parents about the allegations. It concludes that there were delays and misinformation.

There was a delay in informing parents

Although YMCA NSW was aware of the allegations against Lord on 30 September 2011, it did not tell parents until 13 October.[710] Even then, the letter emailed to them was vague and did not identify the nature of the allegations or the centres or staff involved.

We have already accepted that it was understandable for YMCA NSW to be cautious in releasing information to parents, and we acknowledge Senior Constable Kelly's communications to this effect with Mr Whitley on or around 10 October.

However, there is evidence that YMCA NSW unnecessarily withheld information from parents, even when sharing it would not have prejudiced the criminal investigation.[711]

For example, parent AW gave evidence that around four weeks after the allegations emerged, she called YMCA NSW to ask whether Lord had ever cared for her daughter at OSHC. YMCA NSW would not confirm this or even where Lord had worked.[712]

Parent AU also said:

> I first became aware that there may be an issue with Jonathan Lord when I received an email from the YMCA. The email stated that allegations had been made against a male YMCA staff member … The next day that I was at the YMCA I asked one of the staff members where Jonathan Lord was. She did not answer my question but instead asked me whether I had received any emails from the YMCA and she suggested that I speak to my children … After I discovered that AV had been abused, I was quite upset that the staff at YMCA had been as uninformative as they were at the time the news broke.[713]

On 27 October, two weeks after its first letter to parents, YMCA NSW sent another letter with discussion points and advice about conversations parents should have with their children.[714] This was the first time that this topic had been addressed in correspondence with parents. Some parents said that it came too late and that they had needed advice in the days immediately after the first letter.[715]

Counsel Assisting submitted that YMCA NSW should have had clear and timely communications with the police. Further, it would have understood from an early stage what information was appropriate to share with parents.[716]

YMCA NSW accepted that there was a delay in providing information to parents.[717] However, it said that it did everything in its powers to have timely communications with the police.[718] It argued that it was the approach of the police that led to confusion about precisely what, and when, it could tell parents. It submitted that, given the difficulties YMCA NSW had when trying to deal with the police, including their refusal to take part in the information session, any criticism should be attributed fairly across both organisations.

YMCA NSW submitted that it sought to balance the need to preserve the investigation's integrity with parents' needs to know more.[719]

The State reiterated there was enough clarity in the police guidance to YMCA NSW for it to understand what information was appropriate to share. NSW Police never told YMCA NSW that it should not communicate with or support families, or delay doing so. It submitted that any contention that the police guidance hindered communications with staff or parents should be rejected.[720]

We accept that YMCA NSW did not have an appropriate plan in place for responding to allegations, and that this failure contributed to a delay in informing parents.

It is plain that an organisation's immediate concerns should be to ensure the children's safety and give their parents information and support. It is critical to assess if any children are still at risk and to help parents talk with their children in case they have been abused or need support. The children's best interests should have been of paramount importance as YMCA NSW decided when and what information to release.

Although Lord was suspended on 30 September, parents were not told what had happened until 13 October and Lord was not arrested until 14 October. On 8 October, he babysat and sexually abused AO.[721] Despite suspending Lord, YMCA NSW did not consider the ongoing risk he posed, especially as staff were aware he often babysat and attended outside activities with YMCA children.

YMCA NSW acknowledged a delay in telling the parents. However, while we understand the need for caution in sharing information, we do not accept that the police should be held partly responsible.

YMCA NSW gave parents inaccurate or misleading information in letters

YMCA NSW sent letters to parents between 20 October 2011 and 23 August 2012. But some of the assertions in those letters are contrary to the evidence before the Royal Commission:

Assertion	**Evidence that contradicts it**
'YMCA operates our Children's Services at the industry's highest standards and we ensure we comply with all legal and industry guidelines'.[722]	Mr Whitley said these guidelines were the National Standards of Outside School Hours Care.[723] He conceded that, although the standards required OSHC coordinators to be qualified,[724] Lord was not.[725] Nor were at least two staff members present with the children at all times.[726]
'Our organisational processes currently meet legislation.'[727]	As discussed above, YMCA NSW did not meet the requirements of the national standards.
A training day in July 2011 that 'included a specific session on Child Protection … was the fourth such training day for 2011'.[728]	This suggests four staff training days in 2011 dealt with child protection, when only one did so.[729] Also, training records show that no Caringbah OSHC staff attended these sessions.[730]

Assertion	Evidence that contradicts it
'In centres, we would not have a situation where a staff member is left behind with only one child.' [731]	Parent AU gave evidence that 'there were occasions when I dropped my kids off at before school care and Jonathan Lord had opened the centre alone'.[732]
'From the moment of recruitment, all YMCA staff must go through a thorough reference check along with a Working with Children Check … Once cleared all staff undertake an internal YMCA Induction process where policies must be read. This induction is a supervised process.'[733]	Section 2 of this report shows this is inaccurate. The evidence suggests that: • Lord's recruitment was flawed and Ms Barnat failed to check his references thoroughly • several staff, including Lord, began work without WWCC clearance or a formal, supervised induction.
'Lord … complied with all mandatory pre-employment procedures including Working With Children checks.'	As above, the pre-employment procedures conducted for Lord were flawed.
'From the moment the YMCA became aware of any allegation relating to Lord, we followed mandatory reporting procedures, including informing the police.'[734]	YMCA NSW never contacted NSW Police to inform them about the allegations relating to AF. Rather, the police contacted YMCA NSW after speaking to AF's parents.

Content at information sessions misled parents

YMCA NSW also held three information sessions for parents in the week beginning 21 November 2011.[735] These were attended by managers like Mr Hare, Mr Whitley, Ms Barnat and Ms Nolan.[736]

Ms Nolan prepared PowerPoint slides for the sessions, to address parents' concerns about YMCA NSW's practices and procedures.[737] Counsel Assisting submitted that, during her evidence, Ms Nolan conceded that the slides contained inaccurate assertions:[738]

Assertion	Evidence that contradicts it
'Each of the YMCA's Children's Services Centres receive multiple visits from the National Childcare Accreditation Council.'[739]	When she prepared the slides, Ms Nolan did not know when the last council inspection had taken place at YMCA Caringbah.[740]
'Before commencing employment with YMCA Children's Services, all staff are required to undertake a Working with Children Check. The Y also evaluates staff through contacting referees …'[741]	Again, Section 2 shows this was not the case. Ms Nolan conceded that: • policies were not followed in Lord's recruitment • YMCA NSW could not yet honestly tell parents what had happened during his recruitment • this statement was misleading.[742]

Assertion	Evidence that contradicts it
'In line with National Standards, there is a minimum of two staff members present within centres at all times. This is above industry practice.'[743]	Ms Nolan said that, in preparing this slide, she had not specifically asked staff whether or not two staff members had been present at all times at YMCA Caringbah.[744]
'When a staff member is employed by the YMCA they go through a supervised period of induction where they work through our policies and procedures.'[745]	This was not the case. Ms Nolan again conceded that she had not taken steps to assure herself that all new staff members at YMCA Caringbah had had a supervised period of induction.[746]

Counsel Assisting submitted that there were other inaccurate or misleading assertions from the sessions:

Assertion	Evidence that contradicts it
'We are currently being audited by Network and recommendations will be made available to parents.'[747] 'Management has organised an external audit of our practices through the NSW Peak Organisation for Outside School Hours Care – Network of Community Activities.'[748]	Mr Whitley conceded that this information was inaccurate.[749] He said that YMCA NSW only had one conversation with Network, in which its CEO said that Network could not audit the organisation.
'All of our staff have had basic child protection training from previous experience or study.'[750]	This did not disclose the lack of training provided to Caringbah staff. It was also inaccurate as Lord had no previous childcare experience or training.

When asked 'Weren't you able to tell [parents] honestly what had happened?'[751] Ms Nolan replied, 'At that point, no.'[752] She stated, 'I don't believe that we were sharing too much information about the situation.'[753]

Counsel Assisting submitted that we should find that YMCA NSW provided parents with information that was inaccurate or misleading.[754]

In response, YMCA NSW submitted that it did not intend to mislead parents.[755] It said that Counsel Assisting's submission was based on an unduly literal and pedantic reading of the 20 October 2011 letter, which aimed to inform parents about progress in the police investigation and to reassure them that their children were safe.[756]

YMCA NSW submitted that analysis of the national standards and PowerPoint slides shows that Counsel Assisting had misconstrued their content.[757] For example, it submitted that she had conflated two issues – general recruitment policies and Lord's recruitment – when the presentation was clearly about YMCA policies and procedures, rather than Lord.[758]

Parents AN, AT, AW and AX submitted that we should reject YMCA NSW submissions that there had not been any misrepresentation or deceit.[759] They submitted that it is only because of the Royal Commission that AT and AW have the answers they sought.[760]

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The parents also submitted that YMCA NSW management had information on 13 and 14 October that:

- suggested Lord's behaviour had been inappropriate on many occasions and that inappropriate behaviour had gone on for some time at the Caringbah Centre
- for most of the term, at least one child had been dropped off early each morning and was alone with Lord before others arrived
- Lord had babysat other children.

We reject the YMCA NSW submission.

Finding 30

YMCA NSW management failed to provide frank, practical and timely information to parents. YMCA NSW did not:

- promptly provide key information to parents
- address why Jonathan Lord had been able to offend, or how it would identify and address internal failures to become a safer organisation for their children
- promptly equip parents with the necessary tools to discuss safety issues with their children, in case other children had been abused or needed support.

5 YMCA NSW's response to the Royal Commission

5.1 Critical analysis of events involving Lord

Key points

This section outlines how YMCA NSW has failed to analyse the events involving Lord's employment and subsequent offending.

In its opening remarks to the public hearing of this case study, YMCA NSW asserted:

> The Lord incident has been a catalyst for introspection. In its wake, YMCA NSW has analysed its response, reviewed its procedures and improved the manner in which it conducts its children's services operations.[761]

Contrary to this assertion, the organisation has not analysed the events surrounding Lord's employment and his offences, either internally or with external help.

CEO Phillip Hare conceded this point. He said that an analysis 'should have been done', but could not clearly explain why it had not.[762] He took responsibility for the decision.[763]

Professor Smallbone gave evidence that this was a significant failure of procedure. He stated that there were profound implications in not having done a root cause analysis. He said:

> The events were clearly so significant in so many ways, not just in their effects on the persons directly concerned, but all of the implications that would follow from that for the potential to review practice …[764]

Professor Smallbone said that it would be best practice to bring in an outside organisation for a review. Then the review ought to be done as quickly as possible as 'these kinds of incidents provide unusual opportunities to learn about matters that are significant to those incidents'.[765]

YMCA NSW did not challenge Professor Smallbone on this.

YMCA NSW should have analysed the Lord incident

Mr Whitley said that a root cause analysis was 'certainly something that does need to occur', but explained that the organisation had been focused on responding to the Royal Commission's requests since June 2013.[766]

However, some 21 months elapsed between the allegations against Lord in September 2011 and June 2013, during which no root cause analysis was undertaken.[767]

Mr Hare told us, 'I believe the YMCA failed, and I will accept the responsibility for the failure of YMCA not fully investigating – or looking at Jon Lord's employment.'[768] He went on to say that 'there is an element of all of us in the YMCA that had some failure with Jonathan Lord'.[769] He accepts that Mr Whitley also failed in Lord's recruitment.[770]

YMCA NSW said that, although it has not analysed 'Lord specific' issues, it has analysed its responses and reviewed its procedures.[771] Some steps the organisation is taking to respond to the Royal Commission are outlined below. However, the following finding is inevitable:

> **Finding 31**
>
> YMCA has not critically analysed, either internally or with external help, how Jonathan Lord was recruited and supervised, nor how he engaged in the offending behaviour for which he was convicted, while working for YMCA NSW for two years.

In making this finding, we acknowledge the many positive steps that YMCA NSW is now taking to address the issues from this case study and better protect children in its care. It will take time to deliver results. We intend to review YMCA NSW's progress later during the Royal Commission.

YMCA NSW is updating its systems

YMCA NSW has advised us that it is addressing several of the issues arising from this case study. The first of these relate to its recruitment and reporting systems.

Issue	Action
Recruitment system	On 11 December 2013, YMCA NSW contracted World Manager to provide a software package that can centralise: • online recruitment • pre-employment screening • testing of policy knowledge • employee performance management. A human resources professional will centrally screen all job candidates before they are accepted for interview. This includes childcare staff. The human resources professional will be familiar with recruitment policies and trained to recognise and act on red flags. YMCA NSW expects the system to be working in the first half of 2014.
Reporting system	The Board and Executive are enhancing arrangements for reporting concerns within YMCA NSW. The Ethics Advisor function has been considered at both board and board committee level. Ethics Point will be renamed as a whistleblower service, to show staff more clearly that they can independently disclose concerns. The Board President will write to all YMCA NSW staff about changes to this service.

Third party reviews will examine practices and culture

YMCA NSW also advised us that it is commissioning independent reviews.

Issue	Action
Root cause analysis	YMCA NSW will engage an independent third party for a root cause analysis. This will examine how Lord was employed and gained access to children, starting from his initial contact with YMCA NSW. YMCA NSW has approached the Australian Childhood Foundation to do the review. Current management will not define or control this process.
Culture review	YMCA NSW has engaged the Academy Network, an independent third party consultant, to review the institution's culture. Among other things, it will look at whether the culture allows staff to report concerns to management. Current management will not define or control this process.

YMCA NSW is improving awareness of child protection policies

Finally, YMCA NSW advised us it is taking a new approach to its child protection policies.

Issue	Action
Staff awareness	YMCA NSW will review all policies and their structure, to simplify them and ensure that staff can understand their key points. It will prioritise child protection policies and those required under licensing and regulation, seeking advice from external consultants about the content. To ensure all staff understand the critical aspects of child protection, YMCA NSW started a Child Protection Assessment in November 2013. This assessment tests staff understanding and knowledge of the institution's policies and procedures.
Parent awareness	YMCA NSW is reviewing its *Parent Handbook* to better communicate and explain child protection policies to parents. These changes will help parents understand when childcare staff breach policy, and the importance of reporting any breaches. YMCA NSW expects to have an amended handbook ready before the second school term starts in 2014.

5.2 YMCA NSW management and the Royal Commission

Key points

This section outlines concerns with the way that YMCA NSW's senior management responded to the Royal Commission. They refused to acknowledge failure and tried to deflect the focus onto junior staff. YMCA NSW should carefully consider whether they should hold their positions.

Two of YMCA NSW's most senior managers gave evidence to the Royal Commission:

- Liam Whitley, General Manager, Children's Services Division
- Phillip Hare, CEO.

Both men showed a lack of insight into the role management had played in creating an environment where Lord could groom and sexually abuse children for over two years without detection.[772]

Mr Whitley placed the responsibility on junior staff

The overall nature of Mr Whitley's evidence was that there had been little failure by management, except perhaps that communication with staff could have been better. Rather, junior staff were to blame.

This report has already discussed evidence that demonstrates:

- YMCA NSW did not adequately induct or train new staff
- staff were not aware of, and did not understand, YMCA NSW policies.

However, Mr Whitley did not accept the following propositions:

Proposition	Response
The organisation's training on policies and procedures was ineffective.	'A range of people … have been groomed by this individual, and so I don't believe it was because of deficiencies in training.'[773] 'Unfortunately for the staff, knowing and socialising with Jonathan Lord as a friend they've blurred the lines between their role or job responsibilities and their training and what they've been taught over a period of months or years, against what was happening to them in the grooming process.'[774]
Staff remain confused by complexity and conflicting information in policies.	Although it is a large policy folder, there are 'a key one or two policies around child protection and *Childsafe Code of Conduct*'.[775] 'The key policies are part of that initial one-month to six-week orientation.'[776] Further, testing to ensure that policies have been understood 'is part of the orientation checklist'.[777]

Proposition	Response
Staff not reporting Lord's conduct indicates management did not properly equip them with an understanding and knowledge of policies or ensure compliance.	'I think it indicates a lack of reporting from the staff.' [778] He claimed it was the individual responsibility of each staff member, rather than a fundamental problem with their understanding of their child protection responsibilities, because they received training. He said, 'Based on my knowledge of the way we train staff, mentor and lead our staff, I believe it is the individual responsibility.' [779]

Mr Whitley did accept that management is responsible for making sure it equips staff with enough knowledge and understanding to do what it expects from them. However, he said, 'I believe we did that.'[780]

Mr Whitley did not accept management failures

When it was put to Mr Whitley that he was suggesting there was no management failure, he avoided the question by saying that 'there's always things that can be … improved upon as managers'.[781]

When pressed to give a specific answer about Lord, Mr Whitley did not accept any management failure:

> My understanding, with the training that staff were given and – yes, that they really should have felt empowered to be able to report what they had seen, as mandatory reporters.[782]

It was then put to Mr Whitley that management was responsible for ensuring, through its processes and its education, that there was no impediment to staff feeling able to report what they observed if they were concerned about it.

He replied, 'There was no impediment – no, we provided no impediment. There were channels of reporting.'[783]

Counsel Assisting submitted that Mr Whitley's evidence raises a serious question about whether he is a fit and proper person to hold a position of senior management in an organisation responsible for the care and protection of children.[784]

In response, YMCA NSW emphasised Mr Whitley's credentials, including a supervisor certificate from the Early Education and Care Directorate, deeming him a 'fit and proper person' under national law to have management control of education and care services.

YMCA NSW also argued that such a finding should not be made against Mr Whitley as:

- it would cause Mr Whitley indelible and irreparable reputational harm
- it adopts an expression (fit and proper person) without defined criteria
- the Department of Education and Communities' regulatory function involves evaluative decisions on this specific and defined concept
- the criticism of Mr Whitley is harsh, unjustified and unsubstantiated.[785]

It also submitted that Mr Whitley was entitled to hold the opinions he did, that:

- the staff failed to act as the 'eyes and ears' of YMCA NSW and provide the extended guardianship that, physically, management could not
- staff were given enough training to detect and report obvious breaches
- mechanisms existed for staff to report suspicious or policy-breaching behaviour.[786]

Finally, YMCA NSW submitted that Mr Whitley accepted management could have improved aspects of policies and procedures, while attributing a measure of justifiable responsibility to the individuals uniquely placed to report Lord's breaches.

We believe there are serious problems in YMCA NSW's management culture. The managers should accept more responsibility than Mr Whitley demonstrated in his evidence. We recommend that YMCA NSW carefully considers whether he should hold that position.[787]

Mr Hare denied that staff felt uncomfortable reporting concerns

Like Mr Whitley, Mr Hare showed little insight into the factors that allowed Lord's offending to happen. His evidence was mainly concerned with defending management's position, rather than reflecting on the circumstances in his organisation that had enabled Lord to offend.[788]

In particular, Mr Hare refused to accept that junior staff did not feel comfortable reporting to their managers, despite their direct evidence to that effect. He asserted that staff:

> all have excellent relationships at a peer level with [their immediate supervisors] … it's not just about the comments of up, but across, there have been multiple opportunities for staff to raise concerns about this issue, and even prior and it just was never raised as an issue, as a barrier to raising it.[789]

Mr Hare did not accept the following propositions:

- One reason staff did not report Lord's policy breaches was that they were uncomfortable doing so with one or more manager.[790]
- Before reaching any conclusion about staff capacity to complain about their superiors, someone from outside the organisation would need to talk to them.[791]
- There was a culture that stopped Ms Noble from discussing concerns with managers and it existed for the two years that Lord worked there.[792] Mr Hare insisted, despite Ms Noble's unchallenged evidence, 'I have seen meeting records; I've been involved in meetings; I have attended full day workshops with children's service managers, and that culture of discussion exists all the time in the Y.'[793]
- There is a reason to review management processes to ensure a culture in which staff feel comfortable reporting concerns. Mr Hare stated that he did not see this as a key learning for the YMCA NSW, and that board members agreed with him.[794]

Mr Hare accepted that evidence of junior staff had caused him to reflect on his views. But his views had not changed:

> I have looked hard across our organisation to see if there was an impediment to raise up, which I don't believe there was, based on the evidence, with Jacqui Barnat, or across, with Kylie Pearson in HR, with Shane Demir in the centre management at the time before, with Maggie Ient, who employed many of those staff that worked alongside, Brendan Owens – all exceptional managers that were peers. In looking at those, I don't believe there was any impediment for staff, if they had a concern with their supervisor, not to raise it with high-quality individuals across the organisation as well.[795]

Mr Hare focused on Lord's relationship with staff

Mr Hare did not accept that:

- Communications that went to parents, schools and communities were not always frank or accurate.[796]
- Lord started work before a Working with Children Check had been applied for or a clearance had been obtained.[797]
- Caringbah staff had limited knowledge and comprehension of the policies in place at the time. Mr Hare conceded that they had limited knowledge of 'some of the policies' but not of the child protection policies and the Code of Conduct.[798]

Further, Mr Hare did not accept that he, as CEO, had failed to:

- comprehend the force of the evidence and opinions of junior staff
- properly reflect on management's responsibilities.[799]

He did ultimately concede:

> The induction of staff and then regular checking of their knowledge of policies is something that we need to improve on so that they are explicitly clear of their obligations to raise up. That's a failure of management from myself down, that we didn't have those systems in place to an effective enough level.[800]

However, while he said that 'there are things we need to do better', he also said that 'the dominant issue was Lord's relationship with those around him'.[801] A 'significant part of his view' was that Lord got so close to other staff they did not report his behaviour, for reasons independent of management or anything YMCA NSW could or should have done.

Counsel Assisting submitted that Mr Hare's evidence raises a serious question about whether he is a fit and proper person to oversee an organisation responsible for the care and protection of children.[802]

It is obvious that Mr Hare's evidence raises significant questions about his capacity to effectively carry out his role in the organisation. We have already discussed the problems in effective staff reporting and training. Mr Hare's failure to accept that management was responsible for these problems suggests that YMCA should carefully consider whether he is fit to hold the position of CEO.

YMCA NSW media releases sought to deflect focus

One day before the public hearing of the Royal Commission started, YMCA NSW issued a media release. Counsel Assisting submitted that this release contained false or misleading statements. Her analysis was as follows:

Statement	Analysis
YMCA NSW is 'leading the industry.' 'YMCA NSW is recognised in industry, and by external audits and peak bodies as a leader in child safety.'	By 21 October 2013, the Department of Education and Communities (DEC) had completed one external audit.[803] It did not recognise YMCA NSW as a leader in child safety. Mr Hare accepted it was false to refer to plural 'audits' as DEC's rating was the only one.[804] There is no evidence that industry or peak bodies recognise YMCA NSW as being at the forefront of child safety.
'YMCA NSW has undergone a complete review of policies, procedures and practices since the Lord incident.'	YMCA NSW has not analysed the circumstances of the Lord incident. Mr Hare conceded this and agreed that any review of YMCA NSW policies, procedures and practices had not been informed by a thorough understanding of what happened in the recruitment and employment of Lord.[805]

On 23 October 2013, during the public hearing, YMCA NSW issued another media release that referred to:

- Lord's 'secretive and sophisticated activities that allowed him to gain access to children'
- 'the insidious, secretive, devious and sophisticated conduct of paedophiles who seek access to children through child care organisations'.

Counsel Assisting submitted that the media release sought to deflect focus from YMCA NSW's policies, practices and culture and to paint Lord as a mysterious paedophile who had 'infiltrated' their organisation.[806] This assessment is consistent with Mr Whitley and Mr Hare's views that Lord groomed junior staff and there was no failure on the part of management. Mr Hare accepted that he would not have allowed these media releases to go out to the public unless he was entirely happy with them.[807]

Managers' attitude suggests YMCA NSW remains a high-risk organisation

In our opinion, a child safe organisation must have a clear understanding of the problem of child sexual abuse. While it is important for everybody in the organisation to share that understanding, managers are key. On this issue, Professor Smallbone stated that:

> [Sexual abuse is] best understood in terms of ordinary behaviour rather than trying to single [it] out as a mysterious behaviour that doesn't accord to the usual properties of human motivation, and so on. Our behaviour is almost always constrained by our social circumstances; we're aware that people are observing us; we're aware that people have expectations of us; we're often in relationships with people, and that relationship is important enough for us not to want to do things that will disappoint people et cetera …

> Cultures, in the sense of groups of people with relationships with one another and who are interacting with one another in a workplace, are really important here, because that culture will signal the expectations concerning behaviour.[808]

Counsel Assisting submitted that the evidence of senior managers demonstrates that they do not have a clear understanding of the problem of child sexual abuse. She submitted that this evidence, together with their public statements, reveals an attitude that suggests YMCA NSW remains a high-risk environment, with no culture of extended guardianship in senior management.

By assigning blame to individual junior staff members and the conduct of an 'insidious, secretive, devious and sophisticated … paedophile,' YMCA NSW failed to acknowledge its own significant system failings.[809]

In submissions, YMCA NSW defended its management

YMCA NSW submitted that its management had not failed. It said that the evidence of the childcare staff, except for Ms Beer and Ms Turner, was unreliable and should not be accepted over Mr Whitley or Mr Hare's evidence.[810] We have previously discussed these issues.

In our opinion, if the staff failed, the reason will be found in the management processes and structures of the organisation.

Although accepting that the staff on site might have failed in some ways, parents AN, AT, AW and AX said management did not effectively oversee the Caringbah operations. It was responsible for controlling:

- the operation of the Caringbah centre and the conduct of its staff
- the recruitment of suitable staff, and their training
- the organisation's policies, ensuring they were both implemented and followed
- the staff and overseeing their work, to ensure that those on the ground every day acted as the eyes and ears of management. [811]

They argued that had these practices been in place and effective, management would have been aware of the disorderly operation of the Caringbah centre in that it failed to constrain Lord's behaviour over two years. They submitted that these were glaring, unacceptable and indefensible failures by YMCA NSW.[812]

Further, they submitted that any suggestion that staff failed to respond to Lord's behaviour because of grooming should be rejected outright.[813] Management should have ensured, with resources and training, that staff knew what they were looking for and acted on it.[814]

We accept the staff submission. We are particularly concerned by management's repeated suggestions that the real reason Lord's offending went undetected and unreported was because Lord successfully groomed staff, rather than through any system failure. We are also concerned by YMCA NSW management's attempts to shift responsibility onto junior staff. While we understand the criticism of staff, their failure to understand and respond to the circumstances reflects a systemic problem in the organisation.[815]

Individuals in YMCA NSW management should acknowledge and accept more responsibility. We believe there are still serious problems in the organisation's management culture.[816]

Finding 32

We recommend that the YMCA consider whether Liam Whitley, General Manager of Children's Services, and Phillip Hare, Chief Executive Officer, are fit and proper to hold these positions.

During the preparation of this report, the Royal Commission has been made aware that Mr Hare resigned from his position.

5.3 Jacqui Barnat's testimony

Key points

This section outlines how Jacqui Barnat provided evidence at her private hearing on 26 September 2013 that conflicted with her evidence at the public hearing. It concludes that she gave false or misleading testimony to the Royal Commission under section 21 of the *Royal Commissions Act 1923* (NSW).

Section 21 of the *Royal Commissions Act 1923* (NSW) says:

> (1) Any witness before a commission who gives testimony that is false or misleading in a material particular knowing it to be false or misleading, or not believing it to be true, is guilty of an indictable offence.
>
> Maximum penalty: Imprisonment for 5 years.
>
> (2) Sections 331 and 332 of the *Crimes Act 1900* apply to proceedings for an offence against this section in the same way as they apply to proceedings for an offence under section 330 of that Act.

The evidence that Ms Barnat gave at a private hearing on 26 September 2013 conflicted with the evidence she subsequently gave at the public hearing in two significant respects that related to Working with Children Checks (WWCCs) and babysitting.

Staff did start working with children without WWCC clearance

At her private hearing on 26 September 2013, Ms Barnat gave the following evidence:

Q So did any staff member work with children prior to obtaining the clearance?

A No, they didn't.

Q They didn't?

A No.

Q Was it the case that there was any delay between you deciding to appoint a staff member and that clearance being obtained?

A There was.

Q And what happened during that period of time?

A The staff member didn't start working until the clearance came through.

Q Was it your understanding of the policy of the YMCA that that should happen in that way?

A It is embedded in the YMCA's policies, but it's obviously part of the law that staff don't have contact with children until that clearance is done.

Q In the event that the staff member had started before the clearance was obtained, what would that mean about the way in which the procedures had been implemented?

A That never happened.

Q It never happened?

A No.[817]

At the public hearing, Ms Barnat was asked about this evidence and responded:

Q When you made those answers, you knew they weren't correct, didn't you?

A No. That was – I answered those questions to the best of my understanding at the time.

Q So when you told Ms Furness that staff members didn't start working until the clearance came through, you are saying that was correct to your knowledge at the time?

A That's correct.

Q But you now accept that it's false?

A That's correct.[818]

When Counsel Assisting then asked when Ms Barnat realised this, she replied:

> After the private hearing, I was referring to some documents that I had, to rosters and paperwork. So during the course of – between the private hearing and this public hearing.[819]

Counsel Assisting proposed that we make a finding that Ms Barnat's conflicting evidence about WWCCs may be found by a court to be false or misleading testimony under section 21 of the *Royal Commissions Act 1923* (NSW). She submitted that the evidence should be referred to the NSW Director of Public Prosecutions (DPP) with a view to her prosecution.[820]

YMCA NSW rejected this suggestion. It submitted that Ms Barnat was unaware of the relevant facts and circumstances at the time of her private hearing. It also submitted that knowledge of these matters would be necessary for the *mens rea* or 'guilty mind' needed for the proposed offence to meet the criminal standard.

YMCA NSW and Ms Barnat both submitted that we should find that Ms Barnat honestly related what she then recalled.[821] Only later did she have the necessary information to realise her previous evidence was false. This was after she checked the rosters for Lord and Counsel Assisting told her the circumstances of Ms Ockwell, Ms Bates and Ms Beer's employment.[822] Ms Barnat submitted that she should be given credit for readily conceding that her evidence was factually incorrect.

We do not propose to refer Ms Barnat's evidence about the WWCC to the DPP. We accept there is insufficient evidence that Ms Barnat knowingly gave false or misleading evidence, or evidence she did not believe to be true relating to that issue.

However, we wish to emphasise the importance of people giving honest and accurate evidence to the Royal Commission. Ms Barnat should not have given evidence in such emphatic terms at her private hearing, when she had not checked the rosters and had no basis for being so certain that no employee had ever started work without WWCC clearance.

Ms Barnat did babysit YMCA NSW children, contrary to policy

At her private hearing, Ms Barnat was also asked whether there was a rule about staff babysitting children who attended YMCA services. Ms Barnat stated:

A The rule is that it's not to happen.

Q And how long has that rule been in place?

A For as long as I can remember working for the YMCA, yes.

Q Did you ever babysit any children who were also receiving services from the YMCA?

A No, I didn't.[823]

However, Ms Barnat gave evidence to the contrary during the public hearing:

Q … do you see the paragraph before the 'Staff/Volunteers' section:

It is not encouraged that program/service staff and volunteers engage children who participate in YMCA programs in non-YMCA activities such as baby-sitting …

A Yes, I see that.

Q Were you aware that that was a requirement at the YMCA between 2006 and 2011?

A No, I wasn't.

Q You were never aware of that requirement between those two dates – that is, 2006 and 2011?

A No, I wasn't.

Q Did you engage in babysitting of children who participated in YMCA programs?

A Yes. I think this question came up in my private hearing. At the time I had said no, because I was babysitting for another contact that I had had outside of the YMCA, but in fact I was sitting for children. I sat for maybe two families in 2008, I think – 2009.[824]

Counsel Assisting submitted that Ms Barnat's conflicting evidence about babysitting may be found by a court to be false or misleading testimony under section 21 of the *Royal Commissions Act 1923* (NSW). She submitted that the evidence should be referred to the DPP with a view to her prosecution.[825]

YMCA NSW submitted that when Ms Barnat answered the relevant questions she was confused about:

- whether the prohibition on babysitting existed
- how to distinguish between those children she had babysat who were in the care of YMCA NSW, and those who were not.

YMCA NSW also submitted there is no basis to conclude Ms Barnat actually knew her evidence was false or misleading, or did not believe it was true.[826] It submitted that, at a minimum, she was confused and did not have the *mens rea* needed for a conviction. It submitted this inference is open and available on the evidence, and cannot be excluded beyond a reasonable doubt in any prosecution.[827] As a result, it submitted there are no reasonable prospects of a conviction and her evidence should not be referred to the DPP.[828]

Ms Barnat submitted that it is not the case there was a rule against babysitting children from 2004. Under the *YMCA Safeguarding Children Policy 2006*, it was 'not encouraged' that staff 'engage children who participate in YMCA programs in non-YMCA activities such as baby-sitting'. She submitted that this was far short of a rule, which must either forbid or require particular conduct. Only the *Childsafe Code of Conduct* from July 2011 required that staff not be involved with children and their families outside the work environment. Only then was there a proscriptive rule.[829]

Ms Barnat submitted that she corrected her answer at the public hearing. Hence, she admits having babysat for two families when there was no rule against babysitting.[830]

Ms Barnat submitted that it would be wrong for us to recommend, or the DPP to consider, prosecution as:

- it would discourage other witnesses to correct the record
- there was no rule against babysitting between 2008 and 2009
- it was not put to Ms Barnat that she had given evidence at the private hearing that she knew to be false or misleading.[831]

Ms Barnat further submitted that:

- She sincerely regrets giving factually inaccurate evidence at the private hearing and she had no desire to mislead.[832]
- 'It is clear from reading the transcripts of Ms Barnat's evidence, especially at the private hearing, that she was rattled by the intimidating atmosphere of the Royal Commission, and the vigorous cross-examination to which she was subjected. She had not given evidence previously in a Court or like setting'.[833]
- She did not know what issues would be raised or questions asked. She was able to check records between her two appearances and give a better account at the public hearing, including correcting previous answers.[834]

Whether there was a prohibition on babysitting or not, Ms Barnat swore that she had not babysat, then later admitted that she had.

We feel it is necessary to refer this evidence to the DPP to consider prosecution. It is a serious matter to give false evidence to a Royal Commission. Her answers cannot be explained by the atmosphere of the private hearing or the nature of her examination. The questions asked were clear and direct, and required a truthful answer.

Finding 33

Part of the evidence of Jacqui Barnat referred to in section 5.3 of this report may be found by a court to be false or misleading testimony under section 21 of the *Royal Commissions Act 1923* (NSW). We are satisfied this evidence should be referred to the NSW Director of Public Prosecutions to consider her prosecution.

5.4 Child safe organisations

Key points

This section outlines Professor Smallbone's evidence of the elements of a child safe organisation that recognises risks and has effective strategies to prevent and respond to child sexual abuse. It discusses how YMCA NSW failed to be child safe during Lord's employment. However, it concludes that YMCA NSW has taken many positive steps to address the issues raised by this case study.

Professor Smallbone gave evidence about what he considers to be the characteristics of a child safe organisation, with specific consideration of Lord's offences.[835]

He gave evidence about best practice for:

- recruitment, training and supervision of staff
- responses to an allegation of child sexual abuse
- effective situational prevention of child sexual abuse in institutions.

Professor Smallbone said that creating a child safe organisation begins with a clear, evidence-informed concept of the potential risks to children in an organisation's specific setting. This includes accidental and non-accidental threats, such as child maltreatment, and children's health, safety and wellbeing. For sexual abuse, it requires knowing basic facts about the characteristics of abusers and victims, and how, when and where abuse tends to occur.[836]

Accurate information about sexual and other abuse should be widely disseminated to all child-focused organisations. Organisations should in turn share this information with all relevant people, but especially with staff and volunteers, through policy documents and training materials. Where appropriate, organisations might also sensitively share information with parents and other guardians.[837]

Child sexual abuse is characterised by male offenders and grooming

According to Professor Smallbone, while most child sexual abuse takes place in a family or domestic situation, a smaller but significant proportion occurs in organisational or institutional settings. Sexual abusers are almost always adolescent or adult males but have no other defining demographic or psychological characteristics. Non-familial offenders are more likely to be serial abusers and to persist after they are caught.[838]

Professor Smallbone reported that children are much more likely to be abused by someone they already have a close relationship with than by a stranger or distant acquaintance. It is possible that a determined serial abuser might surreptitiously seek employment or other ways to create opportunities to abuse in a child-related organisation. However, motivations more often arise when the potential abuser is involved with a particular child or children.[839]

Professor Smallbone explained that sexual abuse can happen abruptly, but it is more likely to be after a period of 'grooming'. Abusers and victims often know each other for some time (with a year or more being common) before the first abuse incident.

Grooming refers to communicating with a child by words or conduct to try to engage or involve the child in sexual acts. This includes deliberate actions to befriend and establish an emotional connection to lower the child's inhibitions in preparation for sexual activity.[840]

Grooming for sexual abuse typically involves graduation from attention-giving and non-sexual touching to more intimate and intrusive behaviours. Professor Smallbone indicated that, although much grooming behaviour will appear ambiguous to both the victim and others who observe it, observable grooming behaviours might include:

- creating 'special relationships' with particular children
- giving gifts or privileges
- being overly affectionate
- seeking to spend time with children outside the work role
- arranging to spend time alone with children.[841]

These behaviours might be difficult for children to identify themselves.[842] But they are not so sophisticated and devious that ordinary, vigilant adults could not identify them.[843]

Child care is a high-risk setting because of physical and emotional intimacy

The greatest risk of child sexual abuse is created when highly disposed individuals are in environments highly conducive to abuse.[844] Professor Smallbone said the institutions presenting the greatest risk are those in which children spend significant periods of time with unrelated adolescent or adult males. These would include:

- child care
- schools
- sport and recreation
- pastoral care.

These settings are similar in some key ways to domestic settings where most sexual abuse happens. Typically older males have positions of care and authority over children, often involving physical or emotional intimacy like bathing, dressing and counselling.

Professor Smallbone also advised that some children might be more vulnerable to sexual victimisation due to loneliness, emotional neediness, problems at home, peer isolation, low confidence and low self-esteem. However, all children are vulnerable because they are young and depend on adults.[845]

He also stated sexual abuse is most likely to happen in places where the risk of detection is low. As an incident can happen quickly – commonly in 5 to 15 minutes – it does not always require a remote, out-of-the-way place. Organisation-related abuse can happen away from the organisational setting itself – at camps, in a vehicle, or in the home of the offender or victim.[846]

Prevention strategies can reduce the risk of abuse

The principle of situational prevention focuses on what can be done to reduce the risks of child sexual abuse in these high-risk environments.[847]

Professor Smallbone said that prevention strategies should focus on preventing abuse, but also responding quickly and effectively if it does happen. These should target potential offenders, potential victims and aspects of the physical and social environment. Further, staff in child-related organisations should have a culture of 'extended guardianship' or shared personal responsibility, where preventing abuse is seen as the ordinary responsibility of all adults.[848]

Key prevention strategies include:

- employment screening and recruitment processes, such as careful reference checks, to control access of potential offenders to children
- training recruitment staff to ensure they are alert to signs of unusual attitudes towards children and child protection policies
- staff supervision and high-quality training to establish a clear conception of sexual abuse
- unambiguous and widely disseminated rules about adult–child and child–child relationships
- appropriate surveillance of responsible adults and effective reporting structures.[849]

The most suitable organisational environment ensures:

- there is good natural surveillance
- responsible adults routinely and comprehensively move within line-of-sight in all areas
- rooms have large, unobstructed windows or observation panels
- special random checks can be done in out-of-the-way places
- surveillance equipment is installed where natural surveillance cannot be ensured
- adults and children are encouraged to raise even apparently trivial concerns (a system for confidentially recording such concerns might help to 'join the dots')
- there is a clear policy for responding to ambiguous reports, discovery, disclosure, allegations and police investigations so abuse is detected early (a graduated system of informing others, on a need-to-know basis, might also help).[850]

YMCA NSW argued that we should be cautious about adopting Professor Smallbone's opinions without qualification as:

- His expertise does not extend to OSHC.[851]
- Four of the 59 assumptions he based his opinions on are no longer factually correct. These relate to the accuracy of the childcare witness statements, the provision of child protection training, and the lack of a system to bring new or updated policies to the attention of YMCA NSW Children's Services staff.[852]
- Professor Smallbone acknowledged that he was 'not aware of any agreed best practice standards' specifically on recruiting and screening OSHC staff. But he then put forward a best practice framework for WWCCs, structured interviews and reference checks.[853]
- His evidence sets out general principles rather than specific measures for all cases – or that YMCA NSW should have taken with Lord.[854]

We have already observed that YMCA NSW did not call an expert to refute or join issue with Professor Smallbone's evidence, despite the opportunity to do so. YMCA NSW also did not challenge him on his evidence about the characteristics of a child safe organisation.

However, the elements of a child safe organisation are a fundamental issue for the Royal Commission. We will further consider these in our research program and in developing appropriate recommendations for our final report.

Was YMCA NSW a child safe organisation?

Counsel Assisting submitted that YMCA NSW was not a child safe organisation during Lord's employment and is not a child safe organisation now.[855] She emphasised that:

- it did not have effective situational prevention strategies during Lord's recruitment
- during his employment, Lord was able to groom and sexually abuse several boys without detection
- its failure to conduct a root cause analysis, and staff evidence about their current knowledge of practices and procedures, meant that the organisation has not taken adequate steps to implement effective strategies since the allegations.[856]

YMCA NSW submitted that such a finding should not be contemplated for three reasons:[857]

1. It would be extraneous to the Royal Commission's task. While identifying an institution's past failures is relevant, applying a label to that institution is unnecessary. The label says nothing about what failures actually occurred, does not identify lessons learnt, and distracts attention from the actual failures.
2. The label is unfair, as it judges YMCA NSW's conduct and capacities against a standard that was not identified or articulated at the time, and is still being investigated. YMCA NSW noted the issues paper on this topic.
3. The finding would prejudice YMCA NSW's capacity to achieve its beneficial objectives, which are manifestly in the public interest.

It also submitted that conclusions about YMCA Caringbah, a distinct operational region, cannot be translated to YMCA NSW as a whole.[858]

We acknowledge YMCA NSW's failures and its positive steps

We do not accept all of Counsel Assisting's submissions on these issues. However, the fact that the abuse happened in the way it did at YMCA Caringbah calls into question the child safety practices of YMCA NSW. The actions of YMCA Caringbah during and after Lord's offending are not those of a child safe organisation.

We do acknowledge the positive measures that YMCA NSW is currently taking to address the problems and better protect children in its care. YMCA NSW's submissions included a joint statement by the Board and CEO. In it, they said that YMCA NSW was 'committed to learning from the Jonathan Lord incident, and to doing all that it can to keep children safe. YMCA NSW has already taken measures to improve its child protection policies and its procedures, and will continue to make improvements'.[859]

YMCA NSW accepted that the evidence 'shows that, in important respects, many of its policies and procedures and their implementation were deficient and required improvement'.[860]

Both in Mr Hare's evidence and elsewhere, YMCA NSW acknowledged it needs to improve the way it protects children in its care, including by:

- improving staff recruitment and induction
- revising its policies and training for staff
- engaging an external third party to review its culture.[861]

YMCA NSW outlined the steps it has recently taken to do this.[862] For example, it has retained Professor Smallbone through YMCA Australia to improve its policies and procedures. We outline the other steps in section **5.5**.

During the Royal Commission, we will further consider these matters and the effectiveness of YMCA NSW's policy and practices in protecting children.

However, we consider that the following actions reflect poorly on YMCA NSW's capacity to bring about the significant changes needed:

- It has shifted blame to focus on the failures of the childcare staff at Caringbah.
- Its senior management has failed to accept responsibility for staff not reporting Lord's behaviour and policy breaches.

We make the following findings about YMCA NSW as a child safe organisation.

Finding 34

To keep children safe, an organisation must create and maintain a protective environment that minimises rather than accentuates the risk of abuse. The fact that the abuse occurred in the way it did at YMCA Caringbah calls into question the child safety practices of YMCA NSW. The actions of YMCA Caringbah during and after Jonathan Lord's offending are not the actions of a child safe organisation, due to its:

- failure in Jonathan Lord's recruitment
- failure to adhere to background checking procedures on Caringbah staff
- failure to effectively induct Caringbah staff
- failure to effectively train Caringbah staff in child protection matters
- failure to implement its child protection policies at YMCA Caringbah, including in relation to babysitting and outside activities
- tolerance for babysitting, inappropriate touching of children, including children sitting on a staff member's lap and inappropriate use of mobile phones and other electronic devices
- failure to comply with staff:child ratios at all times
- absence of an effective confidential reporting system
- absence of a culture of shared personal responsibility for child protection
- lack of procedures to ensure staff were kept informed and supported and key information was provided promptly to parents, following the allegations against Jonathan Lord in September 2011.

Finding 35

The following failures by YMCA NSW senior managers do not permit confidence in their capacity to carry out the significant reforms needed to ensure the safety of children in the organisation's care. They did not:

- accept responsibility for staff not reporting Jonathan Lord's policy breaches and other concerning behaviour
- know the requirements of the *Commission for Children and Young People Act 1998* (NSW) relating to carrying out background checking procedures
- implement their child protection policies
- properly analyse the events leading to Jonathan Lord's recruitment, induction, training and supervision.

Finding 36

YMCA NSW is taking a range of positive steps to address the identified problems and improve the protection of children in its care.

5.5 Post-hearing developments

Key points

This section sets out developments at YMCA NSW since the public hearing. The NSW regulator has reviewed the organisation, has placed conditions on its operations and is reassessing Ms Barnat's certification. YMCA NSW has reassigned staff, analysed key systems and revised its policies, and its CEO, Phillip Hare, has resigned.

The regulator responded to evidence from the public hearing

The Early Childhood Education and Care Directorate regulates the OSHC sector in New South Wales. For more on its role, please see section **1.3**.

After the public hearing, the Directorate conducted a monitoring inspection of YMCA Caringbah on 8 November 2013. It identified that some childcare staff were not aware of relevant child protection laws or their obligations under that law.

On 20 December 2013, the Directorate notified YMCA NSW that as a result of the monitoring inspection, it had found that YMCA Caringbah did not comply with regulation 84 of the Education and Care Services National Regulations, which relates to awareness of child protection law. It directed YMCA NSW to take the following steps:

- identify all people who work with children at the service
- identify the existence of the child protection law under which the service operates
- identify how the law is applied to the service
- identify all obligations under the law for people working with children
- provide education and training on the law to everyone working with children
- show how this education and training is delivered
- show how YMCA NSW will ensure that the nominated supervisor and all staff who work with children are aware of the law and their obligations. [863]

YMCA NSW was required to provide written evidence of its compliance by 17 January 2014.

On 17 January 2014, the Directorate advised YMCA NSW that, 'based on the evidence provided to the Royal Commission during hearings into Case Study 2 ("the Lord matter"), I am not confident the YMCA NSW is a child safe organization.'[864] It imposed the following extra conditions on YMCA NSW:

1. 'The introduction of a new recruitment system to ensure compliance with all relevant legislative and child protection requirements
2. The commission of an independent third party to undertake a root cause analysis into the circumstances of the Lord matter
3. The commission of a third party to conduct an audit of YMCA NSW's culture including in relation to any barriers to effective reporting within YMCA NSW
4. Undertake a review of current YMCA reporting systems and the introduction of a "whistleblower" system

5. Undertake a review of all YMCA policies and policy structures
6. Undertake a review of the YMCA parent handbook
7. Undertake a review of YMCA NSW staff induction and training procedures to ensure staff are properly inducted and trained prior to commencing work in any child care service
8. Conditions 1–7 to be completed by 30 April 2014.'[865]

Also on 17 January 2013, the Directorate put YMCA NSW on notice that it would be reassessing whether the organisation continues to be fit and proper to provide an education and care service.[866]

YMCA NSW was required to provide certain information to the Directorate. This included updates on its progress with the extra conditions now placed on it and advice on the steps it has taken to ensure staff are following all current YMCA NSW policies and procedures.

YMCA NSW has responded to the regulator

We are aware of further correspondence between the Directorate and YMCA NSW since the public hearing ended.

On 31 January 2014, YMCA NSW provided information to the Directorate on staff changes.[867] It said it had recently:

- moved Mr Whitley to a business development role where he is not directly supervising or managing childcare services, and he is no longer a nominated supervisor (which was an interim measure) or an authorised person
- moved Ms Barnat to an administrative support role in Support Services where she is no longer involved in child care
- updated the role of Child Protection Manager to report directly to the CEO, rather than the Business Manager of Children's Services, so there is an organisation-wide approach to child protection.

Significantly, we also understand that YMCA NSW's Chief Executive Officer, Phillip Hare, resigned on 19 May 2014.

YMCA NSW also advised the Directorate that it 'has reflected on our policies and practices, realised that they are deficient and is working to implement practices to be a Child Safe Organisation'.[868]

To ensure compliance, YMCA NSW policies and procedures:

- have been uploaded to the intranet, with memos circulated on policy
- are discussed at staff meetings with Children's Services managers, and a new meeting structure ensures more timely, effective and consistent communication
- are reviewed, workshopped and referenced at training events.

Staff can also provide feedback on the relevance of the policies and procedures to daily operations.

Further, all staff have training and education throughout the year, and a new staff handbook is being developed.

YMCA NSW said that it randomly audited 42 vacation care centres on 6 January, to review knowledge and compliance. It has developed assessments for child protection policies, and will roll out ongoing assessments across the organisation with a new online recruitment and policy system.

YMCA NSW also said that Children's Services managers audited all staff files on 3 January to ensure that each site has WWCC clearance and relevant qualifications for all staff. These managers audit their centres each term, using an online system, which includes checking staff files that are on their site.

On 31 January 2014, YMCA NSW applied for an internal review of the decision to impose extra conditions.[869]

On 27 February 2014, the Directorate withdrew the existing conditions and replaced them with new conditions to directly reflect YMCA NSW's commitments in its submissions to the Royal Commission. The new conditions took affect on 31 March 2014.

Under these new conditions, YMCA NSW is to ensure that the remedial actions outlined in its submissions to the Royal Commission are in place by 30 June 2014.[870] It must also provide a detailed implementation plan of its remedial actions and monthly progress reports to the Directorate.

On 14 April 2014, YMCA NSW updated the Directorate on its progress, including the following actions:[871]

Condition	Progress at 14 April 2014
New recruitment system	• The system was overhauled to introduce centralised online recruitment, including pre-screening (working with children and police record checks) and reference checking of prospective staff. • The system consolidates the recruitment and pre-screening record keeping with improved access to records. • The system includes functionality to circulate key policy information and enable policy-signoff and testing of policy knowledge. • A full-time, specialist HR recruitment coordinator familiar with recruitment policies and trained to recognise 'red flags' began on 5 February and manages the system. • All staff will use the new software for recruitment and policy testing from 10 February.
Root cause analysis	• An independent third party, specialising in workplace investigations, is conducting the root cause analysis. • The YMCA NSW Board will govern the process, not management. • The report is due on 30 June 2014.

Condition	Progress at 14 April 2014
Culture review	• A culture review is being done across the organisation by an independent third party – The Academy Network. It specifically references any barriers to effective reporting. • The Board and the Academy Network are governing the review. • All staff were invited to take part in surveys, random focus groups and some one-to-one interviews. • The project is due by 30 June 2014.
Review of reporting and whistleblower systems	• Ethics Point is now 'Speak Up – the YMCA Whistleblower program'. • The Board President sent an introductory letter about the program to all staff on 24 January. • Information about the refocused program is on the intranet. • Reporting systems will be refined after various reviews are done.
Review of policies and policy structure	• Policies are being reviewed and simplified, so staff can easily identify and understand critical aspects of child protection. • YMCA Australia National Safeguarding Children Leadership Team met on 9 December 2013 for input into a review of the *YMCA Safeguarding Children Policy*. Professor Smallbone commented on this policy. • Eleven interim policies relating to regulation 168 of the national law were distributed to staff and parents for feedback on 6 January 2014. • The redrafted Code of Conduct was circulated to internal stakeholders for comment on 22 January. • Face-to-face consultation and a survey was done with 290 staff on 28 January. • Processes to enable Academy Network's external review of YMCA policies are underway. • YMCA NSW's Irene Minos has joined the NSW Ombudsman Working Party drafting a model child protection policy and code of conduct for the OSHC sector.
Review of YMCA Parent Handbook	• The Parent Handbook was revised on the topics of child protection and how to complain. It is provided online and in-centre to parents. • A key information flyer was given to parents, encouraging feedback and directing them to the revised handbook sections. • YMCA NSW intends to launch an updated handbook for Term 2. • Parent workshops will be held to gather feedback on the handbook and key policies and procedures.
Review of staff induction and training	• Human Resources is leading an organisation-wide review of induction practices. • A new working party will consolidate and develop six modules to be delivered to staff in their first 3 to 6 months of work.

Condition	Progress at 14 April 2014
	• A new induction process is being built into MACY software. • A new interim induction checklist tool has been launched. • Changed training procedures will go live in Phase 2 of the MACY project plan.

Ms Barnat's supervisor certificate might be cancelled

On 17 January 2014, the Directorate also put Ms Barnat on notice that it was considering cancelling her supervisor certificate under section 123 of the *Children (Education and Care Services) National Law*.[872]

Section 123 notes that:

> The Regulatory Authority may suspend or cancel a supervisor certificate-
>
> a. if the Regulatory Authority is of the opinion that the certified supervisor is no longer a fit and proper person to be a supervisor of an education and care service; or
> b. if the certified supervisor fails to comply with a condition of the supervisor certificate; or
> c. if the certified supervisor fails to comply with a requirement of this Law as applying in any participating jurisdiction in relation to a matter within the certified supervisor's control.

The Directorate is considering cancelling Ms Barnat's certificate because she did not ensure a child safe environment by:

- following YMCA policies and procedures when recruiting staff
- adequately inducting staff so they were aware of their child protection responsibilities
- providing adequate or ongoing education and training on policies and procedures
- ensuring that all staff had a WWCC clearance before working directly with children.

If her certificate is cancelled, Ms Barnat cannot be:

- a nominated supervisor of an education and care service
- the responsible person present at a service.

We understand that on 13 February 2014, Ms Barnat made a written submission to the Directorate arguing that her certificate should not be cancelled because:[873]

- she became a certified supervisor on 19 October 2012 and cannot have failed to comply with a condition of the certificate before the date the certificate was issued
- all of her conduct relating to Lord occurred before this critical date, as Lord's YMCA employment ended in September 2011
- she did not fail to comply with a requirement of the national law, or a condition on her certificate, after that date.
- even if a failure within the national law is established, it does not follow that her supervisor's certificate should be cancelled.

We do not know whether the Directorate has decided to cancel Ms Barnat's certificate.

6 Systemic issues

6.1 Our focus on systemic issues

Key points

The Royal Commission focuses on systemic issues, but our work is informed by an understanding of individual cases. This section discusses how we are building an evidence base about systemic issues to help shape our final findings and recommendations.

The Royal Commission must make findings and recommendations to better protect children against sexual abuse and alleviate the impact of abuse when it occurs. In carrying out our work, we are directed to:

- focus on systemic issues
- be informed by an understanding of individual cases.

All our work is contributing to our understanding of the systemic issues, including public hearings, private sessions, written accounts and research. Our research includes dedicated projects, roundtables and submissions on issues papers.

Systemic issues guide public hearings and consultation

When deciding whether to hold a public hearing such as this one, we consider whether it will help us to understand systemic issues and give us an opportunity to learn from previous mistakes. This provides our findings and recommendations a secure evidence base.

As the Royal Commission moves forward, our public hearings and consultation processes must focus on systemic issues that affect how institutions respond to child sexual abuse. We will address the following issues to fulfill our Terms of Reference:

- the scope and impact of child sexual abuse
- prevention of abuse
- reporting and responding to abuse
- regulation and oversight of institutions working with children
- compensation and redress schemes
- the criminal justice system.

The Royal Commission must also examine systemic issues across the full range of institutions. This includes both the different types of institutions and the different entities that operate them.

6.2 Issues emerging from this case study

Key points

This section outlines the systemic issues arising from this case study. For organisations, these relate to matters like recruiting, training and supervising staff, as well as responding to reports and allegations against staff. We will also consider the implications this case study raises about national child protection laws and the criminal justice system.

The systemic issues that arise from this case study relate both to organisations and the broader systems they operate under.

For organisations, this case study highlights crucial processes in preventing, reporting and responding to child sexual abuse. Specific issues we will further consider include:

- recruitment and induction processes for adults working with children[874]
- training and supervision of staff working with children, including developing, sharing and enforcing policies[875]
- ways to involve and inform parents whose children receive outside school hours (OSHC) care about the policies and procedures in place [876]
- elements of a child safe organisation relating to child care.

We will also consider systems and policies to help:

- staff working with children to raise and share concerns[877]
- institutions respond to ambiguous reports about staff[878]
- institutions respond to allegations of child sexual abuse against staff, including analysing what went wrong and communicating with staff, parents and others about matters like police investigations and court proceedings.[879]

Our understanding of these systemic issues will be further informed by:

- public hearings
- submissions to issues papers
- roundtables and consultation with experts
- research projects
- private sessions and written accounts.

The case study also highlighted the need for supervisory authorities, such as the Early Childhood Education and Care Directorate, to ensure that OSHC providers do not simply comply with the national law, but implement it in their day-to-day practice.[880] The operation of the national law will be evaluated in our broader study of regulation and oversight.

Several parents whose children were groomed or abused by Lord criticised the NSW Joint Investigation Response Team (JIRT) for the way it communicated with them and managed interviews with their children. We will consider JIRT's approach in a larger study of how the police respond to these problems around Australia as part of our Criminal Justice Project.

Some parents also criticised elements of the criminal justice system such as court processes, sentencing and victim compensation. Our Criminal Justice Project will consider these issues.

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

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 Counsel 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 Professor Helen Milroy
Date of public hearing	21 October 2013 – 1 November 2013, 20 December 2013, 31 January 2014 (12 days)
Legislation	*Royal Commissions Act 1923* (NSW)
Leave to appear	YMCA NSW and Philip Hare, Liam Whitley, Ann Mary Nolan and Jacqui Barnat, individually State of New South Wales Alicia Dellaca, Danielle Ockwell, Sheree Ockwell, Michelle Bates, Carine Beer, Chloe Starr, Erin Turner and Catherine Clements, individually, current and former staff of YMCA Caringbah Parents AN, AS, AT, AW and AX, individually Catholic Church's Truth Justice and Healing Counsel and the Catholic Education Office
Legal representation	G Furness SC and C Spruce, Counsel Assisting the Royal Commission G Sirtes SC and P English, instructed by A McKeough of Whittens & McKeough, appearing for YMCA NSW management and Philip Hare, Liam Whitley, Ann Mary Nolan and Jacqui Barnat, individually I Neil SC and P English, instructed by A McKeough of Whittens & McKeough, appearing for YMCA management and Philip Hare, Liam Whitley and Ann Mary Nolan, individually, during closing submissions I Temby SC, instructed by Whittens & McKeough, appearing for Jacqui Barnat during closing submissions J Agius SC and G Wright, instructed by I Fraser, Acting Special Counsel of the Crown Solicitor, appearing for the State G Patterson, Shaw McDonald Lawyers, appearing for parent AS M Gerace, Maurice Byers Chambers, appearing for parents AN, AX, AT and AW C Wasley, Sir Owen Dixon Chambers, appearing for the current and former YMCA Caringbah staff J Needham SC and B Kelleher, instructed by S Glass and A Whitby of Gilbert + Tobin Lawyers, appearing for the Truth Justice and Healing Counsel and the Catholic Education Office

Pages of transcript	1,236 pages
Summons to attend	10 summons to attend issued under the *Royal Commissions Act 1923* (NSW) producing 2,000 documents
Notice to produce	1 notice (Department of Immigration and Border Protection) issued under the *Royal Commissions Act 1902* (Cth) producing 7 documents
Number of exhibits	46 exhibits consisting of 803 documents tendered at the hearing
Witnesses	1 **Witness AN** Parent 2 **Witness AX** Parent 3 **Witness AS** Parent 4 **Witness AU** Parent (statement read by Counsel Assisting) 5 **Witness AZ** Parent 6 **Witness AT** Parent 7 **Alicia Dellaca** Childcare Assistant, YMCA Caringbah 8 **Danielle Ockwell** Childcare Assistant, YMCA Caringbah 9 **Michelle Bates** Childcare Assistant, YMCA Caringbah 10 **Sheree Ockwell** Childcare Coordinator, YMCA Lilli Pilli 11 **Carine Beer** Childcare Coordinator in Before and After School Care, Laguna Street Public School 12 **Chloe Starr** Children's Services Team Leader, YMCA Caringbah 13 **Ruth Callaghan** General Manager, Early Childhood Education and Care Directorate, Department of Education and Communities 14 **Rodney Tant** Principal of Laguna Street Public School, Department of Education and Communities

15 **Witness AW**
Parent

16 **Detective Superintendent Maria Rustja**
NSW Police

17 **Detective Senior Sergeant Glyndwr Richard Baker**
NSW Police

18 **Detective Inspector Anthony Holton**
NSW Police

19 **Erin Turner**
Outbound manager, Camp America, and former YMCA Caringbah staff member

20 **Catharine Clements**
Child Protection Caseworker, Department of Family and Community Services, and former Child Protection and Compliance Manager, YMCA NSW

21 **Witness BC**
Parent (statement read by Counsel Assisting)

22 **Jacqui Barnat**
Children's Services Manager, YMCA NSW

23 **Ann Mary Nolan**
Operations Manager, YMCA NSW

24 **Liam Whitley**
General Manager, Children's Services Division, YMCA NSW

25 **Plain Clothes Senior Constable Leanne Kelly**
NSW Police

26 **Professor Stephen Smallbone**
Expert witness, School of Criminology and Criminal Justice, Griffith University

27 **Phillip Hare**
Chief Executive Officer, YMCA NSW

Endnotes

1 Transcript of P Hare, Case Study 2 at 1575:28–38 and 1576:4–15.
2 Exhibit 2-0001, Case Study 2, NSW.0110.01012.0292.
3 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0022.
4 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0172.
5 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0025–0026.
6 Exhibit 2-0001, Case Study 2, YMCA.8000.001.0336 at 0336.
7 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0024.
8 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0025.
9 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0019.
10 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0019.
11 Exhibit 2-0009, Case Study 2, STAT.0028.001.0001 at 0005.
12 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0021.
13 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0027.
14 Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0002.
15 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0020–0021.
16 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0028–0029.
17 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0020.
18 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0020.
19 Exhibit 2-0009, Case Study 2, STAT.0028.001.0001 at 0004–0005.
20 Exhibit 2-0009, Case Study 2, STAT.0028.001.0001 at 0005.
21 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0023.
22 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0022.
23 Exhibit 2-0019, Case Study 2, STAT.0053.001.0001 at 0023.
24 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0030.
25 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0030.
26 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0030.
27 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0031.
28 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0032–0033.
29 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0033.
30 Exhibit 2-0006, Case Study 2, STAT.0035.001.0001 at 0002.
31 Exhibit 2-0006, Case Study 2, STAT.0035.001.0001 at 0002.
32 Exhibit 2-0006, Case Study 2, STAT.0035.001.0001 at 0002.
33 Exhibit 2-0005, Case Study 2, STAT.0032.001.0001 at 0003.
34 Exhibit 2-0005, Case Study 2, STAT.0032.001.0001 at 0004.
35 Exhibit 2-0005, Case Study 2, STAT.0032.001.0001 at 0004.
36 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0026.
37 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0027.
38 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0027.
39 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0026.
40 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0019.
41 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0019–0020.
42 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0020.

[43] Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0002.
[44] Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0175.
[45] Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0003.
[46] Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0004.
[47] Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0022–0023.
[48] Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0021.
[49] Exhibit 2-0001, Case Study 2, NSW.0110.01012.1146 at 1161.
[50] Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0027.
[51] Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0028.
[52] Exhibit 2-0001, Case Study 2, NSW.0110.01012.1146 at 1146.
[53] Exhibit 2-0004, Case Study 2, STAT.0031.001.0001 at 0005.
[54] Exhibit 2-0004, Case Study 2, STAT.0031.001.0001 at 0011.
[55] Exhibit 2-0004, Case Study 2, STAT.0031.001.0001 at 0012.
[56] Exhibit 2-0004, Case Study 2, STAT.0031.001.0001 at 0011–0012.
[57] Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0010.
[58] Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0010.
[59] Exhibit 2-0019, Case Study 2, STAT.0053.001.0001 at 0011.
[60] Exhibit 2-0019, Case Study 2, STAT.0053.001.0001 at 0011.
[61] Exhibit 2-0019, Case Study 2, STAT.0053.001.0001 at 0010.
[62] Exhibit 2-0003, Case Study 2, STAT.0040.001.0001 at 0003.
[63] Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0004.
[64] Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0004.
[65] Exhibit 2-0006, Case Study 2, STAT.0035.001.0001 at 0003.
[66] Exhibit 2-0001, Case Study 2, NSW.0110.01012.0475 at 0487.
[67] Transcript of L Whitley, Case Study 2 at 1299:45–1300:8.
[68] Transcript of Opening Statement on behalf of YMCA, Case Study 2 at 475:20–23.
[69] Transcript of P Hare, Case Study 2 at 1542:15–1543:4.
[70] Transcript of P Hare, Case Study 2 at 1542:30–38.
[71] Transcript of P Hare, Case Study 2 at 1542:24–28 and 1543:9–13.
[72] Exhibit 2-0034, Case Study 2, STAT.0050.001.0036; Transcript of L Whitley, Case Study 2 at 1300:10–15.
[73] Transcript of L Whitley, Case Study 2 at 1296:14–27.
[74] Transcript of L Whitley, Case Study 2 at 1296:29–1297:45.
[75] Transcript of L Whitley, Case Study 2 at 1297:47–1298:3.
[76] Transcript of L Whitley, Case Study 2 at 1298:38–40.
[77] Transcript of L Whitley, Case Study 2 at 1299:24–26.
[78] Exhibit 2-0034, Case Study 2, STAT.0050.001.0036.
[79] Exhibit 2-0034, Case Study 2, STAT.0050.001.0036.
[80] Transcript of L Whitley, Case Study 2 at 1300:41–47; Transcript of C Beer, Case Study 2 at 736:33–45.
[81] Transcript of L Whitley, Case Study 2 at 1300:41–1301:45.
[82] Transcript of A Nolan, Case Study 2 at 1292:34–38.
[83] Transcript of A Nolan, Case Study 2 at 1292:16–21.
[84] Transcript of L Whitley, Case Study 2 at 1301:36–41.
[85] Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 9 at para. 28.1.

86 Submissions of the YMCA NSW, Case Study 2, p. 22 at para. 75.

87 Productivity Commission, *Early Childhood Development Workforce*, Research Report, Melbourne, 2011, p. 134.

88 Productivity Commission, *Early Childhood Development Workforce*, Research Report, Melbourne, 2011, p. 133.

89 Productivity Commission, *Early Childhood Development Workforce*, Research Report, Melbourne, 2011, p. 134.

90 NSW Department of Education and Training, *Community Use of School Facilities for Children's Services, Implementation Procedures*, September 2009, https://www.det.nsw.edu.au/policies/administrative/facilities/comm_use/children.pdf; Exhibit 2-0016, Case Study 2, STAT.0043.001.0010.

91 NSW Department of Education and Training, *Community Use of School Facilities for Children's Services, Implementation Procedures*, September 2009, https://www.det.nsw.edu.au/policies/administrative/facilities/comm_use/children.pdf.

92 Note that these figures cover OSHC-only services and not services that operate both day care and OSHC, for example. The data was provided on request from the NSW Department of Education and Communities.

93 This data was derived from tables in the Australian Government Department of Education, Employment and Workplace Relations' *2010 National Early Childhood Education and Care Workforce Census*, 2011, pp 7 and 16, http://docs.education.gov.au/system/files/doc/other/2010_national_early_childhood_education_and_care_workforce_census.pdf (viewed 30 January 2014). Rounded data derived from combined figures of the OSHC and vacation care workforce and the number of children in child care in the reference week. It includes double counting where children went to more than one service type. The 2013 workforce census is now being compiled.

94 Productivity Commission, *Early Childhood Development Workforce*, Research Report, Melbourne, 2011, p. 134.

95 YMCA Australia, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse on *Issues Paper No. 1: Working with Children Check,* released 17 June 2013, p. 1.

96 Exhibit 2-0015, Case Study 2, STAT.0052.001.0001 at 0008.

97 Transcript of G Sirtes, Case Study 2 at 475:20–23.

98 Australian Government Productivity Commission, *Report on Government Services 2014, Volume B: Child care, education and training,* 2014, p. 466, http://www.pc.gov.au/__data/assets/pdf_file/0010/132310/rogs-2014-volumeb-child-care-education-and-training.pdf. The data was derived from combined figures of licensed OSHC and vacation care service providers.

99 This data was derived from the Australian Government Department of Education, Employment and Workplace Relations' *2010 National Early Childhood Education and Care Workforce Census*, 2011, http://docs.education.gov.au/system/files/doc/other/2010_national_early_childhood_education_and_care_workforce_census.pdf (viewed 30 January 2014).

100 Exhibit 2-0015, Case Study 2, STAT.0052.001.0001 at 0002.

101 Exhibit 2-0015, Case Study 2, STAT.0052.001.0001 at 0003.

102 Exhibit 2-0015, Case Study 2, STAT.0052.001.0001 at 0006.

103 Exhibit 2-0015, Case Study 2, STAT.0052.001.0001 at 0021.

104 Exhibit 2-0015, Case Study 2, STAT.0052.001.0001 at 0004.

105 Exhibit 2-0015, Case Study 2, STAT.0052.001.0001 at 0001.

106 Exhibit 2-0015, Case Study 2, STAT.0052.001.0001 at 0002.

107 Exhibit 2-0015, Case Study 2, STAT.0052.001.0001 at 0007.

108 Exhibit 2-0018, Case study 2, STAT.0037.001.0001 at 0005–0006; Transcript of AW, Case Study 2 at 552:37–553:5.

109 Exhibit 2-0015, Case Study 2, STAT.0052.001.0001 at 0006.

110 Exhibit 2-0015, Case Study 2, STAT.0052.001.0001 at 0013; Transcript of R Callaghan, Case Study 2 at 769:7–44.

111 Transcript of R Callaghan T772, Case Study 2 at 770:30–39 and 772:34–40.

112 Exhibit 2-0015, Case Study 2, STAT.0052.001.0001 at 0013; Transcript of R Callaghan, Case Study 2 at 773:6–26.

113 Exhibit 2-0015, Case Study 2, STAT.0052.001.0001 at 0013; Exhibit 2-0015, Case Study 2 at STAT.0052.001.1125; Transcript of R Callaghan, Case Study 2 at 779:33–780:40.

114 Exhibit 2-0015, Case Study 2, STAT.0052.001.0001 at 0014; Exhibit 2-0015, Case Study 2 at STAT.0052.001.1132; Transcript of R Callaghan, Case Study 2 at 780:42–781:7.

115 Exhibit 2-0015, Case Study 2, STAT.0052.001.0001 at 0014–0015; Exhibit 2-0015, Case Study 2 at STAT.0052.001.1140; Exhibit 2-0015, Case Study 2 at STAT.0052.001.1187.

116 Exhibit 2-0033, Case Study 2, YMCA.8000.0003.0004; Exhibit 2-0015, Case Study 2 at STAT.0052.001.0001 at 0015.

117 Exhibit 2-0033, Case Study 2, YMCA.8000.0003.0004 at 0012–0016; Exhibit 2-0015, Case Study 2, STAT.0052.001.0001 at 0015.

118 Exhibit 2-0033, Case Study 2, YMCA.8000.0003.0004 at 0049.

119 Exhibit 2-0033, Case Study 2, YMCA.8000.0003.0004.

120 Transcript of R Callaghan, Case Study 2 at 777:11–18.

121 Transcript of R Callaghan, Case Study 2 at 777:19–22.

122 Exhibit 2-0046, Case Study 2, STAT.0052.002.0001 at 0002.

123 Exhibit 2-0046, Case Study 2, STAT.0052.002.0001 at 0002.

124 Exhibit 2-0046, Case Study 2, STAT.0052.002.0001 at 0002–0003.

125 Exhibit 2-0046, Case Study 2, STAT.0052.002.0001 at 0006.

126 Exhibit 2-0046, Case Study 2, STAT.0052.002.0001 at 0007.

127 Exhibit 2-0046, Case Study 2, STAT.0052.002.0001 at 0007.

128 Exhibit 2-0046, Case Study 2, STAT.0052.002.0001 at 0007.

129 Exhibit 2-0046, Case Study 2, STAT.0052.002.0001 at 0007.

130 Exhibit 2-0046, Case Study 2, STAT.0052.002.0001 at 0007.

131 Exhibit 2-0046, Case Study 2, STAT.0052.002.0001 at 0007.

132 Exhibit 2-0046, Case Study 2, STAT.0052.002.0001 at 0007

133 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 90 at para. 312.

134 Exhibit 2-0046, Case Study 2, STAT.0052.002.0001 at 0009.

135 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0016–0017.

136 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0007, para 36.

137 Transcript of S Smallbone, Case Study 2 at 1506:30–41.

138 Exhibit 2-0012, Case Study 2, EXH.002.012.000; Exhibit 2-0017, Case Study 2, EXH.002.017.0001; Transcript, Case Study 2 at 816:27–40. The policy index of exhibit 2-17 is dated 1 July 2013. However, Senior Counsel for YMCA NSW submitted that this might not reflect the current policy folder.

139 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0007.

140 Exhibit 2-0042, Case Study 2, EXP.0001.002.0001 at 0003–0004.

141 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0008.

142 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0008-0009; Exhibit 2-0042, Case Study 2, EXP.0001.002.0001 at 0004; Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0065; Exhibit 2-0001, Case Study 2, YMCA.9301.01002.0423; Exhibit 2-0001, Case Study 2, YMCA.9301.01002.04216; Exhibit 2-0001, Case Study 2, YMCA.9301.01002.0409.

143 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0009.

144 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0009.

145 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0009; Exhibit 2-0001, Case Study 2, YMCA.9302.01007.0003.

146 Exhibit 2-0001,Case Study 2, YMCA.9301.01001.0201; Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0240; Transcript of A Nolan, Case Study 2 at 1205:16–30 and 1208:38–47.

147 Exhibit 2-0001, Case Study 2, YMCA.8000.001.0209 at 0226.

148 Transcript of A Nolan, Case Study 2 at 1220:12–38.

149 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p.41 at para. 152.21.

150 Submissions of YMCA NSW, Case Study 2, p. 50 at para. 161.

151 Transcript of J Barnat, Case Study 2 at 1162:1–23.

152 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0010.

153 Exhibit 2-0010, Case Study 2, STAT.0026.001.0001 at 0004–0005.

154 Transcript of D Ockwell, Case Study 2 at 632:24–30.

155 Exhibit 2-0022, Case Study 2, STAT.0027.001.0001 at 0003; Exhibit 2-0022, Case Study 2, STAT.0027.001.0001 at 0007.

156 Transcript of J Barnat, Case Study 2 at 1178:30–42.

157 Transcript of D Ockwell, Case Study 2 at 649:36–47 and 650: 1

158 Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0012.

159 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 41 at para. 152.22.

160 Submissions of the YMCA NSW, Case Study 2, pp 50–51 at para. 162–163.

161 Transcript of S Smallbone, Case Study 2 at 1506:43–1507:1.

162 Exhibit 2-0041; Case Study 2, EXP.0001.001.0001 at 0010.

163 Transcript of J Barnat, Case Study 2 at 1100:40–1110:28 and 1112:8–1113:47.

164 Exhibit 2-0001, Case Study 2, YMCA.8000.001.0087 at 0087.

165 Exhibit 2-0014, Case Study 2, STAT.0029.001.0001 at 0006–0007.

166 Transcript of P Hare, Case Study 2 at 1582:19–34.

167 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 41 at para. 154.

168 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 41 at para. 152.24.

169 Submissions of the YMCA NSW, Case Study 2, p. 51 at para. 165.

170 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0012.

171 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0012.

172 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0012.

173 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0201.

174 Exhibit 2-0032, Case Study 2, STAT.0047.001.0001 at 0002; Transcript of A Nolan, Case Study 2 at 1205:16–18.

175 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0201 at 0214.

176 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0201 at 0216.

177 Exhibit 2-0042, Case Study 2, EXP.0001.002.0001 at 0005–0006. To meet best practice, the recruitment screening section of the policy would also include advice about the limits of screening for detecting active or potential abusers and state that abusers can be otherwise ordinary people.

178 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0201 at 0218.

179 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0201 at 0236.

180 Exhibit 2-0001, Case Study 2, YMCA.8000.001.0336 at 0336.

181 Transcript of J Barnat, Case Study 2 at 1088:30–1089:47.

182 Transcript of J Barnat, Case Study 2 at 1091:31–1092:32.
183 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0013.
184 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0019 at 0019.
185 Transcript of J Barnat, Case Study 2 at 1139:37–47**.**
186 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0012–0013; Transcript of J Barnat, Case Study 2 at 1140:2–8.
187 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0007.
188 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0019 at 0019.
189 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0013; Transcript of S Smallbone, Case Study 2 at 1512:27–36.
190 Transcript of S Smallbone, Case Study 2 at 1512:38–43.
191 Transcript of E Turner, Case Study 2 at 1014:25–33.
192 Transcript of E Turner, Case Study 2 at 992:36–46.
193 Transcript of E Turner, Case Study 2 at 993:9–16.
194 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0019 at 0019.
195 Transcript of J Barnat, Case Study 2 at 1114:17–25 and 1134:46–1135:7.
196 Transcript of J Barnat, Case Study 2 at 1114:2–15.
197 Transcript of J Barnat, Case Study 2 at 1135:9–11.
198 Transcript of J Barnat, Case Study 2 at 1135:13–47.
199 Transcript of L Whitley, Case Study 2 at 1346:26–45.
200 Transcript of P Hare, Case Study 2 at 1556:10–20.
201 Transcript of P Hare, Case Study 2 at 1556:22–26.
202 Transcript of E Turner, Case Study 2 at 993:28–34.
203 Exhibit 2-0001, Case Study 2 at YMCA.8000.001.0336.
204 Exhibit 2-0001, Case Study 2, YMCA.8000.001.0336 at 0336.
205 Transcript of L Whitley, Case Study 2 at 1346:47–1347:5.
206 Transcript of L Whitley, Case Study 2 at 1347:10–12.
207 Transcript of L Whitley, Case Study 2 at 1347:14–17.
208 Transcript of A Nolan, Case Study 2 at 1229:29–32.
209 Transcript of A Nolan, Case Study 2 at 1229:34–35.
210 Transcript of A Nolan, Case Study 2 at 1244:45–1245:17.
211 Transcript of P Hare, Case Study 2 at 1555:16–22.
212 Transcript of P Hare, Case Study 2 at 1555:24–27.
213 Transcript of J Barnat, Case Study 2 at 1116:27–33.
214 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0021.
215 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0021; Transcript of J Barnat, Case Study 2 at 1119:3–12.
216 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0019 at 0020.
217 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0021 at 0021; Transcript of J Barnat, Case Study 2 at 1115:32–1116:4.
218 Transcript of J Barnat, Case Study 2 at 1120:9–13.
219 Transcript of J Barnat, Case Study 2 at 1120:15–21.
220 Transcript of J Barnat, Case Study 2 at 1113:32–34, 1117:3–14 and 1120:43–1121:13.
221 Transcript of J Barnat, Case Study 2 at 1116:35–39.
222 Transcript of J Barnat, Case Study 2 at 1117:24–30.
223 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0021.

224 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 17 at para. 68.
225 Transcript of J Barnat, Case Study 2 at 1119:14–40.
226 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0019 at 0020.
227 Transcript of J Barnat, Case Study 2 at 1119:42–47, 1136:14–24 and 1141:41–1142:3.
228 Transcript of J Barnat, Case Study 2 at 1136:14–24.
229 Transcript of J Barnat, Case Study 2 at 1120:23–29.
230 Transcript of J Barnat, Case Study 2 at 1154:32–47 and 1155:1–20.
231 Transcript of J Barnat, Case Study 2 at 1154:37–1155:25.
232 Transcript of A Nolan, Case Study 2 at 1228:7–8.
233 Transcript of A Nolan, Case Study 2 at 1229:43–47.
234 Transcript of A Nolan, Case Study 2 at 1218:26–47; 1228:46–1229:2.
235 Transcript of G Sirtes, Case Study 2 at 478:26–33.
236 Transcript of P Hare, Case Study 2 at 1583:25–1584:22.
237 Transcript of G Sirtes, Case Study 2 at 475:27–32.
238 Submissions of the YMCA NSW, Case Study 2, p. 23 at para. 78.
239 Submissions of the YMCA NSW, Case Study 2, p. 23 at para. 79.
240 Submissions of the YMCA NSW, Case Study 2, p. 23 at para. 80.
241 Submissions of current and former YMCA Caringbah childcare staff, Case Study 2, pp 5–6 at paras 12–13.
242 Submissions of current and former YMCA Caringbah childcare staff, Case Study 2, p. 6 at para. 13
243 Exhibit 2-0011, Case Study 2, STAT.0036.001.0001 at 0005.
244 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 19 at paras 74.2 and 74.3.
245 Submissions of the YMCA NSW, Case Study 2, pp 23–24 at para. 81.
246 *Commission for Children and Young People Act 1998* (NSW), s 37.
247 Transcript of P Hare, Case Study 2 at 1542:42–45.
248 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0366; Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0076; Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0362; Transcript of J Barnat, Case Study 2 at 1138:1–43; Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0370 at 0370.
249 Exhibit 2-0013, Case Study 2, STAT.0025.001.0001 at 0003, para. 10; Exhibit 2-0013, Case Study 2, STAT.0025.001.0001 at 0004, at para. 15; Transcript of C Beer, Case Study 2 at 718:16–18.
250 Exhibit 2-0044, Case Study 2, YMCA.9302.02004.0019.
251 Transcript of C Beer, Case Study 2 at 712:27–47; Exhibit 2-0044, Case Study 2, YMCA.9302.02004.0029 at 0029.
252 Transcript of C Beer, Case Study 2 at 712:31–33; Exhibit 2-0044, Case Study 2, YMCA.9302.02004.0020 at 0021.
253 Transcript of C Beer, Case Study 2 at 712:35–36; Exhibit 2-0044, Case Study 2, YMCA.9302.02004.0018.
254 Transcript of A Dellaca, Case Study 2 at 588:35–42.
255 Exhibit 2-0044, Case Study 2 at YMCA.8000.004.0035 at 0036.
256 Transcript of A Dellaca, Case Study 2 at 587:44–47; Exhibit 2-0044, Case Study 2, YMCA.8000.004.0034.
257 Transcript of S Ockwell, Case Study 2 at 686:37–40.
258 Exhibit 2-0044, Case Study 2, YMCA.9302.02003.0033 at 0034.
259 Transcript of S Ockwell, Case Study 2 at 685:4–7.

260 Transcript of S Ockwell, Case Study 2 at 685:13–15.

261 Transcript of D Ockwell, Case Study 2 at 632:17–18.

262 Transcript of D Ockwell, Case Study 2 at 630:42–44; Exhibit 2-0044, Case Study 2, YMCA.8000.004.0003 at 0004.

263 Exhibit 2-0044, Case Study 2, YMCA.8000.004.0002.

264 Exhibit 2-0044, Case Study 2, YMCA.8000.004.0072 at 0073.

265 Exhibit 2-0044, Case Study 2, YMCA.8000.004.0072 at 0073.

266 Exhibit 2-0044, Case Study 2, YMCA. 8000.004.0071.

267 Transcript of M Bates, Case Study 2 at 657:39–42; Transcript of J Barnat, Case Study 2 at 1143:35–43.

268 Transcript of M Bates, Case Study 2 at 657:47–658:2; Transcript of J Barnat, Case Study 2 at 1143:35–43.

269 Transcript of M Bates, Case Study 2 at 658:4–6; Transcript of J Barnat, Case Study 2 at 1143:39–43; Exhibit 2-0044, Case Study 2, YMCA.9302.02005.0024.

270 YMCA NSW response to current and former YMCA childcare staff submissions, Case Study 2, p. 8 at para. 32. See also Transcript of J Barnat, Case Study 2 at 1137:42–46.

271 YMCA NSW response to current and former YMCA childcare staff submissions, Case Study 2, p. 9 at para. 38.

272 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0366 at 0367.

273 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0366 at 0368.

274 Transcript of M Bates, Case Study 2 at 669:34–42.

275 Submissions of the YMCA NSW, Case Study 2, p. 27 at para. 88 and p. 28 at para. 93.

276 Transcript of A Nolan, Case Study 2 at 1275:21–31; Transcript of P Hare, Case Study 2 at 1558:17–29.

277 Transcript of A Dellaca, Case Study 2 at 585:35–46.

278 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 24 at para. 84 and p. 26 at para. 89.6.

279 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 21 at para. 79.

280 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0201.

281 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0014, para. 72.

282 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0014, para. 73.

283 Transcript of J Barnat, Case Study 2 at 1139:37–47.

284 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 27 at para. 94.

285 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 28 at para. 96.

286 Transcript of J Barnat, Case Study 2 at 1096:13–34.

287 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0201 at 0220; Transcript of J Barnat, Case Study 2 at 1121:15–19.

288 Transcript of J Barnat, Case Study 2 at 1122:13–23.

289 Transcript of J Barnat, Case Study 2 at 1121:26–30.

290 Transcript of J Barnat, Case Study 2 at 1122:37–46.

291 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0354 at 0355.

292 Transcript of J Barnat, Case Study 2 at 1149:38–1150:1.

293 Transcript of J Barnat, Case Study 2 at 1149:25–30.

294 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 29 at para. 103.

295 Exhibit 2-0001, Case Study 2, YMCA.8000.001.0073 at 0073-0074; Transcript of J Barnat, Case Study 2 at 1149:2–12.

296 Exhibit 2-0008, Case Study 2, STAT.0030.001.0001 at 0003, para 11; Transcript of A Dellaca, Case Study 2 at 612:7–13 and 613:4–13; Transcript of S Ockwell, Case Study 2 at 687:40–688:24; Transcript of C Beer, Case Study 2 at 713:2–9.

297 Transcript of A Dellaca, Case Study 2 at 613:11–13.

298 Transcript of C Beer, Case Study 2 at 716:14–16.

299 Exhibit 2-0044, Case Study 2, YMCA.9302.02004.0050.

300 Exhibit 2-0044, Case Study 2, YMCA.9302.02005.0060 at 0060.

301 Transcript of A Dellaca, Case Study 2 at 586:12–14 and 587:35–36; Transcript of D Ockwell, Case Study 2 at 632:1–15; Transcript of C Starr, Case Study 2 at 741:47–742:2 and 742:29–30; Transcript of M Bates, Case Study 2 at 659:44–46.

302 Transcript of A Dellaca, Case Study 2 at 586:12–14.

303 Transcript of A Dellaca, Case Study 2 at 587:35–36.

304 Exhibit 2-0008, Case Study 2, STAT.0030.001.0001 at 0003, para. 8.

305 Transcript of D Ockwell, Case Study 2 at 632:1–15.

306 Exhibit 2-0009, Case Study 2, STAT.0028.001.0001 at 0003, para. 11.

307 Transcript of D Ockwell, Case Study 2 at 632:24–43.

308 Exhibit 2-0009, Case Study 2, STAT.0028.001.0001 at 0003, para. 12; Transcript of D Ockwell, Case Study 2 at 633:5–8.

309 Transcript of M Bates, Case Study 2 at 659:44–46.

310 Transcript of M Bates, Case Study 2 at 659:1–5.

311 Transcript of M Bates, Case Study 2 at 659:1–5.

312 Transcript of M Bates, Case Study 2 at 660:1–9.

313 Transcript of M Bates, Case Study 2 at 660:14–17.

314 Transcript of M Bates, Case Study 2 at 676:23–28.

315 Transcript of C Beer, Case Study 2 at 713:2–17.

316 Transcript of C Starr, Case Study 2 at 741:47–742:2 and 742:29–30.

317 Transcript of C Starr, Case Study 2 at 742:4–5 and 742:24–27.

318 Transcript of C Starr, Case Study 2 at 743:42–45.

319 Transcript of C Starr, Case Study 2 at 745:24–34.

320 Transcript of C Starr, Case Study 2 at 744:42–745:9.

321 Transcript of C Starr, Case Study 2 at 745:39–40.

322 Exhibit 2-0022, Case Study 2, STAT.0027.001.0001 at 0003, para. 10.

323 Exhibit 2-0022, Case Study 2, STAT.0027.001.0001 at 0003, para. 11.

324 Submissions of the YMCA NSW, Case Study 2, p. 34 at para. 111.

325 Exhibit 2-0044, Case Study 2, YMCA.8000.004.0048; Exhibit 2-0044, Case Study 2, YMCA.8000.004.0014.

326 Exhibit 2-0044, Case Study 2, YMCA.8000.004.0049; Exhibit 2-0047, Case Study 2, EXH.002.047.0002.

327 Exhibit 2-0044, Case Study 2, YMCA.8000.004.0081.

328 Exhibit 2-0044, Case Study 2, YMCA.9302.02006.0056.

329 Exhibit 2-0044, Case Study 2, YMCA.9302.02003.0049.

330 Exhibit 2-0001, Case Study 2, YMCA.8000.001.0073.

331 Submissions of the YMCA NSW, Case Study 2, p. 34 at para. 112.

332 Transcript of J Barnat, Case Study 2 at 1122:13–23.

333 Submissions of the YMCA NSW, Case Study 2, pp 34–35 at para. 113.

334 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0007.

335 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0014.
336 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0201 at p. 21.
337 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0201 at p. 21 para. 8.
338 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0240 at 0242.
339 Exhibit 2-0001, Case Study 2, YMCA.8000.001.0291 at 0298.
340 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 33 at para. 118.
341 Exhibit 2-0001, Case Study 2, YMCA.8000.001.0138 at 0139–0141.
342 Exhibit 2-0001, Case Study 2, YMCA.8000.001.0138 at 0140; Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0393; Transcript of L Whitley, Case Study 2 at 1307:27–1309:32.
343 Transcript of L Whitley, Case Study 2 at 1309:24–1311:34; Exhibit 2-0034, Case Study 2, STAT.0050.001.0001 at 0007; Exhibit 2-0034, Case Study 2, STAT.0050.001.0051.
344 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 34 at para. 121.
345 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 34 at para. 124.
346 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0015.
347 Transcript of S Smallbone, Case Study 2 at 1500:15–23.
348 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 36 at para. 137.
349 Transcript of A Dellaca, Case Study 2 at 594:40–44.
350 Transcript of E Turner, Case Study 2 at 1006:36–45.
351 Submissions of the YMCA NSW, Case Study 2, p. 36 at paras 120–121.
352 Transcript of J Barnat, Case Study 2 at 1172:2–6.
353 Transcript of J Barnat, Case Study 2 at 1173:47 to 1174:3.
354 Transcript of J Barnat, Case Study 2 at 1172:47–1173:5
355 Transcript of J Barnat, Case Study 2 at 1174:20–25.
356 Transcript of J Barnat, Case Study 2 at 1175:7–1176:20.
357 Submissions of the YMCA NSW, Case Study 2, p. 37 at para. 126.
358 Current and former YMCA Caringbah staff response to YMCA NSW submissions, Case Study 2, p. 11 at para. 25.
359 Current and former YMCA Caringbah staff response to YMCA NSW submissions, Case Study 2, p. 11 at para. 25.
360 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 37 at para. 137.17.
361 Submissions of the YMCA NSW, Case Study 2, p. 11 at para. 26.
362 Submissions of the YMCA NSW, Case Study 2, pp 11–12 at para. 32.
363 Exhibit 2-0008, Case Study 2, STAT.0030.001.0001 at 0004.
364 Transcript of A Dellaca, Case Study 2 at 620.37–45
365 Submissions of the YMCA NSW, Case Study 2, p. 12 at para. 33.
366 Submissions of the YMCA NSW, Case Study 2, p. 12 at para. 34.
367 Submissions of the YMCA NSW, Case Study 2, pp 18–19 at para. 60.
368 Submissions of the YMCA NSW, Case Study 2, pp 20–21 at para. 67.
369 Submissions of the YMCA NSW, Case Study 2, p. 21 at para. 71.
370 Current and former YMCA Caringbah staff response to YMCA NSW submissions, Case Study 2, p. 21 at para. 60.
371 Submissions of the YMCA NSW, Case Study 2, p. 21 at para. 68.
372 Current and former YMCA Caringbah staff response to YMCA NSW submissions, Case Study 2, pp 13–14 at para. 35.
373 Current and former YMCA Caringbah staff response to YMCA NSW submissions, Case Study 2, p. 14 at para. 36.

374 Transcript of J Barnat, Case Study 2 at 1096:36–1097:24; 1098:24–27.
375 Transcript of J Barnat, Case Study 2 at 1098:5–30.
376 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 35 at paras. 126–128.
377 Exhibit 2-0001, Case Study 2, NSW.0110.01012.0994 at 0994.
378 Exhibit 2-0009, Case Study 2, STAT.0028.001.0001 at 0006.
379 Transcript of D Ockwell, Case Study 2 at 633:32–34; Transcript of J Barnat, Case Study 2 at 1156:40–41
380 Transcript of D Ockwell, Case Study 2 at 643:41–42; Transcript of J Barnat, Case Study 2 at 1156:26–31 and 1157:6–8.
381 Transcript of D Ockwell, Case Study 2 at 633:36–44.
382 Transcript of D Ockwell, Case Study 2 at 633:28–30.
383 Transcript of J Barnat, Case Study 2 at 1156:43–1157:4.
384 Transcript of J Barnat, Case Study 2 at 1156:17–24 and 1157:10–18.
385 Submissions of the YMCA NSW, Case Study 2, p. 38 at para. 129.
386 Submissions of the YMCA NSW, Case Study 2, p. 37 at para. 127.
387 Transcript of A Nolan, Case Study 2 at 1286:6–22.
388 Submissions of the YMCA NSW, Case Study 2, p. 37 at para. 127.
389 Submissions of the YMCA NSW, Case Study 2, p. 14 at para. 44.
390 Submissions of the YMCA NSW, Case Study 2, p. 15 at para. 45.
391 Exhibit 2-0001, Case Study 2, YMCA.8000.001.0138 at 0139–0141.
392 Submissions of the YMCA NSW, Case Study 2, p. 15 at para. 46.
393 Submissions of the YMCA NSW, Case Study 2, p. 15 at para. 46; Transcript of J Barnat, Case Study 2 at 1186–1187.32.
394 Submissions of the YMCA NSW, Case Study 2, p. 15 at para. 47.
395 Submissions of the YMCA NSW, Case Study 2, p. 38 at para. 130.
396 Current and former YMCA Caringbah staff response to YMCA NSW submissions, Case Study 2, p. 11 at para. 26.
397 Exhibit 2-0046, Case Study 2, STAT.0052.002.0001 at 0006–0007.
398 Current and former YMCA Caringbah staff response to YMCA NSW submissions, Case Study 2, pp 11–12 at para. 27.
399 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0015.
400 Transcript of S Smallbone, Case Study 2 at 1499:16–38.
401 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 34 at para. 123.
402 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 37 at para. 137.19.
403 Submissions of the YMCA NSW, Case Study 2, p. 36 at para. 133.
404 Submissions of the YMCA NSW, Case Study 2, p. 38 at para. 134.
405 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 41 at para. 152.23.
406 Submissions of the YMCA NSW, Case Study 2, p. 51 at para. 164.
407 Current and former YMCA Caringbah staff response to YMCA NSW submissions, Case Study 2, p. 21 at para. 61.
408 YMCA NSW response to current and former YMCA childcare staff submissions, Case Study 2, p. 3 at paras 9–10.
409 Submissions of the YMCA NSW, Case Study 2, p. 37 at para. 124.
410 Current and former YMCA Caringbah staff response to YMCA NSW submissions, Case Study 2, p. 11 at para. 61.

411 YMCA NSW response to current and former YMCA childcare staff submissions, Case Study 2, p. 3 at para. 9.

412 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0201 at 0222.

413 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0201 at 0222–0223. Similar provisions were also in YMCA NSW's *Safeguarding Children and Young People Policy* of July 2009 and YMCA Australia's *Safeguarding Children and Young People Policy* of April 2011. See Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0249 at 0250; Exhibit 2-0001, Case Study 2, YMCA.8000.001.0291 at 0306.

414 Exhibit 2-0001, Case Study 2, YMC.9301.01001.0099.

415 Transcript of A Nolan, Case Study 2 at 1219:17–28.

416 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 44 at para. 165.

417 Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0002; Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0004.

418 Form 1 is a criminal law procedure for taking further offences into account. For more information, please see: http://www.judcom.nsw.gov.au/publications/benchbks/sentencing/taking_further_offences_into_account.html.

419 Exhibit 2-0001, Case Study 2, NSW.0110.01012.1146 at paras 29–32.

420 Transcript of BC, Case Study 2 at 1075:11–19.

421 Exhibit 2-0001, Case Study 2, NSW.0110.01012.1146 at 1150–1151.

422 Exhibit 2-0001, Case Study 2, NSW.0110.01012.1146 at 1154.

423 Exhibit 2-0001, Case Study 2, NSW.0110.01012.1146 at 1150; Transcript of BC, Case Study 2 at 1075:11–25.

424 Exhibit 2-0005, Case Study 2, STAT.0032.001.0001 at 0003.

425 Exhibit 2-0005, Case Study 2, STAT.0032.001.0001 at 0002.

426 Exhibit 2-0005, Case Study 2, STAT.0032.001.0001 at 0004.

427 See, for example, Exhibit 2-0022, Case Study 2, STAT.0027.001.0001 at 0003.

428 Exhibit 2-0011, Case Study 2, STAT.0036.001.0001 at 0006.

429 Exhibit 2-0014, Case Study 2, STAT.0029.001.0001 at 0006.

430 Transcript of A Dellaca, Case Study 2 at 604:29–37.

431 Transcript of A Dellaca, Case Study 2 at 603:40–604:13.

432 Transcript of A Dellaca; Case Study 2 at 604:15–27.

433 Submissions of the YMCA NSW, Case Study 2, p. 52 at paras 171–172.

434 Submissions of the YMCA NSW, Case Study 2, p. 53 at para. 173.

435 Submissions of the YMCA NSW, Case Study 2, p. 53 at para. 174.

436 Submissions of the YMCA NSW, Case Study 2, p. 51 at para. 167.

437 Submissions of the YMCA NSW, Case Study 2, pp 51–52 at paras 168–169.

438 Transcript of J Barnat, Case Study 2 at 1127:32–39.

439 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0201 at 0222.

440 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0201 at 0222-0223. Similar provisions were also contained in YMCA NSW's *Safeguarding Children and Young People Policy* of July 2009 and YMCA Australia's *Safeguarding Children and Young People Policy* of April 2011. See Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0249 at 0250; Exhibit 2-0001, Case Study 2, YMCA.8000.001.0291 at 0306.

441 Transcript of J Barnat Private Hearing, Case Study 2 at 420:13–24 under Variation Order VO-PU-NSW-3; Transcript of J Barnat, Case Study 2 at 1127:5–30.

442 Transcript of J Barnat, Case Study 2 at 1126:14–44.

443 Transcript of A Dellaca, Case Study 2 at 604:39–47.

444 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 49 at para. 184.33.
445 Transcript of J Barnat, Case Study 2 at 1127:32–1129:18.
446 Transcript of J Barnat, Case Study 2 at 1101:13–15.
447 Transcript of J Barnat, Case Study 2 at 1129:14–18.
448 Transcript of J Barnat, Case Study 2 at 1127:5–30.
449 Submissions of the YMCA NSW, Case Study 2, p. 55 at para. 185.
450 Transcript of J Barnat, Case Study 2 at 1131:31–32.
451 Submissions of the YMCA NSW, Case Study 2, p. 55 at para. 186.
452 Transcript of BC, Case Study 2 at 1075:37–47. See also Exhibit 2-0013, Case Study 2, STAT.0025.001.0001 at 0007.
453 Transcript of D Ockwell, Case Study 2 at 646:11–25.
454 Exhibit 2-0014, Case Study 2, STAT.0029.001.0001 at 0006.
455 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 46 at para. 176.
456 Exhibit 2-0005, Case Study 2, STAT.0032.001.0001 at 0003.
457 Exhibit 2-0001, Case Study 2, NPF.023.001.0840 at 0840; Transcript of D Ockwell, Case Study 2 at 645:18–33.
458 Transcript of D Ockwell, Case Study 2 at 645:35–43.
459 Transcript of BC, Case Study 2 at 1078:5–12; Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0012.
460 Transcript of BC, Case Study 2 at 1078:7–12.
461 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 49 at para. 184.31.
462 Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0002; Transcript of BC, Case Study 2 at 1075:11–25.
463 Transcript of BC, Case Study 2 at 1078:5–12; Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0012.
464 For more on the principle of the standard of proof discussed by J Dixon in *Briginshaw v Briginshaw* (1938) 60 CLR 336, please see the Royal Commission's *Practice Guideline 1*, 2013.
465 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0201 at 0222.
466 Exhibit 2-0001, Case Study 2, NSW.0110.01012.0802 at 0803.
467 Transcript of A Dellaca, Case Study 2 at 608:33–37
468 Transcript of D Ockwell, Case Study 2 at 633:46–634:9.
469 Exhibit 2-0013, Case Study 2, STAT.0025.001.0001 at 0008.
470 Transcript of M Bates, Case Study 2 at 664:38–44.
471 Exhibit 2-0008, Case Study 2, STAT.0030.001.0001 at 0006.
472 Transcript of D Ockwell, Case Study 2 at 635:6–14.
473 Exhibit 2-0009, Case Study 2, STAT.0028.001.0001 at 0005–0006.
474 Transcript of D Ockwell, Case Study 2 at 635:27–636:4.
475 Transcript of D Ockwell, Case Study 2 at 636:6–8.
476 Transcript of D Ockwell, Case Study 2 at 636:10–32.
477 Exhibit 2-0013, Case Study 2, STAT.0025.001.0001 at 0008.
478 Exhibit 2-0010, Case Study 2, STAT.0026.001.0001 at 0006–0007; Transcript of M Bates, Case Study 2 at 664:4–31.
479 Transcript of M Bates, Case Study 2 at 664:34–36.
480 Exhibit 2-0010, Case Study 2, STAT.0026.001.0001 at 0006.
481 Transcript of M Bates, Case Study 2 at 664:4–19.
482 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 51 at para. 188.

[483] Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 52 at para. 189.35.

[484] Submissions of the YMCA NSW, Case Study 2, pp 57–58 at para. 201.

[485] Submissions of Counsel Assisting the Royal Commission, Case Study 2, p.52 at para. 189d.

[486] Submissions of the YMCA NSW, Case Study 2, p. 58 at para. 202; Exhibit 2-0013, Case Study 2, STAT.0025.001.0001 at 0008.

[487] Submissions of the YMCA NSW, Case Study 2, p. 58 at para. 203; Exhibit 2-0013, Case Study 2, STAT.0025.001.0001 at 0008.

[488] Compliance with the rule in *Browne v Dunn*: 'If the Royal Commission is to be invited to disbelieve a witness, the material grounds upon which it is said that the evidence should be disbelieved should be put to the witness so that the witness may have an opportunity to offer an explanation.' See the Royal Commission's *Practice Guideline 1,* 2013, para. 67.

[489] Current and former YMCA Caringbah staff response to YMCA NSW submissions, Case Study 2, p. 6 at paras 10–11 and p. 16 at para. 43.

[490] *Re Minister of Immigration and Multicultural Affairs; Ex parte Applicant S154/2002* (2003) 77 ALJR 1909.

[491] Submissions of the YMCA NSW, Case Study 2, p. 58 at paras 203–204.

[492] YMCA NSW response to AT, AX, AN and AW oral submissions, p. 2 at para. 7.

[493] Exhibit 2-0001, Case Study 2, YMCA.800.001.0209 at 0224.

[494] Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0201 at 0221.

[495] Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0201 at 0223.

[496] Exhibit 2-0001, Case Study 2, YMCA.9302.01005.0043 at 0044; see also Exhibit 2-0001, Case Study 2, YMCA.9302.01005.0098 at 0099.

[497] Exhibit 2-0001, Case Study 2, YMCA.9302.01005.0043 at 0045; see also Exhibit 2-0001, Case Study 2, YMCA.9302.01005.0098 at 0100.

[498] Exhibit 2-0001, Case Study 2, YMCA.9302.01005.0025 at 0025; Exhibit 2-0001, Case Study 2 at YMCA.9302.01005.0072 at 0073; Exhibit 2-0001, Case Study 2 at YMCA.9302.01005.0133 at 0134.

[499] Transcript of S Ockwell, Case Study 2 at 701:10–17; Exhibit 2-0011, Case Study 2, STAT.0036.001.0001 at 0005–0006.

[500] Transcript of S Ockwell, Case Study 2 at 701:32–35.

[501] Transcript of D Ockwell, Case Study 2 at 633:46–634:23.

[502] Transcript of C Beer, Case Study 2 at 720:20–30.

[503] Exhibit 2-0010. Case Study 2, STAT.0026.001.0001 at 006.

[504] Transcript of C Starr, Case Study 2 at 749:28–32.

[505] Exhibit 2-0014, Case Study 2, STAT.0029.001.0001 at 0006-0007; Transcript of C Starr, Case Study 2 at 749:34–37.

[506] Exhibit 2-0014, Case Study 2, STAT.0029.001.0001 at 0006.

[507] Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 56 at para. 193.39.

[508] Submissions of the YMCA NSW, Case Study 2, p. 59 at paras 209–211.

[509] Submissions of the YMCA NSW, Case Study 2, p. 59 at paras 210–211, including footnotes of specific tendered documents.

[510] Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0201 at 0221.

[511] Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0201 at 0221.

[512] Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0201 at 0222–0223.

[513] Exhibit 2-0001, Case Study 2, NSW.0110.01012.0802 at 0803–0804.

[514] Exhibit 2-0001, Case Study 2, YMCA.9302.01005.0049 at 0050; Exhibit 2-0001, Case Study 2, YMCA.9302.01005.0159 at 0160.

515 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0099 at 0101–0102.

516 Exhibit 2-0005, Case Study 2, STAT.0032.001.0001 at 0002.

517 Exhibit 2-0001, Case Study 2, NSW.0110.01012.1146 at 1157.

518 Exhibit 2-0001, Case Study 2, NPF.023.001.0840 at 0841.

519 Exhibit 2-0007, Case Study 2, STAT.0034.001.0001 at 0003.

520 Exhibit 2-0007, Case Study 2, STAT.0034.001.0001 at 0016 and 0024; Transcript of AT, Case Study 2 at 577:36–47 and 578:1–2.

521 Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0012.

522 Transcript of BC, Case Study 2 at 1075:37–47.

523 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 60 at para. 203.46.

524 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0008.

525 Submissions of the YMCA NSW, Case Study 2, p. 62 at paras 225–226.

526 Submissions of the YMCA NSW, Case Study 2, p. 62 at para. 227, citing Smallbone, Marshall and Wortley, *Preventing Child Sexual Abuse: Evidence, Policy and Practice*, 2008, at p. 48; Exhibit 2-0001, Case Study 2, NSW.0110.01012.1146 at 1164.

527 Submissions of the YMCA NSW, Case Study 2, p. 62 at para. 227, citing *R v Lord* [2013] NSW DC 16 at [51] (King DCJ) (Exhibit 2-0001, Case Study 2, NSW.0110.01012.1146 at 1152).

528 Submissions of the YMCA NSW, Case Study 2, p. 62 at para. 227.

529 Transcript of A Dellaca, Case Study 2 at 599:13–22 and 602:21–603:38; Transcript of L Whitley, Case Study 2 at 1388:21–1389:24

530 Transcript of A Dellaca, Case Study 2 at 599:24–29.

531 Exhibit 2-0008, Case Study 2, STAT.0030.001.0001 at 0011.

532 Transcript of L Whitley, Case Study 2 at 1389:26–31.

533 Exhibit 2-0001, Case Study 2, YMCA.8000.001.0075.

534 Transcript of J Barnat, Case Study 2 at 1125:17–21.

535 Transcript of L Whitley, Case Study 2 at 1388:21–27.

536 Transcript of L Whitley, Case Study 2 at 1390:38–42.

537 Transcript of A Dellaca, Case Study 2 at 599:34–47.

538 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0016; Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0140; Exhibit 2-0001, Case Study 2, NSW.0110.01012.0994.

539 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0015.

540 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0015.

541 Transcript of S Smallbone, Case Study 2 at 1498:2–20 and 1501:3.

542 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0007.

543 Transcript of S Smallbone, Case Study 2 at 1518:31–33.

544 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0015.

545 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0008

546 Exhibit 2-0042, Case Study 2, EXP.0001.002.0001 at 0005–0006.

547 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p.62 at para. 208.

548 Transcript of J Barnat, Case Study 2 at 1163:10–21.

549 Transcript of P Hare, Case Study 2 at 1605:28–35.

550 Submissions of the YMCA NSW, Case Study 2, p. 44 at para. 136.

551 Transcript of L Whitley, Case Study 2 at 1433:44–1435:9, as referred to in Submissions of the YMCA NSW, Case Study 2, p. 46 at para. 147.

552 Current and former YMCA Caringbah staff response to YMCA NSW submissions, Case Study 2, p. 21 at para. 59.

553 Current and former YMCA Caringbah staff response to YMCA NSW submissions, Case Study 2, p. 21 at para. 59.
554 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 64 at para. 221.
555 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 64 at para. 222.51.
556 Submissions of the YMCA NSW, Case Study 2, p. 44 at paras 136–137.
557 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 62 at para. 208.
558 Exhibit 2-0009, Case Study 2, STAT.0028.001.0001 at 0006. See also Transcript of D Ockwell, Case Study 2 at 636:20–32 and 646:39–647:3.
559 Transcript of D Ockwell, Case Study 2 at 640:13–27.
560 Transcript of D Ockwell, Case Study 2 at 640:29–32.
561 Transcript of D Ockwell, Case Study 2 at 655:1–11.
562 Exhibit 2-0010, Case Study 2, STAT.0026.001.0001 at 0006; Transcript of Bates, Case Study 2 at 664:33–36.
563 Exhibit 2-0022, Case Study 2, STAT.0027.001.0001 at 0008.
564 Transcript of C Clements, Case Study 2 at 1038:7–33.
565 Transcript of J Barnat, Case Study 2 at 1157:32–43.
566 Transcript of J Barnat, Case Study 2 at 1158:15–22.
567 Transcript of P Hare, Case Study 2 at 1587:33–42; Transcript of L Whitley, Case Study 2 at 1434:35–47.
568 Transcript of S Smallbone, Case Study 2 at 1526:1–14.
569 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 64 at para. 222.53.
570 Submissions of the YMCA NSW, Case Study 2, p. 45 at para. 140.
571 Submissions of the YMCA NSW, Case Study 2, p. 46 at para. 146.
572 Submissions of the YMCA NSW, Case Study 2, p. 35-36 at paras 117–118 and p. 46 at para. 146.
573 Current and former YMCA Caringbah staff response to YMCA NSW submissions, Case Study 2, p. 20 at para. 56.
574 Current and former YMCA Caringbah staff response to YMCA NSW submissions, Case Study 2, p. 20 at para. 56.
575 Transcript of D Ockwell, Case Study 2 at 653:11–39.
576 Current and former YMCA Caringbah staff response to YMCA NSW submissions, Case Study 2, p. 20 at para. 58.
577 Submissions of the YMCA NSW, Case Study 2, pp 13–14 at para. 40.
578 Submissions on behalf of current and former YMCA Caringbah childcare staff, Case Study 2, p. 6 at para. 14.
579 Transcript of D Ockwell, Case Study 2 at 652:15–24.
580 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0018.
581 Exhibit 2-0001, Case Study 2, NSW.0110.01012.0246 at 0249.
582 Exhibit 2-0042, Case Study 2, EXP.0001.002.0001 at 0006.
583 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0009.
584 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0307.
585 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0307.
586 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0382.
587 Transcript of P Hare, Case Study 2 at 1584:24–1585:24.
588 Opening statement of YMCA NSW noted in Transcript of G Sirtes (Counsel), Case Study 2 at 479:6–7.
589 Submissions of the YMCA NSW, Case Study 2, p. 63 at para. 234.

590 Exhibit 2-0021, Case Study 2, STAT.0049.001.0001 at 0002. For a more detailed overview of the role and processes of JIRT, please see Exhibit 2-0021, Case Study 2, STAT.0049.001.0001.

591 Exhibit 2-0039, Case Study 2, STAT.0041.001.0001 at 0003.

592 Exhibit 2-0039, Case Study 2, STAT.0041.001.0001 at 0003.

593 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 68 at para. 238.

594 Submissions of the YMCA NSW, Case Study 2, p. 64 at paras 236–238.

595 Transcript of G Baker, Case Study 2 at 859:4–18; Exhibit 2-0039, Case Study 2, STAT.0041.001.0001 at 0004.

596 Exhibit 2-0019, Case Study 2, STAT.0051.001.0001 at 0003; Exhibit 2-0023, Case Study 2, STAT.0046.001.0046 at 0046.

597 Exhibit 2-0019, Case Study 2 at STAT.0051.001.0001 at 0002-0003; Transcript of G Baker, Case Study 2 at 856:7–10.

598 Exhibit 2-0019, Case Study 2, STAT.0051.001.0001 at 0004.

599 Exhibit 2-0019, Case Study 2, STAT.0051.001.0001 at 0004; Exhibit 2-0035, Case Study 2, STAT.0050.002.0001 at 0012.

600 Exhibit 2-0019, Case Study 2, STAT.0051.001.0001 at 0003–0004.

601 Exhibit 2-0019, Case Study 2, STAT.0051.001.0001 at 0004–0006.

602 Exhibit 2-0019, Case Study 2, STAT.0051.001.0001 at 0004–0005.

603 Transcript of G Baker, Case Study 2 at 868:45-869:4; Transcript of M Rustja, Case Study 2 at 926:23–33, 926:45–47 and 927:2–3.

604 Transcript of M Rustja, Case Study 2 at 927:1–13.

605 Exhibit 2-0019, Case Study 2, STAT.0051.001.0001 at 0005.

606 Exhibit 2-0019, Case Study 2, STAT.0051.001.0001 at 0005.

607 Exhibit 2-0019, Case Study 2, STAT.0051.001.0001 at 0005.

608 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 72 at para. 60.a.

609 Submissions of the State of New South Wales, Case Study 2, p. 3 at paras 9–10.

610 Submissions of the YMCA NSW, Case Study 2, p. 66 at para. 245(c).

611 Submissions of the State of New South Wales, Case Study 2, pp 4–5 at para. 12.

612 Submissions of the State of New South Wales, Case Study 2, p. 5 at para. 12.

613 Submissions of the State of New South Wales, Case Study 2, p. 5 at para. 14.

614 Submissions of the State of New South Wales, Case Study 2, p. 5 at para. 15, which agree with YMCA NSW's opening statement noted in Transcript of G Sirtes (Counsel), Case Study 2 at 479:22–37.

615 Transcript of G Baker, Case Study 2 at 860:44–861:13.

616 Transcript of G Baker, Case Study 2 at 859:47–860:12 and 861:1–20.

617 Transcript of M Rustja, Case Study 2 at 974:30–34.

618 Submissions of the State of New South Wales, Case Study 2, p. 15 at para. 47.

619 Submissions of the State of New South Wales, Case Study 2, p. 15 at para. 47.

620 Submissions of the State of New South Wales, Case Study 2, p. 16 at para. 48.

621 Transcript of M Rustja, Case Study 2 at 907:20–29.

622 Transcript of M Rustja, Case Study 2 at 907: 31–41.

623 Transcript of M Rustja, Case Study 2 at 912:4–913:19.

624 Submissions of the State of New South Wales, Case Study 2, p. 13 at para. 37.

625 Submissions of the State of New South Wales, Case Study 2, p. 14 at para. 40.

626 JIRT, Local Contact Point Protocol: A system for dealing with parental and community concerns when there are reports of child sexual abuse under investigation in an institutionalised setting, 2014.

627 Transcript of M Gerace (Counsel), Case Study 2 at 3520:6–31.

628 Transcript of G Baker, Case Study 2 at 869:42–870:5.

629 Transcript of G Baker, Case Study 2 at 882:33–883:42.

630 Transcript of M Rustja, Case Study 2 at 867:36–45.

631 Submissions of the State of New South Wales, Case Study 2, pp 10–11 at para. 30.

632 Submissions of the State of New South Wales, Case Study 2, pp 11–12 at para. 31.

633 Submissions of the State of New South Wales, Case Study 2, pp 12–13 at para. 33.

634 Submissions of the State of New South Wales, Case Study 2, p. 13 at para. 35.

635 Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0005–0007.

636 Transcript of AN, Case Study 2 at 498:27–33; Exhibit 2-0003, Case Study 2, STAT.0040.001.0001 at 0003.

637 Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0007; Transcript of AN, Case Study 2 at 499:39–500:19; Exhibit 2-0003, Case Study 2, STAT.0040.001.0001 at 0004.

638 Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0008-0009; Exhibit 2-0003, Case Study 2, STAT.0040.001.0001 at 0005; Exhibit 2-0005, Case Study 2, STAT.0032.001.0001 at 0005–0006.

639 Exhibit 2-0007, STAT.0034.001.0001 at 0005–0006; Transcript of AT, Case Study 2 at 547:18–32, 557:9–15 and 575:35–42.

640 Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0007; Exhibit 2-0003, Case Study 2, STAT.0040.001.0001 at 0004–0005.

641 Transcript of M Gerace (Counsel), Case Study 2 at 3519:39–3520:4.

642 Transcript of M Gerace (Counsel), Case Study 2 at 3521:35–39.

643 Transcript of M Gerace (Counsel), Case Study 2 at 3518:30–47.

644 Exhibit 2-0002, Case Study 2, STAT.0039.001.0001_R at 0033–0034.

645 Transcript of M Gerace (Counsel), Case Study 2 at 3519:2–22

646 Submissions of the State of New South Wales, Case Study 2, pp 17–18 at para. 58.

647 Submissions of the State of New South Wales, Case Study 2, p. 17 at para. 57.

648 Submissions of the State of New South Wales, Case Study 2, pp 17–18 at paras 60–61.

649 Submissions of the State of New South Wales, Case Study 2, p. 16 at paras 52–53.

650 Transcript of M Gerace (Counsel), Case Study 2 at 3520:41–44.

651 Transcript of M Gerace (Counsel), Case Study 2 at 3521:9–17.

652 Submissions of the State of New South Wales, Case Study 2, pp 20–21 at paras 66–69.

653 Submissions of the State of New South Wales, Case Study 2, p. 19 at para. 64; Exhibit 2-0040, Case Study 2, STAT.0041.002.0001 at 0001; Transcript of L Kelly, Case Study 2 at 1450:17–32 and 1451:10–23.

654 Submissions of the State of New South Wales, Case Study 2, p. 17 at para. 55.

655 Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0008–0009; Exhibit 2-0003, Case Study 2, STAT.0040.001.0001 at 0005; Exhibit 2-0005, Case Study 2, STAT.0032.001.0001 at 0005–0006; Exhibit 2-0007, STAT.0034.001.0001 at 0005–0006; Transcript of AT, Case Study 2 at 547:18–32, 557:9–15 and 575:35–42.

656 Exhibit 2-0007, Case Study 2, STAT.0034.001.0001 at 0005, para. 22.

657 Submissions of the State of New South Wales, Case Study 2, pp 21–23 at paras 71–77.

658 Exhibit 2-0002, Case Study 2, STAT.0039.001.0001 at 0011-0012; Exhibit 2-0003, Case Study 2, STAT.0040.001.0001 at 0004–0005; Exhibit 2-0005, Case Study 2, STAT.0032.001.0001 at 0006.

659 Transcript of BC, Case Study 2 at 1081:14–22.

660 Transcript of BC, Case Study 2 at 1081:30–37.
661 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0379.
662 Exhibit 2-0001, Case Study 2, YMCA.9301.01001.0383.
663 Exhibit 2-0019, Case Study 2, STAT.0051.001.0027; Exhibit 2-0019, Case Study 2, STAT.0051.001.0106.
664 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0177.
665 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0339 at 0340.
666 Exhibit 2-0001, Case Study 2, YMCA.8000.001.0130 at 0131.
667 Exhibit 2-0001, Case Study 2, YMCA.8000.001.0132 at 0132.
668 Exhibit 2-0001, Case Study 2, YMCA.8000.001.0132 at 0133.
669 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 78 at para. 274.
670 Exhibit 2-0035, Case Study 2, STAT.0050.002.0025; Transcript of L Whitley, Case Study 2 at 1354:47–1355:42 and 1356:6–17.
671 Exhibit 2-0035, Case Study 2, STAT.0050.002.0025; Transcript of L Whitley, Case Study 2 at 1354:35–41.
672 Exhibit 2-0035, Case Study 2, STAT.0050.002.0025; Transcript of L Whitley, Case Study 2 at 1354:47–1355:42 and 1356:6–17.
673 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 74 at para. 259.
674 Exhibit 2-0035, Case Study 2, STAT.0050.002.0001 at 0006.
675 Exhibit 2-0035, Case Study 2, STAT.0050.002.0001 at 0007.
676 Exhibit 2-0035, Case Study 2, STAT.0050.002.0001 at 0007–0008.
677 Exhibit 2-0040, Case Study 2, STAT.0041.002.0001 at 0003.
678 Transcript of L Whitley, Case Study 2 at 1361:36–42.
679 Exhibit 2-0027, Case Study 2, STAT.0038.001.0001 at 0005; Exhibit 2-0008, Case Study 2, STAT.0030.001.0001 at 0009; Exhibit 2-0011, Case Study 2, STAT.0036.001.0001 at 0006–0007.
680 Exhibit 2-0022, Case Study 2, STAT.0027.001.0001 at 0005; Exhibit 2-0008, Case Study 2, STAT.0030.001.0001 at 0009.
681 Transcript of L Whitley, Case Study 2 at 1353:36–1354:5.
682 Transcript of L Whitley, Case Study 2 at 1354:10–20.
683 Transcript of L Whitley, Case Study 2 at 1354:7–8 and 1357:20–41.
684 Transcript of L Whitley, Case Study 2 at 1357:14–18.
685 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 76 at para. 266.
686 Submissions of the YMCA NSW, Case Study 2, p. 69 at para. 256.
687 Submissions of the YMCA NSW, Case Study 2, p. 69 at para. 257.
688 Submissions of the State of New South Wales, Case Study 2, p. 5 at para. 17.
689 Submissions of the State of New South Wales, Case Study 2, p. 6 at para. 20.
690 Submissions of the State of New South Wales, Case Study 2, pp 7–8 at para. 24a.
691 Submissions of the State of New South Wales, Case Study 2, p. 8 at para. 24b.
692 Submissions of the State of New South Wales, Case Study 2, p. 8 at para. 24c.
693 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 78 at para. 274.62.
694 Submissions of the YMCA NSW, Case Study 2, p. 65 at para. 242.
695 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 78 at para. 274.63.
696 Submissions of the YMCA NSW, Case Study 2, p. 65 at paras 244–245.
697 Submissions of the YMCA NSW, Case Study 2, p. 66 at para. 246.
698 Submissions of the YMCA NSW, Case Study 2, p. 68 at para. 251.
699 Submissions of the YMCA NSW, Case Study 2, p. 67 at para. 248.

700 Transcript of D Ockwell, Case Study 2 at 651:25–47; Exhibit 2-0011, Case Study 2, STAT.0036.001.0001 at 0006–0007; Exhibit 2-0013, Case Study 2, STAT.0025.001.0001 at 0008; Exhibit 2-0013, Case Study 2, STAT.0025.001.0001 at 0015; Exhibit 2-0022, Case Study 2, STAT.0027.001.0001 at 0004; Exhibit 2-0027, Case Study 2, STAT.0038.001.0001 at 0004–0005.

701 Exhibit 2-0008, Case Study 2, STAT.0030.001.0001 at 0009.

702 Exhibit 2-0008, Case Study 2, STAT.0030.001.0001 at 0011.

703 Exhibit 2-0013, Case Study 2, STAT.0025.001.0001 at 0011.

704 Exhibit 2-0010, Case Study 2, STAT.0026.001.0001 at 0008.

705 Exhibit 2-0009, Case Study 2, STAT.0028.001.0001 at 0008.

706 Exhibit 2-0014, Case Study 2, STAT.0029.001.0001 at 0008; Exhibit 2-0014, Case Study 2, STAT.0029.001.0001 at 0009–0010.

707 Exhibit 2-0022, Case Study 2, STAT.0027.001.0001 at 0006.

708 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 79 at para. 274.64.

709 Submissions of the YMCA NSW, Case Study 2, p. 71 at para. 262.

710 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0175.

711 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 80 at para. 280.

712 Transcript of AW, Case Study 2 at 818:46–819:10.

713 Exhibit 2-0005, Case Study 2, STAT.0032.001.0001 at 0002; Exhibit 2-0005, Case Study 2, STAT.0032.001.0001 at 0005.

714 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0185 at 0186–0187.

715 Exhibit 2-0007, Case Study 2, STAT.0034.001.0001 at 0008; Transcript of AT, Case Study 2 at 550:2–6 and 569:18–570:11; Exhibit 2-0018, Case Study 2, STAT.0037.001.0001 at 0005–0006; Transcript of AW, Case Study 2 at 830:43–831:37.

716 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 80 at para. 282.

717 Submissions of the YMCA NSW, Case Study 2, p. 78 at para. 286.

718 Submissions of the YMCA NSW, Case Study 2, p. 72 at para. 268.

719 Submissions of the YMCA NSW, Case Study 2, p. 73 at para. 271.

720 Submissions of the State of New South Wales, Case Study 2, p. 3 at paras 9–10.

721 Exhibit 2-0001, Case Study 2, NSW.0003.01005.0019 at 0022.

722 Exhibit 2-0001, Case Study 2, NSW.0230.01002.0029.

723 Transcript of L Whitley, Case Study 2 at 1316:44–46 and 1424:21–30; Exhibit 2-0038, Case Study 2, EXH.002.038.0001.

724 Exhibit 2-0038, Case Study 2, EXH.002.038.0001 at 0017.

725 Transcript of L Whitley, Case Study 2 at 1425:44–1426:6.

726 Exhibit 2-0038, Case Study 2, EXH.002.038.0001 at 0017–0018; Transcript of L Whitley, Case Study 2 at 1426:8–47.

727 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0200 at 0201; Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0212 at 0213.

728 Exhibit 2-0001, Case Study 2, NSW.0230.01002.0030 at 0030.

729 Transcript of L Whitley, Case Study 2 at 1315:27–32.

730 Transcript of L Whitley, Case Study 2 at 1309:24–1311:34; Exhibit 2-0034, Case Study 2, STAT.0050.001.0001 at 0007; Exhibit 2-0034, Case Study 2, STAT.0050.001.0051; Exhibit 2-0001, Case Study 2, YMCA.93010.01001.0003 at 0005.

731 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0200 at 0201; Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0212 at 0213.

732 Exhibit 2-0005, Case Study 2, STAT.0032.001.0001 at 0002.

733 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0200 at 0202; Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0212 at 0214.
734 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0290 at 0290.
735 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0225. See also Exhibit 2-0018, Case Study 2, STAT.0037.001.0001 at 0010; Exhibit 2-0007, Case Study 2, STAT.0034.001.0001 at 0013.
736 Exhibit 2-0007, Case Study 2, STAT.0034.001.0001 at 0014; Exhibit 2-0018, Case Study 2, STAT.0037.001.0001 at 0010.
737 Transcript of A Nolan, Case Study 2 at 1262:33–1263:2.
738 Exhibit 2-0007, Case Study 2, STAT.0034.001.0094.
739 Exhibit 2-0007, Case Study 2, STAT.0034.001.0094 at 0096.
740 Transcript of A Nolan, Case Study 2 at 1263:4–1264:23.
741 Exhibit 2-0007, Case Study 2, STAT.0034.001.0094 at 0095.
742 Transcript of A Nolan, Case Study 2 at 1266:17–1267:19.
743 Exhibit 2-0007, Case Study 2, STAT.0034.001.0094 at 0095.
744 Transcript of A Nolan, Case Study 2 at 1267:21–1268:14.
745 Exhibit 2-0007, Case Study 2, STAT.0034.001.0094 at 0096.
746 Transcript of A Nolan, Case Study 2 at 1268:16–46.
747 Exhibit 2-0007, Case Study 2, STAT.0034.001.0001 at 0014.
748 Exhibit 2-0001, Case Study 2, YMCA.9301.01003.0230 at 0246.
749 Transcript of L Whitley, Case Study 2 at 1350:27–34.
750 Exhibit 2-0018, Case Study 2, STAT.0037.001.0001 at 0011.
751 Transcript of A Nolan, Case Study 2 at 1266:35–36.
752 Transcript of A Nolan, Case Study 2 at 1266:37.
753 Transcript of A Nolan, Case Study 2 at 1266:40–41.
754 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 84 at para 290.67.
755 Submissions of the YMCA NSW, Case Study 2, p. 78 at para. 287.
756 Submissions of the YMCA NSW, Case Study 2, pp 72–73 at paras 274–275.
757 Submissions of the YMCA NSW, Case Study 2, pp 74–78 at paras 277–285.
758 Submissions of the YMCA NSW, Case Study 2, p. 76 at para. 285.
759 Transcript of M Gerace (Counsel), Case Study 2 at 3506:4–14.
760 Transcript of M Gerace (Counsel), Case Study 2 at 3506:16–19.
761 Transcript of G Sirtes (Counsel), Case Study 2 at 476:40–43.
762 Transcript of P Hare, Case Study 2 at 1554:36–41.
763 Transcript of P Hare, Case Study 2 at 1555:10–14.
764 Transcript of S Smallbone, Case Study 2 at 1525:15–25.
765 Transcript of S Smallbone, Case Study 2 at 1525:35–39.
766 Transcript of L Whitley, Case Study 2 at 1338:9–15.
767 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 85 at para. 296.
768 Transcript of P Hare, Case Study 2 at 1586:38–40.
769 Transcript of P Hare, Case Study 2 at 1587:11–12.
770 Transcript of P Hare, Case Study 2 at 1587:14–18.
771 Submissions of the YMCA NSW, Case Study 2, p. 79 at para. 293.
772 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 91 at para. 315 and p. 93 at para. 320.
773 Transcript of L Whitley, Case Study 2 at 1340:35–45.
774 Transcript of L Whitley, Case Study 2 at 1493:26–36.

775 Transcript of L Whitley, Case Study 2 at 1493:38–1494:7.
776 Transcript of L Whitley, Case Study 2 at 1494:11–22.
777 Transcript of L Whitley, Case Study 2 at 1495:3–6.
778 Transcript of L Whitley, Case Study 2 at 1341:38–1342:11.
779 Transcript of L Whitley, Case Study 2 at 1493:2–16.
780 Transcript of L Whitley, Case Study 2 at 1341:33–36.
781 Transcript of L Whitley, Case Study 2 at 1342:24–25.
782 Transcript of L Whitley, Case Study 2 at 1342:32–35.
783 Transcript of L Whitley, Case Study 2 at 1342:43–1343:1.
784 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 98 at para. 334.73.
785 Submissions of the YMCA NSW, Case Study 2, p. 82 at para. 312.
786 Submissions of the YMCA NSW, Case Study 2, p. 85 at para. 322.
787 Transcript of The Chair, Case Study 2 at 3548:11–17.
788 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p.93 at para. 320.
789 Transcript of P Hare, Case Study 2 at 1562:12–27.
790 Transcript of P Hare, Case Study 2 at 1560:35–1561:36.
791 Transcript of P Hare, Case Study 2 at 1562:12–27.
792 Transcript of P Hare, Case Study 2 at 1595:40–1596:6.
793 Transcript of P Hare, Case Study 2 at 1591:25–35.
794 Transcript of P Hare, Case Study 2 at 1566:2–42.
795 Transcript of P Hare, Case Study 2 at 1563:5–17.
796 Transcript of P Hare, Case Study 2 at 1566:47–1567:10.
797 Transcript of P Hare, Case Study 2 at 1557:14–1558:29.
798 Transcript of P Hare, Case Study 2 at 1559:4–36.
799 Transcript of P Hare, Case Study 2 at 1587:44–47.
800 Transcript of P Hare, Case Study 2 at 1591:18–23.
801 Transcript of P Hare, Case Study 2 at 1591:43–46.
802 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 98 at para. 334.74.
803 Transcript of P Hare, Case Study 2 at 1575:33–1577:3.
804 Transcript of P Hare, Case Study 2 at 1577:5–35.
805 Transcript of P Hare, Case Study 2 at 1578:2–7.
806 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 96 at para. 329.
807 Transcript of P Hare, Case Study 2 at 1575:3–26.
808 Transcript of S Smallbone, Case Study 2 at 1501:35–1502:4.
809 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p.97 at para. 334.
810 Submissions of the YMCA NSW, Case Study 2, p. 81 at paras 304–305.
811 Transcript of Ms Gerace (Counsel), Case Study 2 at 3515:36–3516:12.
812 Transcript of Ms Gerace (Counsel), Case Study 2 at 3516:15–26.
813 Transcript of Ms Gerace (Counsel), Case Study 2 at 3512:12–16.
814 Transcript of Ms Gerace (Counsel), Case Study 2 at 3517:1–8.
815 Transcript of The Chair, Case Study 2 at 3535:1–8.
816 Transcript of The Chair, Case Study 2 at 3535:1–8.
817 Transcript of J Barnat Private Hearing, Case Study 2, at 410:2–30 under Variation Order VO-PU-NSW-3.
818 Transcript of J Barnat, Case Study 2 at 1147:5–16.

819 Transcript of J Barnat, Case Study 2 at 1147:19–22.
820 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 26 at para. 89.10.
821 Submissions of the YMCA NSW, Case Study 2, p. 30 at para. 106; Submissions for Jacqui Ann Barnat, Case Study 2, p. 5 at para 19.
822 Submissions of the YMCA NSW, Case Study 2, p. 30 at para. 107.
823 Transcript of J Barnat Private Hearing, Case Study 2 at 420:13–24 under Variation Order VO-PU-NSW-3.
824 Transcript of J Barnat, Case Study 2 at 1126:14–44.
825 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 49 at para. 184.34.
826 Submissions of the YMCA NSW, Case Study 2, pp 55–56 at paras 190–191.
827 Submissions of the YMCA NSW, Case Study 2, p. 56 at para. 192.
828 Submissions of the YMCA NSW, Case Study 2, p. 55 at para. 193.
829 Submissions for Jacqui Ann Barnat, Case Study 2, p. 2 at para. 7.
830 Submissions for Jacqui Ann Barnat, Case Study 2, p. 2 at para. 10.
831 Submissions for Jacqui Ann Barnat, Case Study 2, p. 3 at para. 12.
832 Submissions for Jacqui Ann Barnat, Case Study 2, p. 1 at para. 3.
833 Submissions for Jacqui Ann Barnat, Case Study 2, p. 1 at para. 4.
834 Submissions for Jacqui Ann Barnat, Case Study 2, p. 1 at para. 4.
835 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 and Exhibit 2-0042, Case Study 2 at EXP.0001.002.0001.
836 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0005.
837 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0005.
838 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0005.
839 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0006.
840 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 4 at para. 9.
841 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0006–0007.
842 Transcript of S Smallbone, Case Study 2 at 1503:31–35.
843 Transcript of S Smallbone, Case Study 2 at 1503:21–45.
844 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 5 at para. 13.
845 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0006.
846 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0006.
847 Transcript of S Smallbone, Case Study 2 at 1498:12–15.
848 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0007.
849 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0007–0008.
850 Exhibit 2-0041, Case Study 2, EXP.0001.001.0001 at 0008.
851 Submissions of the YMCA NSW, Case Study 2, p. 10 at para. 23.
852 Submissions of the YMCA NSW, Case Study 2, pp 8–9 at paras 19–20.
853 Submissions of the YMCA NSW, Case Study 2, p. 9 at paras 21–22.
854 Submissions of the YMCA NSW, Case Study 2, p. 10 at para. 24.
855 Submissions of Counsel Assisting the Royal Commission, Case Study 2, at p. 6 at para. 15.
856 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 6 at para. 15.
857 Submissions of the YMCA NSW, Case Study 2, p. 7 at paras 9–13.
858 Submissions of the YMCA NSW, Case Study 2, p. 7 at para. 14.
859 Submissions of the YMCA NSW, Case Study 2, p. 3.
860 Submissions of the YMCA NSW, Case Study 2, p. 4 at para. 3.
861 Submissions of the YMCA NSW, Case Study 2, p. 4 at para. 4.

862 Submissions of the YMCA NSW, Case Study 2, pp 4–5 at paras 5–6.

863 Exhibit 2-0049, Case Study 2, YMCA.8000.005.0001.

864 Exhibit 2-0050, Case Study 2, YMCA.8000.005.0007 at 0001.

865 Exhibit 2-0050, Case Study 2, YMCA.8000.005.0007 at 0001.

866 Exhibit 2-0051, Case Study 2, YMCA.8000.005.0010.

867 Letter from Phillip Hare, CEO of YMCA NSW, and David Mayes, President of YMCA NSW, to David Walsh, General Manager, Early Childhood Education and Care Directorate, 30 January 2014.

868 Letter from Phillip Hare and David Mayes to David Walsh, 31 January 2014.

869 Letter from Phillip Hare to David Walsh, 31 January 2014.

870 Letter from Ruth Callaghan, General Manager, Early Childhood Education and Care Directorate, to Philip Hare, 27 February 2014, referring to Submissions of the YMCA NSW, Case Study 2, pp 87–89.

871 Letter from Phillip Hare to David Walsh, 7 February 2014; Letter from Phillip Hare to Ruth Callaghan, 14 April 2014.

872 Exhibit 2-0052, Case Study 2, YMCA.8000.005.0018.

873 Letter from Ian Temby AO QC to Principal Investigator Karen Gleeson, Early Childhood Education and Care Directorate, 13 February 2014.

874 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 98 at para. 335.a.

875 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 98 at para. 335.b.

876 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 98 at para. 335.f.

877 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 98 at para. 335.c.

878 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 98 at para. 335.d.

879 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 98 at para. 335.e.

880 Submissions of Counsel Assisting the Royal Commission, Case Study 2, p. 90 at para. 312.

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