



**ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES  
TO CHILD SEXUAL ABUSE**

**AT SYDNEY**

**COMMONWEALTH OF AUSTRALIA**

*Royal Commissions Act 1902*

**NEW SOUTH WALES**

*Royal Commissions Act 1923*

**QUEENSLAND**

*Commissions of Inquiry Act 1950*

PUBLIC INQUIRY INTO

**THE JEHOVAH'S WITNESSES AND WATCHTOWER BIBLE & TRACT SOCIETY OF AUSTRALIA  
LTD**

**CASE STUDY 29**

**SUBMISSIONS OF SENIOR COUNSEL ASSISTING THE ROYAL COMMISSION**

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## Introduction

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### About the public hearing

- 1 The 29th public hearing of the Royal Commission was held in Sydney from 27 July to 5 August 2015 and on 14 August 2015.
- 2 The scope and purpose of this public hearing was to inquire into:
  - a) The experience of survivors of child sexual abuse within the church of the Jehovah's Witnesses (the **Jehovah's Witness Church**) in Australia.
  - b) The responses of the Jehovah's Witnesses Church and its corporation, the Watchtower Bible and Tract Society of Australia Ltd (**Watchtower Australia**), to allegations, reports or complaints of child sexual abuse within the Church.
  - c) The systems, policies and procedures in place within the Jehovah's Witnesses Church and Watchtower Australia for raising and responding to allegations of or concerns about child sexual abuse within the Church.
  - d) The systems, policies and procedures in place in the Jehovah's Witnesses Church and Watchtower Australia to prevent child sexual abuse within the Church.
  - e) Any related matters.
- 3 During the public hearing, the Royal Commission heard evidence from two survivors, BCB and BCG, who were abused by those in positions of authority within the Jehovah's Witness organisation in the period between approximately 1982 and 1988.
- 4 The Royal Commission also heard evidence from:
  - a) eight congregational elders who were involved in handling the allegations of child sexual abuse reported by the survivors
  - b) three senior members of the Australia Branch Office of the Jehovah's Witness organisation
  - c) a member of the Governing Body of the Jehovah's Witnesses organisation
  - d) a consultant in the field of prevention and response to child sexual abuse by religious organisations engaged by Watchtower Australia, and
  - e) a former solicitor of the Queensland Office of the Director of Public Prosecutions.

### What the case study considered

- 5 The case study explored in detail the experiences of two survivors of child sexual abuse and the Jehovah's Witness organisation's response to their complaints of sexual abuse whilst they were members of the organisation. Twelve institutional witnesses gave evidence about the organisation's response.
- 6 The case study also examined the systems, policies and procedures in place within the Jehovah's Witness organisation for responding to allegations of child sexual abuse, and



the mechanisms in place to prevent child sexual abuse within the Jehovah's Witness organisation.

- 7 The case study also considered the role of Watchtower Australia and the Governing Body in the organisation's response to allegations of abuse.

## Part 1 Overview of the Jehovah's Witnesses

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- 8 The Jehovah's Witness organisation was founded towards the end of the 19th century in Pennsylvania by a small group of Bible students led by Charles Taze Russell.<sup>1</sup> Russell had become disillusioned with mainstream Christianity, which he argued had strayed from the first century vision of Christianity described in the Bible.<sup>2</sup> In 1884, Taze's Zion's Watch Tower Tract Society was incorporated and carried on the business of publishing and disseminating millenarian literature – that is, literature based on the belief that the end of the world is imminent.<sup>3</sup>
- 9 Today, the religion has a worldwide presence of 8.2 million active members in 239 countries.<sup>4</sup> Over the last 25 years, the active membership of Jehovah's Witnesses worldwide has increased from four million members in 1990.<sup>5</sup>
- 10 The Jehovah's Witness organisation has been active in Australia since 1896, with a Branch Office first established in 1904 (the **Australia Branch Office**).<sup>6</sup> The Australia Branch Office is based in Sydney and coordinates the activities of all congregations in Australia, New Zealand and 'various other islands'.<sup>7</sup>

### 1.1 Organisational structure

- 11 The primary legal entity used by the Jehovah's Witness organisation today is the Watch Tower Bible and Tract Society of Pennsylvania (**Watchtower Pennsylvania**).<sup>8</sup> The headquarters of Watchtower Pennsylvania is in Brooklyn, New York and is also known as 'Bethel' meaning 'House of God'.<sup>9</sup>

#### The Governing Body

- 12 The activity of Jehovah's Witnesses worldwide is overseen by the Governing Body.<sup>10</sup> The Governing Body is a council of elders who consider themselves to be anointed by Jehovah God and who look to Jehovah and to Jesus Christ for direction in all matters.<sup>11</sup> It is based at the world headquarters of the Jehovah's Witness organisation in the United States and is at the apex of a highly centralised and hierarchical structure.<sup>12</sup>

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<sup>1</sup> Exhibit 29-0003, WEB.0053.002.0001 at 0004 (Tab 102).

<sup>2</sup> Exhibit 29-0003, WEB.0053.002.0001 at 0007 (Tab 102).

<sup>3</sup> Exhibit 29-0003, WEB.0053.002.0001 at 0005 (Tab 102).

<sup>4</sup> Exhibit 29-0003, WAT.0013.003.0001 at 0004 (Tab 132);  
Exhibit 29-0003, WAT.0001.001.0001 at 0004 (Tab 133).

<sup>5</sup> Exhibit 29-0029, WAT.9999.012.0001.

<sup>6</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [6].

<sup>7</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [8];

Exhibit 29-0025, Second statement of Terrence O'Brien at STAT.0592.002.0001 at [9].

<sup>8</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [12].

<sup>9</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0075 (Tab 109).

<sup>10</sup> Exhibit 29-0025, Second statement of Terrence O'Brien at STAT.0592.002.0001 at [8].

<sup>11</sup> Exhibit 29-0028, EXH.029.028.0001\_R at 0005\_R;  
Transcript of G W Jackson, T15938:10-18 (Day 155).

<sup>12</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0007-13 (Tab 109).

- 13 The Royal Commission heard evidence from one of seven current members<sup>13</sup> of the Governing Body, Geoffrey Jackson. Mr Jackson has been a member of the Governing Body since September 2005.<sup>14</sup> He was appointed to the Governing Body because of his spiritual qualifications.<sup>15</sup> The work of the Governing Body is undertaken by several committees on which serve a total of 30 ‘helpers’, and the work of each committee is overseen by the Governing Body itself.<sup>16</sup> Each member of the Governing Body is assigned to one or more of those committees.<sup>17</sup> Mr Jackson told the Royal Commission that he serves on three committees, namely the Teaching, Writing, and Personnel Committees.<sup>18</sup>
- 14 Mr Jackson told the Royal Commission that the Governing Body is ‘a spiritual group of men who are the guardians of our doctrine’ and is responsible for ‘giving direction and impetus to Kingdom Work’ in all matters.<sup>19</sup> When asked if the Governing Body members saw themselves as disciples of Jesus, Mr Jackson did not answer in the affirmative but told the Royal Commission that the members of the Governing Body ‘hope to be [Jesus’s] disciples’.<sup>20</sup>
- 15 Similarly, when asked if the Governing Body members saw themselves as ‘Jehovah God’s spokespeople on earth’, Mr Jackson did not answer, instead telling the Royal Commission that it ‘would seem to be quite presumptuous to say that we are the only spokesperson that God is using’.<sup>21</sup> Mr Jackson’s professed humility is not, however, supported by the Jehovah’s Witness organisation’s own publications. The organisation’s handbook for members, *Organised to Do Jehovah’s Will*, teaches with reference to the ‘faithful and discreet slave’ (and thus, the Governing Body)<sup>22</sup> for instance, that the congregation hopes to ‘draw ever closer to Jehovah by manifesting complete trust in the channel that He is using to direct His people today’.<sup>23</sup> A confidential manual produced by the Governing Body and entitled *Branch Organization January 2015* (the **2015 Branch Organization Manual**) records that the Governing Body ‘is organized to take the lead as Jehovah directs it by Holy Spirit’.<sup>24</sup> Thus the Governing Body is believed by Jehovah’s Witnesses to be the ‘channel’ by which Jehovah’s will is communicated to the ‘Christian’ congregation and the Governing Body is directed by Jehovah in all that it does. It was Mr O’Brien’s evidence that the Governing Body is Jehovah God’s representative on earth providing definitive Scriptural interpretation.<sup>25</sup>

<sup>13</sup> Transcript of G W Jackson, T15931:43-44 (Day 155).

<sup>14</sup> Transcript of G W Jackson, T15931:18-20 (Day 155).

<sup>15</sup> Transcript of G W Jackson, T15932:1-2 (Day 155).

<sup>16</sup> Transcript of G W Jackson, T15932:34-T15933:7, T15933:20-27, T15977:9-11 (Day 155).

<sup>17</sup> Transcript of T J O’Brien, T15842:18-21 (Day 153).

<sup>18</sup> Transcript of G W Jackson, T15931:37-39 (Day 155).

<sup>19</sup> Exhibit 29-0028, EXH.029.028.0001\_R at 0005\_R;  
Transcript of G W Jackson, T15933:32-45 (Day 155);  
Transcript of T J O’Brien, T15818:23-41 (Day 153).

<sup>20</sup> Transcript of G W Jackson, T15937:29-33 (Day 155).

<sup>21</sup> Transcript of G W Jackson, T15937:35-38 (Day 155).

<sup>22</sup> Transcript of T J O’Brien, T15822:15-18 (Day 153).

<sup>23</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0007 (Tab 109).

<sup>24</sup> Exhibit 29-0028, EXH.029.028.0001\_R at 0005\_R [1].

<sup>25</sup> Transcript of T J O’Brien, T15817:17-127 (Day 153).

- 16 Mr Jackson said that the members of the Governing Body regard themselves as having been appointed by the Holy Spirit and as among the 144,000 anointed Jehovah's Witnesses who will go to heaven when they die.<sup>26</sup>

### Branch Offices

- 17 The pattern of organisation and operation of the Jehovah's Witness organisation today is said to adhere to that of first century Christian congregations.<sup>27</sup> The Governing Body provides 'unified theocratic direction to Branch and Country committee members worldwide' in the *2015 Branch Organization Manual*.<sup>28</sup>
- 18 The Governing Body supervises more than 90 branches worldwide.<sup>29</sup> A Branch Office is the headquarters for the Jehovah's Witness organisation in a particular country or region and is also referred to as 'Bethel'.<sup>30</sup>
- 19 Each Branch Office is supervised by a Branch Committee which oversees districts within the branch.<sup>31</sup> The Australia Branch Office is represented around Australia by circuit overseers, who have pastoral responsibility for about 20 congregations (that is, a circuit).<sup>32</sup> A circuit overseer travels weekly to different congregations in his circuit and is responsible for, among other things, ensuring that each congregation is complying with all theocratic direction given by the Governing Body.<sup>33</sup> Branch Committee members and circuit overseers are appointed by the Governing Body.<sup>34</sup>
- 20 Congregations form the basic organisational unit of the Jehovah's Witness organisation.<sup>35</sup> Each congregation is overseen by a body of elders.<sup>36</sup> Each congregation in Australia is, in the legal sense, a voluntary association and a separately registered charity.<sup>37</sup>

### The Jehovah's Witness organisation in Australia

- 21 There are currently 821 congregations in Australia with over 68,000 active members.<sup>38</sup> Over the past 25 years, the active membership of the organisation in Australia has grown

<sup>26</sup> Transcript of G W Jackson, T15937:1-5, 11-27 (Day 155).

<sup>27</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0008 (Tab 109).

<sup>28</sup> Exhibit 29-0028, EXH.029.028.0001\_R at 0004\_R.

<sup>29</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [8].

<sup>30</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0012 (Tab 109).

<sup>31</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0012 (Tab 109).

<sup>32</sup> Exhibit 29-0003, WAT.0001.001.0001 at 0009 (Tab 133).

<sup>33</sup> Exhibit 29-0003, WAT.0001.001.0001 at 0009 (Tab 133);

Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [43].

<sup>34</sup> Transcript of T J O'Brien, T15816:12-14, T15820:2-29 (Day 153);

Exhibit 29-0028, EXH.029.028.0001\_R at 0005\_R and 0011\_R;

Exhibit 29-0003, WAT.0013.001.0001 at 0032 (Tab 109);

Transcript of V J Toole, T15756:21-35 (Day 153);

Transcript of G W Jackson, T15940:41-T15941:3 (Day 155).

<sup>35</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0010-0011 (Tab 109);

Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [6]-[8].

<sup>36</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [9].

<sup>37</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [23].

<sup>38</sup> Transcript of T J O'Brien, T15844:11-21;

29% from approximately 53,000 members in 1990.<sup>39</sup> In the same period Australia's population growth has been approximately 38%.<sup>40</sup>

- 22 The Australian Branch Office relevantly comprises the following structures:
- a) the Branch Committee, an ecclesiastical body of (currently) 12 full-time elders,<sup>41</sup> which oversees and manages the operation of the Australia Branch Office<sup>42</sup>
  - b) the Legal Department,<sup>43</sup> and
  - c) the Service Department and Desk, which care for all aspects of the spiritual activities of the Jehovah's Witness organisation.<sup>44</sup>
- 23 The function of each of the above structures is relevant to the Royal Commission's examination of the Jehovah's Witness organisation's response to child sexual abuse in its ranks. The Royal Commission heard evidence from three institutional witnesses who serve in each of these structures.
- 24 Terrence O'Brien is the Coordinator of the Branch Committee and a director and Secretary of Watchtower Australia.<sup>45</sup> He has actively served with the Jehovah's Witness organisation for 40 years.<sup>46</sup>
- 25 Rodney Spinks is the senior Service Desk elder who has served in the Service Department since January 2007.<sup>47</sup> He is specifically responsible for inquiries relating to child sexual abuse and for assisting congregation elders to implement the Australia Branch Office's guidelines for handling child abuse allegations and providing victim support.<sup>48</sup> The Service Desk currently comprises five Branch Office staff.<sup>49</sup>
- 26 Vincent Toole is a solicitor who has, since 2010, overseen the operation of the Legal Department within the organisation's Australia Branch Office.<sup>50</sup> Mr Toole told the Royal Commission that he has been involved with the Legal Department since 1989.<sup>51</sup>

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Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [6].

<sup>39</sup> Exhibit 29-0029, WAT.9999.012.0001.

<sup>40</sup> See Australian Bureau of Statistics, *Census of Population and Housing 6 August 1991: Australia in Profile* (1993) (population recorded as 17.28 million), and Australian Bureau of Statistics Population Clock at [http://www.abs.gov.au/ausstats/abs%40.nsf/94713ad445ff1425ca25682000192af2/1647509ef7e25faac\\_a2568a900154b63?OpenDocument](http://www.abs.gov.au/ausstats/abs%40.nsf/94713ad445ff1425ca25682000192af2/1647509ef7e25faac_a2568a900154b63?OpenDocument) accessed on 22 September 2015 at 9.37pm, recording current Australian population as 23,905,342.

<sup>41</sup> Transcript of T J O'Brien, T15815:10-12, 40-42 (Day 153).

<sup>42</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0012 and 0037-0038 (Tab 109);

Exhibit 29-0025, Second statement of Terrence O'Brien, STAT.0592.002.0001 at [9].

<sup>43</sup> Transcript of R P Spinks, T15656:37-40 (Day 152).

<sup>44</sup> Transcript of R P Spinks, T15657:25-27 (Day 153);

Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [52].

<sup>45</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [3] and [45];

Exhibit 29-0003, WAT.0009.001.0001 at 0006 (Tab 134).

<sup>46</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [41].

<sup>47</sup> Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [16] and [53].

<sup>48</sup> Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [20] and [53].

<sup>49</sup> Transcript of R P Spinks, T15656:8-9 (Day 152).

<sup>50</sup> Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R at [11].

<sup>51</sup> Transcript of V J Toole, T15751:27-33 (Day 153).

## The Watchtower Bible and Tract Society of Australia Ltd

27 Watchtower Australia is the legal entity which facilitates the production and distribution of Bible-based literature for the organisation throughout Australasia.<sup>52</sup> Watchtower Australia is a public company limited by guarantee and a registered charity.<sup>53</sup> For ease of reference and unless otherwise specified, a reference to the Branch Office or Australia Branch Office will include a reference to Watchtower Australia.

## 1.2 Congregational membership

### Elders and ministerial servants

28 Within each congregation, the members comprise elders, ministerial servants and publishers.<sup>54</sup> Publishers are the ordinary congregation members. Only a male publisher can make spiritual advancement by first becoming a ministerial servant and then an elder.<sup>55</sup> Mr Jackson and Mr O'Brien each gave evidence that a woman can never be an elder in the Jehovah's Witness organisation.<sup>56</sup>

29 Congregational responsibilities are split between elders and ministerial servants. Elders and ministerial servants are volunteer roles taken up by men who have been actively involved in the congregation for a period of time. The Jehovah's Witness organisation does not have a salaried clergy and therefore considers that it has no employees.<sup>57</sup> Appointments are based on Scriptural qualifications and there is prescriptive guidance as to how a ministerial servant and an elder should serve, act and behave at all times.<sup>58</sup> Mr Spinks and Mr O'Brien told the Royal Commission that elders must be experienced men who have displayed a pattern of integrity in their lives over a period of time as ministerial servants.<sup>59</sup>

30 Each congregation is overseen by a body of elders.<sup>60</sup> Elders are appointed to shepherd the congregation and oversee spiritual matters.<sup>61</sup> Their primary responsibilities include organising field work (or door-to-door preaching), running congregational disciplinary

<sup>52</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0011 (Tab 109);  
Exhibit 29-0003, WAT.0001.001.0001 at 0005 (Tab 133);  
Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [21].

<sup>53</sup> Exhibit 29-0003, WAT.0009.001.0001 (Tab 134);  
Exhibit 29-0003, WAT.0001.001.0001 at 0005 (Tab 133).

<sup>54</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0025 and 0028 (Tab 109).

<sup>55</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0069-0070 (Tab 109).

<sup>56</sup> Transcript of G W Jackson, T15951: 23-26 (Day 155).  
Transcript of T J O'Brien, T15863:19-45 (Day 153).

<sup>57</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [9].

<sup>58</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0013-0022 (Tab 109);  
Exhibit 29-0003, WAT.0003.001.0001 at 0033 [7] (Tab 120).

<sup>59</sup> Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [73];  
Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [40].

<sup>60</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [9].

<sup>61</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0018 and 0023 (Tab 109);  
Exhibit 29-0003, WAT.0003.001.0001 at 0007 [1] and 0008 [3] (Tab 120);  
Transcript of T J O'Brien, T15847:13-18 (Day 153).

committees, leading the congregation services and Bible studies and attending to the pastoral care of the congregation.<sup>62</sup> Upon appointment, each elder is given a copy of the *Shepherd the Flock* handbook which is designed to ‘supply vital information that will help them care for congregation matters’.<sup>63</sup>

- 31 Ministerial servants predominantly provide administrative support and practical assistance to the elders and service to the congregation.<sup>64</sup> They care for organisational tasks such as acting as an attendant at congregation meetings, handling sound equipment, distributing literature, managing congregation accounts, and general maintenance at the Kingdom Hall (the place of worship for Jehovah’s Witnesses).<sup>65</sup>
- 32 Mr Jackson confirmed that it is the belief of Jehovah’s Witnesses that elders and ministerial servants are appointed by the Holy Spirit.<sup>66</sup>

### Publishers

- 33 Members of the congregation are called ‘publishers’ and call each other ‘brother’ and ‘sister’.<sup>67</sup> Publishers may be baptised or unbaptised. Baptism is a symbol of the publisher’s dedication to Jehovah.<sup>68</sup> Un-baptised publishers are those who have not been baptised but have been given approval to join the congregation’s formal ministry and to identify themselves publically with the Jehovah’s Witness organisation.<sup>69</sup>
- 34 When a publisher qualifies to share in the Jehovah’s Witnesses’ preaching work, just prior to baptism he or she is provided with a copy of the *Organized to do Jehovah’s Will* handbook.<sup>70</sup>
- 35 Publishers who wish to devote many hours to field service preaching may be appointed as pioneers.<sup>71</sup> Regular pioneers are exemplary congregation members who have volunteered to spend a certain amount of time in the public preaching activity each month.<sup>72</sup> Special pioneers serve full-time in preaching work and are selected from experienced long-serving regular pioneers.<sup>73</sup>

<sup>62</sup> Exhibit 29-0003, WAT.0001.001.0001 at 0005 (Tab 133);  
Exhibit 29-0016, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [1.3].

<sup>63</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0007 [2] (Tab 120).

<sup>64</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0042 (Tab 109);  
Exhibit 29-0019, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [71].

<sup>65</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0041-0045 (Tab 109);  
Exhibit 29-0003, WAT.0001.001.0001 at 0005 (Tab 133);  
Exhibit 29-0003, WAT.0013.001.0001 at 0077 (Tab 109).

<sup>66</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0014, 0015, 0023, 0024, 0044 (Tab 109);  
Transcript of D Ali, T15363:9-13 (Day 148);  
Transcript of G W Jackson, T15936:42-T15937:5 (Day 155).

<sup>67</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0069 (Tab 109);  
Transcript of T J O’Brien, T15844:23-31 (Day 153).

<sup>68</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0060 (Tab 109).

<sup>69</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0065 (Tab 109).

<sup>70</sup> Transcript of T J O’Brien, T15843:34-36 (Day 153).

<sup>71</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0071-72 (Tab 109).

<sup>72</sup> Exhibit 29-0019, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [66];  
Exhibit 29-0003, WAT.0013.001.0001 at 0072 (Tab 109).

<sup>73</sup> Exhibit 29-0019, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [69];

### 1.3 The practice of being a Jehovah's Witness

#### Publications

- 36 The Jehovah's Witnesses believe that the teachings promulgated by the Governing Body are 'based on God's Word. So, what is taught is not from men but from Jehovah God. – Isa. 54:13. Matt. 24:14, 45-47'.<sup>74</sup> The teachings and direction of the Governing Body take the form of *Awake!* and *Watchtower* magazines, letters containing directives to branch offices and elders, handbooks, and other publications.<sup>75</sup>
- 37 The Jehovah's Witness organisation told the Royal Commission that the *Awake!* and *Watchtower* magazines are the most widely distributed periodicals in the world.<sup>76</sup> The *Awake!* magazine is published by the Jehovah's Witness organisation for those with little knowledge of 'Christian teachings' to 'build faith in the Bible and ... understand that Jehovah's Witnesses are different from other religious groups'.<sup>77</sup> The *Watchtower* magazine is published as a public edition (for those who are unfamiliar with Jehovah's Witness concepts) and as a study edition (for Jehovah's Witnesses and those who attend meetings).<sup>78</sup>

#### Scriptural literalism

- 38 The key imperative belief of the Jehovah's Witness organisation is that the Bible is the inspired word of God.<sup>79</sup> Jehovah's Witnesses interpret much of the Bible literally and take living in accordance with Bible principles extremely seriously.<sup>80</sup> The Bible is used by the Jehovah's Witnesses to set policy and religious practice<sup>81</sup> and was described by Mr Jackson as the Jehovah's Witness organisation's 'constitution'.<sup>82</sup>

#### Way of life

- 39 Being a Jehovah's Witness is a way of life for all members.<sup>83</sup> Devotees are expected to adhere to all doctrines established by the Governing Body through its interpretation of the Bible, the implementation of which is overseen by the Branch Committees and congregational elders.<sup>84</sup> Members of the Jehovah's Witness organisation are taught to

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Exhibit 29-0003, WAT.0013.001.0001 at 0073 (Tab 109).

<sup>74</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [13].

<sup>75</sup> Transcript of T J O'Brien, T15816:34-42 (Day 153);  
Exhibit 29-0003, WAT.0001.001.0001 at 0004 (Tab 133);  
Exhibit 29-0003, WAT.0013.001.0001 (Tab 109);  
Exhibit 29-0003, WAT.0003.001.0001 (Tab 120).

<sup>76</sup> Exhibit 29-0003, WAT.0001.001.0001 at 0004 (Tab 133).

<sup>77</sup> Exhibit 29-0028, EXH.029.028.0001\_R at 0136\_R [8].

<sup>78</sup> Exhibit 29-0028, EXH.029.028.0001\_R at 0136\_R [8].

<sup>79</sup> Transcript of T J O'Brien, T15828:41-T15829:2 (Day 153);  
Exhibit 29-0003, WEB.0053.002.0001 at 0007 (Tab 102).

<sup>80</sup> Exhibit 29-0003, WEB.0053.002.0001 at 0007 and 0016 (Tab 102).

<sup>81</sup> Exhibit 29-0003, WAT.0001.001.0001 at 0006 (Tab 133).

<sup>82</sup> Transcript of G W Jackson, T15935:20-23 (Day 155).

<sup>83</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0097-0098 (Tab 109).

<sup>84</sup> Transcript of G W Jackson, T15933:32-45, T15939:20-26 (Day 155);  
Exhibit 29-0003, WAT.0013.001.0001 at 0075 and 0107 (Tab 109);  
Transcript of V J Toole, T15754:11-15 (Day 153).



be obedient and submissive to those in the organisation in positions of authority, including elders.<sup>85</sup> Members of the Jehovah's Witness organisation are expected to adhere to a strict code of moral conduct based on the Scriptures and enforced by a highly formalised disciplinary process for dealing with wrongdoing.<sup>86</sup>

### Separateness from the world

- 40 The Jehovah's Witness organisation teaches that 'it was of great importance to Jesus that his followers keep separate from the world' and offers guidance as to how its members might themselves go about keeping separate from the world.<sup>87</sup> The organisation encourages its members to exercise caution when associating with those who are not members.<sup>88</sup> Non-Jehovah's Witnesses are referred to within the organisation as 'worldly' people and those who are 'not in the Truth'.<sup>89</sup>
- 41 The Jehovah's Witness organisation acknowledges that its members can benefit from a basic secular primary and high school education.<sup>90</sup> However the organisation counsels against pursuit of further education, the involvement of children in extra-curricular activities and attendance in sex education classes.<sup>91</sup> Documents in evidence show that Jehovah's Witness parents are encouraged by the organisation to school their own children in matters of sex education, because the alternative of school-based sex education is considered likely to result in immorality.<sup>92</sup>
- 42 Mr Spinks and Mr Toole told the Royal Commission that members of the Jehovah's Witnesses organisation are instructed to subject themselves to secular laws and government to the extent that such subjection does not conflict with Biblical law.<sup>93</sup> The *Organized to do Jehovah's Will* handbook explains that this is because secular authorities have been 'placed in their relative positions by God'.<sup>94</sup> However, the same handbook considers 'circumstances under which a Christian would refuse to obey worldly rulers' and counsels that '[w]e must obey God as ruler rather than men. – Acts 5:29'.<sup>95</sup> Mr Spinks told the Royal Commission that 'Jehovah's Witnesses will always obey Scripture ... [specifically Acts 5:29] ... where there is a clear Bible principle that' conflicts with secular law.<sup>96</sup>

<sup>85</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0024 and 0039 (Tab 109).

<sup>86</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0084-0091 (Tab 109);  
Exhibit 29-0003, WAT.0003.001.0001 at 0059-0081 (Tab 120).

<sup>87</sup> Exhibit 29-0003, WEB.0053.001.0001 at 0007 (Tab 127).

<sup>88</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0082 (Tab 109).

<sup>89</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [19].

<sup>90</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0081 (Tab 109).

<sup>91</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0081 (Tab 109);  
Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [15];  
Transcript of BCB, T15171:4-6, 20-26 (Day 141).

<sup>92</sup> Exhibit 29-0003: WAT.0001.004.0225 (Tab 75);  
WAT.0001.004.0223 (Tab 76).

<sup>93</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0099 (Tab 109);  
Transcript of V J Toole, T15767:38-T15768:9 (Day 153);  
Transcript of R P Spinks, T15700:25-37 (Day 152).

<sup>94</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0099 (Tab 109).

<sup>95</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0105 (Tab 109).

<sup>96</sup> Transcript of R P Spinks, T15700:25-37 (Day 152).

- 43 Further, relatively recent publications such as *Keep Yourself in God's Love* counsel that, as Paul says in Ephesians 6:12, '[w]e have a struggle ... not against blood and flesh, but against the governments, against the authorities, against the world rulers of this darkness, against the wicked spirit forces in the heavenly places'.<sup>97</sup> Moreover, the same publication states that Paul's use of the words 'governments' and 'authorities' suggests that 'attacks from the spirit realm are highly organized and deliberate'.<sup>98</sup>
- 44 In the light of such doctrinal teachings, it is submitted that the message published to members of the Jehovah's Witness organisation about their relationship with secular authorities is not as simple as that described by Messrs Toole and Spinks. It is submitted that, in fact, the organisation presents its members with conflicting and ambiguous teachings regarding their relationship with secular authorities, thereby fostering a distrust of such authorities.

### Millenarianism

- 45 Mr O'Brien told the Royal Commission that the Jehovah's Witnesses have a doctrinal understanding of Bible prophecies regarding the 'conclusion of the system of things', which is also referred to as 'the last days'.<sup>99</sup> He said that 'the Bible foretells the end of the present system of things',<sup>100</sup> meaning the 'end of the world'.<sup>101</sup>
- 46 The Jehovah's Witnesses are taught that the end of the world is something to look forward to and that 'God will "cut off" the wicked so that good people can truly enjoy life on earth'.<sup>102</sup> A June 1982 edition of *Awake!* magazine, for instance, tells readers that the only way to finally end child abuse is to 'embrace God's Kingdom under Christ' and to 'love God with all your heart and your neighbour as yourself' so as to be saved when the end comes.<sup>103</sup>
- 47 The Jehovah's Witnesses recognise that they 'have had wrong expectations about when the end would come'<sup>104</sup> following 'failed prophecies of 1914, 1918, 1925 and, most significantly, 1975'.<sup>105</sup> However, the Jehovah's Witnesses are counselled that 'even more important than focusing on when the end will come, [they] must be confident that it will come, and ... act accordingly'.<sup>106</sup> Mr Geoffrey Jackson told the Royal Commission that the world's end is now imminent as the 'Jehovah's Witnesses believe these are the last days'.<sup>107</sup>

<sup>97</sup> Exhibit 29-0003, WEB.0053.001.0001 at 0016 (Tab 127).

<sup>98</sup> Exhibit 29-0003, WEB.0053.001.0001 at 0017 (Tab 127).

<sup>99</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [33] and [35].

<sup>100</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [34].

<sup>101</sup> Exhibit 29-0024, Annexure 2, STAT.0592.001.0024 at 0032.

<sup>102</sup> Exhibit 29-0024, Annexure 2, STAT.0592.001.0024 at 0032.

<sup>103</sup> Exhibit 29-0003, WAT.0001.004.0223 (Tab 76).

<sup>104</sup> Exhibit 29-0024, Annexure 2, STAT.0592.001.0024 at 0033.

<sup>105</sup> Exhibit 29-0003, WEB.0053.002.0001 at 0005-0006 and 0008.

<sup>106</sup> Exhibit 29-0024, Annexure 2, STAT.0592.001.0024 at 0034.

<sup>107</sup> Transcript of G W Jackson, T15937:41-44 (Day 155).

## Evangelism

- 48 Members of the Jehovah’s Witness organisation evangelize to glorify God and are instructed to go and make disciples of all people.<sup>108</sup> Jehovah's Witnesses view evangelizing as a personal responsibility and the extent to which they engage in this activity is a personal decision that they make as an expression of their love for God.<sup>109</sup> Documents in evidence show that the Jehovah’s Witness organisation expects that each member places his or her evangelising obligations above secular employment.<sup>110</sup>
- 49 Jehovah’s Witnesses worship and praise Jehovah by attending organised meetings, Bible study, Theocratic Ministry Schools and field service.<sup>111</sup> Jehovah’s Witness meetings are generally held in the Kingdom Hall.<sup>112</sup> A study edition of *The Watchtower* magazine containing four to five articles is published by the Governing Body each month for study by the congregations over the course of that month.<sup>113</sup>

## Male headship

- 50 Documents in evidence show that the Jehovah’s Witness organisation teaches that being in subjection to God is essential and that it is important to observe the headship principle.<sup>114</sup> Mr O’Brien explained that the headship principle accepted by Jehovah’s Witnesses is that ‘the head of every man is the Christ, in turn the head of a woman is the man’.<sup>115</sup> Mr O’Brien’s evidence revealed that this belief is reflected in the patriarchal structure of the organisation, where men hold positions of authority within congregations and headship in the family.<sup>116</sup> Women are expected to defer to the authority of their husbands and children are taught to obey their parents.<sup>117</sup>

### Available findings on the Jehovah’s Witnesses relationship with secular authorities

- F1 The Jehovah’s Witness organisation presents its members with conflicting and ambiguous teachings regarding their relationship with secular authorities, thereby fostering a distrust of such authorities.

<sup>108</sup> Exhibit 29-0024, Statement of Terrence O’Brien, STAT.0592.001.0001\_R at [30].

<sup>109</sup> Exhibit 29-0024, Statement of Terrence O’Brien, STAT.0592.001.0001\_R at [31].

<sup>110</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0082 (Tab 109).

<sup>111</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0045-0058 (Tab 109).

<sup>112</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0077 (Tab 109).

<sup>113</sup> Transcript of T J O’Brien, T15843:15-25 (Day 153); Exhibit 29-0003, WAT.0013.001.0001 at 0047-0048, 0051 (Tab 109).

<sup>114</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0096 (Tab 109).

<sup>115</sup> Exhibit 29-0024, Statement of Terrence O’Brien, STAT.0592.001.0001\_R at [38]; Exhibit 29-0003, WAT.0013.001.0001 at 0096 (Tab 109).

<sup>116</sup> Exhibit 29-0024, Statement of Terrence O’Brien, STAT.0592.001.0001\_R at [37]; Transcript of T J O’Brien, T15863:19-28 (Day 153).

<sup>117</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0099 (Tab 109).

## Part 2 Historical child sexual abuse data

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- 51 In investigating the response of the Jehovah's Witness organisation to child sexual abuse, the Royal Commission sought from Watchtower Australia all documents evidencing or relating to allegations or complaints of child sexual abuse involving members of the Jehovah's Witness organisation in Australia.<sup>118</sup>
- 52 In response to the Royal Commission's summons to produce, Watchtower Australia produced some 5,000 documents comprising, among other things, files relating to some 1,000 alleged perpetrators of child sexual abuse dating back to 1950. Royal Commission staff analysed those files and produced the following data which was for the most part uncontested by the organisation.<sup>119</sup>

### 2.1 Data extracted from Watchtower Australia files

- 53 Since 1950, Watchtower Australia has recorded allegations, reports or complaints of child sexual abuse against 1,006 members of the Jehovah's Witness organisation in Australia.<sup>120</sup>
- 54 Those recorded allegations, reports or complaints relate to at least 1,800 alleged victims of child sexual abuse.<sup>121</sup>
- 55 The files record that 579 of those against whom allegations were made confessed to having committed child sexual abuse.<sup>122</sup>
- 56 Of the 1,006 members against whom allegations of child sexual abuse were made, 108 were elders or ministerial servants at the time of the first instance of alleged abuse.<sup>123</sup> The files do not reveal how many of the alleged perpetrators were elders or ministerial servants at the time of any subsequent instances of alleged child sexual abuse. The files record that 28 alleged perpetrators were appointed as elders or ministerial servants after having been the subject of an allegation of child sexual abuse.<sup>124</sup>
- 57 Finally, the files record that 401 alleged perpetrators were disfellowshipped in relation to an allegation of child sexual abuse,<sup>125</sup> and that 230 of those alleged perpetrators were

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<sup>118</sup> Exhibit 29-0021, WAT.999.013.0001\_R.

<sup>119</sup> Exhibit 29-0031, WAT.0021.001.0001;  
Exhibit 29-0021, WAT.9999.013.0005\_R.

<sup>120</sup> Exhibit 29-0021, WAT.9999.013.0012 at [1].

<sup>121</sup> Exhibit 29-0031, WAT.0021.001.0001;  
Exhibit 29-0031, WAT.0021.001.0001 – the figure in the table at the bottom of the column entitled 'Total number of alleged victims' does not take into account cells where the number of victims was recorded as '10+'.

<sup>122</sup> Exhibit 29-0021, WAT.9999.013.0012 at [8].

<sup>123</sup> Exhibit 29-0021, WAT.9999.013.0012 at [6].

<sup>124</sup> Exhibit 29-0021, WAT.9999.013.0012 at [16].

<sup>125</sup> Exhibit 29-0021, WAT.9999.013.0012 at [12].

subsequently reinstated.<sup>126</sup> Of those disfellowshipped, 78 were disfellowshipped on more than one occasion in relation to an allegation of child sexual abuse.<sup>127</sup>

### Oral evidence on the number of recorded alleged perpetrators

- 58 Mr Spinks pointed out that while he did not wish to diminish the significance of the number of alleged perpetrators identified in the case files, 199 of the 1,006 alleged perpetrators were not Jehovah's Witnesses at the time of the first reported allegation.<sup>128</sup> He however accepted that it 'was probably true' that the 199 alleged perpetrators identified in the case files went on to become Jehovah's Witnesses, and that in many cases they were the subject of subsequent allegations of child sexual abuse while they were Jehovah's Witnesses.<sup>129</sup>
- 59 Mr Toole told the Royal Commission that for approximately the last two years he has been responsible for receiving telephone calls from congregational elders about allegations of child sexual abuse on behalf of the Legal Department.<sup>130</sup> He estimated that, over that period, he had received and continues to receive 'three, sometimes four' calls each month.<sup>131</sup>
- 60 Mr Toole's evidence as to frequency of calls regarding child sexual abuse is consistent with the number and frequency of allegations of child sexual abuse that is evidenced in the files produced to the Royal Commission.

## 2.2 Data on reporting to police

- 61 The analysis conducted by Royal Commission staff showed that of the 1,006 alleged perpetrators of child sexual abuse identified by the Jehovah's Witness organisation in Australia, not one was reported to police or other secular authority by the Jehovah's Witness organisation (including by elders within the organisation).<sup>132</sup> With reference to the files, no instance was identified by the Jehovah's Witness organisation of an allegation having been reported by the organisation to the police or other authorities.<sup>133</sup>
- 62 It was put to Mr Toole that there is no record in the case files of an elder having ever reported an allegation of child sexual abuse to the police or secular authorities.<sup>134</sup> Mr Toole accepted that 'if that is the way the files read, I assume that must be correct'.<sup>135</sup>
- 63 The analysis demonstrated that 161 of the alleged perpetrators recorded in the files had nevertheless been convicted of a child sexual abuse offence,<sup>136</sup> indicating that in spite

<sup>126</sup> Exhibit 29-0021, WAT.9999.013.0012 at [14].

<sup>127</sup> Exhibit 29-0021, WAT.9999.013.0012 at [13].

<sup>128</sup> Transcript of R P Spinks, T15663:39-44 (Day 152).

<sup>129</sup> Transcript of R P Spinks, T15718:43-T15719:9 (Day 152).

<sup>130</sup> Transcript of V J Toole, T15760:18-30 (Day 153).

<sup>131</sup> Transcript of V J Toole, T15760:18-30 (Day 153).

<sup>132</sup> Exhibit 29-0021, WAT.9999.013.0012 at [20].

<sup>133</sup> Transcript of V J Toole, T15777:24-T15778:22 (Day 153).

<sup>134</sup> Transcript of V J Toole, T15777:42-44 (Day 153).

<sup>135</sup> Transcript of V J Toole, T15777:42-T15778:3 (Day 153).

<sup>136</sup> Exhibit 29-0021, WAT.9999.013.0012 at [19].

of it not having been reported by the organisation, the alleged perpetrator had still come to the attention of police.

- 64 In a letter dated 20 July 2015, Watchtower Australia advised the Royal Commission that it had conducted a search of key words in the case files (such as ‘police’, ‘child services’, ‘authorities’, ‘charge’, ‘court’, ‘welfare’).<sup>137</sup> According to the results of its search, Watchtower Australia contended that ‘383 alleged perpetrators had been dealt with by either police or secular authorities in the respective States or Territories in which they reside’.<sup>138</sup> This figure was reiterated by Mr Spinks in oral evidence.<sup>139</sup>
- 65 Mr Toole accepted in examination that the conclusion asserted in the letter of 20 July 2015 was questionable because the search methodology may have yielded results even in cases where there was, for example, an instruction not to involve secular authorities.<sup>140</sup>

#### **Available findings on historical child sexual abuse data**

- F2 Since 1950, the Jehovah’s Witness organisation in Australia has received allegations of child sexual abuse against 1,006 of its members relating to at least 1,800 victims, and has in that period not reported a single allegation to the police or other authorities, even though 579 of those against whom allegations were made confessed to having committed child sexual abuse.
- F3 The Jehovah’s Witness organisation in Australia receives approximately three to four reports of allegations of child sexual abuse each month.

<sup>137</sup> Exhibit 29-0021, WAT.0018.001.0001\_R at [10].

<sup>138</sup> Exhibit 29-0021, WAT.0018.001.0001\_R at [10].

<sup>139</sup> Transcript of R P Spinks, T15717:4-T15718:3 (Day 152).

<sup>140</sup> Transcript of V J Toole, T15777:6-22 (Day 153).

## Part 3 Historical policies and procedures

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- 66 The Royal Commission heard evidence from two survivors of child sexual abuse, BCB and BCG, whose complaints of abuse were first handled by the Jehovah’s Witness organisation in or around 1992 and 1989 respectively.
- 67 This Part of these submissions provides an overview of the systems, policies and procedures in place within the Jehovah’s Witness organisation for responding to complaints of child sexual abuse at the time that BCB and BCG first raised their abuse with the organisation, and in the years following. The policies and procedures governing the organisation’s ongoing response to the management of BCG’s abuser from 2010, and to BCB’s second disclosure to the organisation in 2012, are dealt with in Parts 7 and 8 of these submissions.
- 68 Broadly speaking, allegations of child sexual abuse were handled in the relevant periods in the same way as any sin was handled according to a system requiring reporting of serious wrongdoing to congregational elders. The elders would then investigate with a view to determining the veracity of an allegation. If an allegation was proved in accordance with Scriptural standards, then the elders would form a judicial committee to determine the degree of repentance of the accused and the appropriate sanction.

### 3.1 Key documents recording systems, policies and procedures in 1989 and 1992

- 69 In 1989 and 1992, the Jehovah’s Witness elders handling BCG’s and BCB’s complaints of child sexual abuse was required to be governed by the policies and procedures set out in the *Pay Attention to Yourselves and All the Flock* elders’ handbooks of 1981 and 1991 respectively (hereinafter, ***Pay Attention 1981*** and ***Pay Attention 1991***).<sup>141</sup> Those elders’ handbooks were from time to time supplemented by letters from the Branch Office containing direction on the application of Scriptural principles and procedures,<sup>142</sup> and by other Jehovah’s Witness organisation publications including the *Awake!* and *Watchtower* magazines.<sup>143</sup>

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<sup>141</sup> Exhibit 29-0033, WAT.0019.001.0001;  
Exhibit 29-0006, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [3.2];  
Exhibit 29-0003, WAT.0013.002.0001 (Tab 80);

Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [2.1].  
<sup>142</sup> Exhibit 29-0004, Statement of Doug Jackson, STAT.0600.001.0001\_R at [3.1];  
Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [3.1];  
Exhibit 29-0004, Statement of Doug Jackson, STAT.0600.001.0001\_R at [3.2];  
Exhibit 29-0005, Statement of Joseph Bello, STAT.0594.001.0001\_R at [3.2];  
Exhibit 29-0007, Statement of Dino Ali, STAT.0598.001.0001\_R at [3.2];  
Exhibit 29-0006, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [3.4];  
Exhibit 29-0010, Statement of Kevin Bowditch, STAT.0602.001.0001\_R at [3.3].

<sup>143</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0033 (Tab 80).

70 In 1989 and 1992, general information as to reporting and disciplinary procedures was available to ordinary publishers like BCG and BCB in the form of the *Organized to Accomplish Our Ministry* (published in 1983).<sup>144</sup>

## 3.2 Reporting child sexual abuse

### Reporting within the Jehovah's Witness organisation

71 In 1989 and 1992, ordinary publishers within the Jehovah's Witness organisation were encouraged to report serious sins such as fornication, adultery and homosexuality to the elders.<sup>145</sup> Once a sin was reported to elders, publishers were advised that they could 'leave the problem in the hands of the responsible members of the congregation and trust in Jehovah that it will be resolved'.<sup>146</sup>

72 From 1991, elders were instructed that a person with knowledge of 'wrongdoing' had an obligation to report that wrongdoing in order to keep the congregation clean.<sup>147</sup>

73 Elders themselves were obliged, from 1991, to report their own 'gross wrong[s]' to the body of elders as they would no longer be qualified to continue in their 'appointed' role.<sup>148</sup>

74 From at least 1991, the types of sin that a person might report to elders as child sexual abuse included one or a combination of the following:<sup>149</sup>

- a) 'Uncleanness includes an intentional momentary touching of sexual parts or caressing of breasts. (1 Thess. 4:7, 8; 1 Tim. 5:1,2)'
- b) 'Loose conduct is a shocking, flagrant disregard for Jehovah's moral standards. (Gal. 5:19; w83 3/15 p. 31; w739/15 pp. 574-6)', and
- c) 'Por-nei'a involves immoral use of the genitals of at least one human (whether in a natural or a perverted way) ...' and includes the 'sexual abuse of children'.

75 With respect to 'porneia', *Pay Attention 1991* instructed elders to 'do what they reasonably can to protect children from further abuse; follow the Society's directives on such matters'.<sup>150</sup>

76 On the evidence before the Royal Commission, it was not until at least 1992 that elders were given an explicit directive to immediately contact the Branch Office for advice if they received a report or allegation of child sexual abuse.<sup>151</sup>

<sup>144</sup> Transcript of T J O'Brien, T15843:27-39 (Day 153);

Exhibit 29-0032, WAT.0020.001.0001 at 0004.

<sup>145</sup> Exhibit 29-0032, WAT.0020.001.0001 at 0100.

<sup>146</sup> Exhibit 29-0032, WAT.0020.001.0001 at 0101.

<sup>147</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0028-0029 (Tab 80).

<sup>148</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0029 (Tab 80).

<sup>149</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0024-0026, 0028 (Tab 80).

<sup>150</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0025 (Tab 80).

<sup>151</sup> Exhibit 29-0003, WAT.0001.004.0001 at 0003 (Tab 81).



## Reporting to authorities

- 77 In 1989 and 1992, elders were under no specific direction to either report child sexual abuse to authorities themselves or to encourage the survivor of the alleged abuse to report to authorities. Instead, *Pay Attention 1981* advised elders that ‘the law on ecclesiastical privilege in many countries does not require elders to report the offender or the offense to secular authorities’.<sup>152</sup> *Pay Attention 1991* suggested that the elders encourage the accused to report himself to authorities.<sup>153</sup>
- 78 *Pay Attention 1991* otherwise discouraged Jehovah’s Witnesses from taking fellow Christians to secular courts to settle personal disputes and counselled that such disputes should be settled with the help of the congregation elders.<sup>154</sup> Failure to observe this injunction could result in restriction of congregational privileges.<sup>155</sup>

## Investigation and establishment of a judicial committee

- 79 In both 1989 and 1992, reports or allegations of serious wrongdoing were to be investigated by elders in order to determine if there was substance to a given report or allegation and if there was therefore a need to form a judicial committee.<sup>156</sup>
- 80 Elders were instructed that an accusation had substance if it was an ‘offense serious enough to result in disfellowshipping’,<sup>157</sup> and if there are ‘either two witnesses or a confession of wrongdoing’.<sup>158</sup> *Pay Attention 1981* also specifically instructed that testimony from ‘another witness to the same type of sin on the part of the accused person ... would be basis to convoke a judicial committee’ (sic).<sup>159</sup>
- 81 If there was insufficient evidence to form a judicial committee but ‘serious questions’ were raised then, from 1991, two elders might have investigated the matter further in any event.<sup>160</sup> In the case of reports of ‘gross’ or ‘serious’ sins that might ‘contaminate’ the congregation or that have brought the congregation into disrepute, a body of elders was directed to investigate and, if necessary, establish a judicial committee to handle the matter.<sup>161</sup> *Pay Attention 1991* does not, however, specifically define what constitutes a ‘gross’ or ‘serious’ sin.
- 82 More minor transgressions such as ‘minor uncleanness’ could be handled ‘at the discretion of an elder or two’ and did not require the formation of a judicial

<sup>152</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0019.

<sup>153</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0062-0063 (Tab 80).

<sup>154</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0064 (Tab 80).

<sup>155</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0064 (Tab 80).

<sup>156</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0032;  
Exhibit 29-0003, WAT.0013.002.0001 at 0041 (Tab 80).

<sup>157</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0041 (Tab 80).

<sup>158</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0035;  
Exhibit 29-0003, WAT.0013.002.0001 at 0041 (Tab 80).

<sup>159</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0035.

<sup>160</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0029 and 0041 (Tab 80).

<sup>161</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0029 (Tab 80).

committee.<sup>162</sup> The *Pay Attention 1991* handbook did not offer specific guidance as to what might constitute ‘minor uncleanness’.

- 83 Ultimately though, if an accused person denied wrongdoing and there was only one witness to the alleged wrongdoing, then a judicial committee would not be formed and the matter would be left in Jehovah’s hands.<sup>163</sup>

### Investigating elders and judicial committee members

- 84 The role of an elder in handling an allegation of wrongdoing was described in *Pay Attention 1981* and *1991* as being to act as a judge and ‘readjust’, ‘reprove’ those who are repentant, or ‘remove unrepentant wrongdoers’ from the congregation.<sup>164</sup>

- 85 *Pay Attention 1991* directed elders to be impartial at all times.<sup>165</sup> Accordingly, ‘[a]n elder who ... has had a special friendship with [the accused] should not normally serve on the [judicial] committee ...’.<sup>166</sup>

### Judicial committee

- 86 *Pay Attention 1991* provided that evidence and testimony of witnesses were to be considered by a judicial committee prior to any decision about the action necessary in respect of the accused person.<sup>167</sup> That handbook further provided that no action should be taken by a ‘committee’ against an accused person ‘unless the evidence clearly proves this necessary’.<sup>168</sup>

- 87 *Pay Attention 1991* then set out the types of evidence that would be acceptable in clearly proving that action in respect of the accused was necessary:<sup>169</sup>

- a) ‘the testimony of two or three eyewitnesses ...; no action could be taken if there was only one witness (Deut.19-15; John 8:17)’ (the **two-witness rule**)
- b) a confession from the accused, ‘which may be accepted as conclusive proof without other corroborating evidence. (Josh. 7:19)’
- c) strong circumstantial evidence ‘such as pregnancy or evidence (testified to by at least two witnesses) that the accused stayed all night in the same house with a person of the opposite sex ... under improper circumstances’, and
- d) the testimony of two or three witnesses to the same kind of wrongdoing but each is a witness to a separate incident.

<sup>162</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0025 (Tab 80).

<sup>163</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0035;  
Exhibit 29-0003, WAT.0013.002.0001 at 0050 (Tab 80).

<sup>164</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0032;  
Exhibit 29-0003, WAT.0013.002.0001 at 0024 (Tab 80).

<sup>165</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0039 (Tab 80).

<sup>166</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0067-0068 (Tab 80).

<sup>167</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0042-0043 (Tab 80).

<sup>168</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0043 (Tab 80).

<sup>169</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0043 (Tab 80).

- 88 From 1981, elders were directed that the judicial committee was to probe in an effort to establish facts, ascertain the attitude of the accused, and determine if there was evidence to establish serious wrongdoing.<sup>170</sup> From 1991, however, elders were instructed to avoid ‘probing questions [that] go into needless details, especially in regard to sexual misconduct, unless this [was] absolutely necessary, such as in determining whether ‘por-neia’ had been committed’.<sup>171</sup>
- 89 From at least 1981, in the absence of a confession by the accused, the accuser was required, even in cases of sexual abuse, to make her allegation before her abuser during either or both of the investigation and judicial committee stages of the process.<sup>172</sup> Both *Pay Attention 1981* and *Pay Attention 1991* instructed elders that the rationale for this was that an accuser should be willing to assume responsibility ‘as was the case in Israel’.<sup>173</sup>
- 90 From at least 1981, elders were instructed to invite the accused person to make a statement at the commencement of a judicial committee hearing. From 1991, elders were also directed to treat the accused kindly, making sure that he was put at ease.<sup>174</sup> *Pay Attention 1991* directed all elders on a judicial committee to weigh carefully both the interests of the accused and those of the congregation as a whole.<sup>175</sup>
- 91 From 1991, provision was also made for the accused to bring witnesses who could speak in his defence.<sup>176</sup> No equivalent entitlement was prescribed in respect of the complainant.
- 92 Although not explicitly stated in either *Pay Attention 1981* or *1991*, it would appear that in 1989 and 1992 elders handling a complaint of child sexual abuse were required by the Jehovah’s Witness organisation to assess the evidence of the complaint before them according to the Scriptures at both investigative and judicial committee stages of the process.

### Assessment of repentance

- 93 When elders had determined that there was sufficient evidence to establish the truth of an allegation, *Pay Attention 1991* and *1981* directed them to assess whether the wrongdoer was repentant in order to determine the appropriate judicial sanction.<sup>177</sup>
- 94 *Pay Attention 1991* instructed elders that a judicial committee’s primary consideration in determining the appropriate sanction is the ‘the individual’s sincere repentance or

<sup>170</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0033-0034.

<sup>171</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0043-0044 (Tab 80).

<sup>172</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0035;  
Exhibit 29-0003, WAT.0013.002.0001 at 0050-0051 (Tab 80).

<sup>173</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0035;  
Exhibit 29-0003, WAT.0013.002.0001 at 0050-0051 (Tab 80).

<sup>174</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0044 (Tab 80).

<sup>175</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0048 (Tab 80).

<sup>176</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0042 (Tab 80).

<sup>177</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0033-34.

the lack of it'.<sup>178</sup> Among other things, whether the individual had apologised to the person offended by his conduct (in the case of child sexual abuse, the victim) was a relevant consideration in the assessment of repentance.<sup>179</sup> Elders were instructed that '[n]either the gravity of the wrong nor bad publicity finally determines whether the person should be disfellowshipped'.<sup>180</sup>

### 3.3 Outcomes and sanctions

#### Deletion of elders

95 *Pay Attention 1991* directed that a wrongdoer who was an elder, ministerial servant or a pioneer would not qualify to continue in his appointed position of service and should be removed.<sup>181</sup> This is because elders, ministerial servants and pioneers were required to be irreprehensible and serve with a clean conscience.<sup>182</sup> It also instructed that an elder or a ministerial servant who committed a 'gross wrong' was morally obligated to inform the body of elders of his being reprehensible.<sup>183</sup>

#### Disfellowshipping and reproof

96 Depending upon the degree of repentance of a person found by investigating elders to be guilty of child sexual abuse, that person would either be disfellowshipped or reproofed.

97 From at least 1981, elders were directed to expel unrepentant wrongdoers who were guilty of 'gross, serious' sins from the congregation, thus denying them fellowship with Jehovah's clean congregation.<sup>184</sup> Disfellowshipping action served to protect other members of the congregation from the bad influence of the wrongdoer, safeguard the purity of the congregation and uphold Jehovah's good name.<sup>185</sup>

98 From at least 1981, elders were directed that a truly repentant wrongdoer should be reproofed rather than disfellowshipped.<sup>186</sup> Administering reproof, either privately or before onlookers concerned in the case, served to discipline the wrongdoer and instil a wholesome fear in the onlookers.<sup>187</sup>

99 In 1983, *Organized to Accomplish Our Ministry* advised publishers that the judicial committee would inform the wrongdoer of the decision to disfellowship him from the

<sup>178</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0045 (Tab 80).

<sup>179</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0046-47 (Tab 80).

<sup>180</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0045 (Tab 80).

<sup>181</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0029-0030 and 0056 (Tab 80).

<sup>182</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0029-0030 (Tab 80).

<sup>183</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0029-0030 (Tab 80).

<sup>184</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0050;  
Exhibit 29-0032, WAT.0020.001.0001 at 0102-0104.

<sup>185</sup> Exhibit 29-0032, WAT.0020.001.0001 at 0103-0104;  
Exhibit 29-0033, WAT.0019.001.0001 at 0048-0050.

<sup>186</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0048;  
Exhibit 29-0003, WAT.0013.002.0001 at 0052 (Tab 80).

<sup>187</sup> Exhibit 29-0032, WAT.0020.001.0001 at 0103.

congregation and would clearly state the Scriptural reason(s) for the disfellowshipping action.<sup>188</sup> A direction to this effect was included in *Pay Attention 1991*.<sup>189</sup>

- 100 Following a decision to disfellowship or to publicly reprove, a brief announcement would be made to the congregation stating only that the person had been disfellowshipped<sup>190</sup> or reprovved,<sup>191</sup> but not the reason for the sanction. This announcement served to alert faithful members of the congregation to stop associating with the disfellowshipped person.<sup>192</sup>
- 101 Members of the congregation were counselled against having contact and spiritual association with disfellowshipped persons<sup>193</sup> and told that it was necessary to shun disfellowshipped persons in order to have a good relationship with Jehovah.<sup>194</sup>
- 102 Both *Pay Attention 1981* and *Pay Attention 1991* provided that if a disfellowshipped person believed that a serious error in judgment was made, he was allowed seven days to appeal the committee's decision by writing a letter to the body of elders of the congregation which took the disfellowshipping action clearly stating his reasons for the appeal.<sup>195</sup>
- 103 An appeal committee would hear the original evidence and any new evidence relevant to the case.<sup>196</sup>

### 3.4 Reinstatement as a Jehovah's Witness

- 104 *Pay Attention 1981* and *Pay Attention 1991* provided that a disfellowshipped person could be reinstated in the congregation when he gave clear evidence of repentance, demonstrating that he has abandoned his sinful course of conduct and was desirous of having a good relationship with Jehovah.<sup>197</sup>

<sup>188</sup> Exhibit 29-0032, WAT.0020.001.0001 at 0104.

<sup>189</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0053 (Tab 80).

<sup>190</sup> Exhibit 29-0032, WAT.0020.001.0001 at 0105.

<sup>191</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0055 (Tab 80);

Exhibit 29-0033, WAT.0019.001.0001 at 0050.

<sup>192</sup> Exhibit 29-0032, WAT.0020.001.0001 at 0105.

<sup>193</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0042-0043;

Exhibit 29-0003, WAT.0013.002.0001 at 0035 (Tab 80);

Exhibit 29-0007, Statement of Dino Ali, STAT.0598.001.0001\_R at [2.3];

Exhibit 29-0006, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [2.3];

Exhibit 29-0010, Statement of Kevin Bowditch, STAT.0602.001.0001\_R at [2.5].

<sup>194</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0035 (Tab 80).

<sup>195</sup> Exhibit 29-0032, WAT.0020.001.0001 at 0104;

Exhibit 29-0033, WAT.0019.001.0001 at 0051-0053.

<sup>196</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0051-0053.

<sup>197</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0037;

Exhibit 29-0003, WAT.0013.002.0001 at 0060 (Tab 80);

Exhibit 29-0032, WAT.0020.001.0001 at 0106.

- 105 Elders were directed not to be hasty in reinstating individuals, being careful to allow sufficient time, perhaps many months, a year or even longer, for the disfellowshipped person to prove genuine repentance.<sup>198</sup>
- 106 Generally, the decision to reinstate was made by a judicial committee of the congregation that took the disfellowshipping action.<sup>199</sup> If the disfellowshipped person moved congregations, the reinstatement plea could be heard by the new local judicial committee.<sup>200</sup> Thereafter, that local committee would give the body of elders of the original congregation that disfellowshipped the individual its recommendation.<sup>201</sup>

### 3.5 Support offered for survivors of child sexual abuse

- 107 *Pay Attention 1991* directed elders to treat victims of sexual abuse with extreme thoughtfulness and kindness and to do what they reasonably could to protect children from further abuse.<sup>202</sup>
- 108 In 1992, the Branch Office directed elders to '[h]elp [victims] see that their worth as individuals is not diminished by the shameful way they were treated. The important thing is how Jehovah views them'.<sup>203</sup>

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<sup>198</sup> Exhibit 29-0032, WAT.0020.001.0001 at 0106;  
Exhibit 29-0033, WAT.0019.001.0001 at 0037.

<sup>199</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0060 (Tab 80);  
Exhibit 29-0033, WAT.0019.001.0001 at 0053-0054;  
Exhibit 29-0032, WAT.0020.001.0001 at 0106.

<sup>200</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0060 (Tab 80);  
Exhibit 29-0032, WAT.0020.001.0001 at 0106.

<sup>201</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0060 (Tab 80);  
Exhibit 29-0032, WAT.0020.001.0001 at 0106.

<sup>202</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0025 (Tab 80);  
Exhibit 29-0003, WAT.0001.004.0205 at 0210 (Tab 78);  
Exhibit 29-0019, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [33];  
Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [51].

<sup>203</sup> Exhibit 29-0003, WAT.0001.004.0001 (Tab 81).

## Part 4 BCB

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- 109 BCB grew up on a farm in Western Australia.<sup>204</sup> She began associating with the Jehovah's Witness organisation when she was 10 years old and was formally baptised as a Jehovah's Witness at age 18.<sup>205</sup>
- 110 BCB is now 47 years old and is a mother of two children.<sup>206</sup> BCB is still a Jehovah's Witness<sup>207</sup> but since reporting to the Royal Commission in about September 2014, she has stopped attending congregational meetings.<sup>208</sup>

### 4.1 BCB's abuse by Bill Neill

- 111 Between 1980 and 1986 when BCB was aged between 12 and 18, she regularly stayed overnight at the home of her friend, her friend's father, Bill Neill, and their family.<sup>209</sup> Bill Neill was an elder in the Narrogin congregation of Jehovah's Witnesses in Western Australia.<sup>210</sup> BCB attended weekly Bible studies led by Bill Neill at the Narrogin Kingdom Hall and at the Neill family house.<sup>211</sup>
- 112 Bill Neill discouraged BCB from forming friendships with non-Jehovah's Witnesses.<sup>212</sup> BCB left high school at the end of Year 10,<sup>213</sup> encouraged by the Neill family who preferred marriage or full-time preaching over pursuit of a further education.<sup>214</sup>
- 113 The Royal Commission heard that from 15 years of age, BCB was groomed and sexually abused by Bill Neill.<sup>215</sup> Bill Neill remained a respected elder within the congregation whilst he continued to abuse BCB.<sup>216</sup> Notwithstanding his abuse of her, BCB continued to respect Bill Neill and felt unable to disclose the abuse because of his position of authority in the congregation.<sup>217</sup>
- 114 BCB told the Royal Commission that Bill Neill's position as an elder contributed to his power over her.<sup>218</sup>

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<sup>204</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [6].

<sup>205</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [5] and [7].

<sup>206</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [3]-[4].

<sup>207</sup> Transcript of BCB, T15175:15-16 (Day 147).

<sup>208</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [73]-[74].

<sup>209</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [16].

<sup>210</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [14]-[15].

<sup>211</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [16].

<sup>212</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [17].

<sup>213</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [30].

<sup>214</sup> Transcript of BCB, T15171:1-14 (Day 147).

<sup>215</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [20]-[46].

<sup>216</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [40].

<sup>217</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [25].

<sup>218</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [79].

## 4.2 BCB's disclosure to the Narrogin Congregation elders

- 115 BCB first disclosed her abuse by Bill Neill to a Jehovah's Witness acquaintance in about 1991.<sup>219</sup> BCB gave evidence that about a week after she disclosed to her acquaintance, another elder in the Narrogin congregation, Mr Horley, approached her about Bill Neill's conduct.<sup>220</sup> Implicit in that is that the acquaintance had passed on BCB's disclosure to Mr Horley.
- 116 Mr Horley told the Royal Commission that, on his recollection, he first came to hear of the allegations against Bill Neill when BCB and her husband, BCC, came to visit him at his home to disclose the abuse.<sup>221</sup>
- 117 This difference in these recollections of BCB and Mr Horley as to how Mr Horley came to learn of BCB's allegations against Bill Neill is unimportant for present purposes and is therefore not necessary to resolve.

## 4.3 The response of the Narrogin congregation elders to BCB's disclosure

- 118 At the time of BCB's disclosure, Mr Horley and Bill Neill were the only two elders serving in the Narrogin congregation.<sup>222</sup> At that time, Mr Horley had known Bill Neill for 16 years.<sup>223</sup>
- 119 Mr Horley told the Royal Commission that he did not remember speaking to Bill Neill about BCB's allegation on his own and that he and Mr Doug Jackson, the then circuit overseer, spoke to Bill Neill together during one of Mr Doug Jackson's visits to the congregation.<sup>224</sup>

### BCB's meeting with Mr Horley and Bill Neill

- 120 BCB gave evidence that shortly after she initially spoke with Mr Horley, he arranged a meeting at her house between himself, Bill Neill, BCB and BCC.<sup>225</sup>
- 121 Mr Horley told the Royal Commission that he was unable to recall this first meeting with BCB.<sup>226</sup>

<sup>219</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [48]; Transcript of BCB, T15173:3-35 (Day 147).

<sup>220</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [49]; Transcript of BCB, T15173:37 – T15174:32 (Day 147).

<sup>221</sup> Transcript of M Horley, 15184:17-20 (Day 147).

<sup>222</sup> Transcript of M Horley, T15181:3-10 (Day 147).

<sup>223</sup> Transcript of M Horley, T15220:3 (Day 147).

<sup>224</sup> Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [5.1].

<sup>225</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [51]; Transcript of BCB, T15174:34-38 (Day 147).

<sup>226</sup> Transcript of M Horley, T15189:10-43 and T15215:14-19 (Day 147).



- 122 BCB gave evidence that, during this first meeting, Bill Neill made inappropriate jokes about his alleged conduct.<sup>227</sup> BCB also gave evidence that she was pressed by Mr Horley for intimate details or her abuse.<sup>228</sup>
- 123 BCB told the Royal Commission that it was very distressing for her to have to discuss her abuse in front of a room full of men, including her abuser.<sup>229</sup> BCB said that she felt unable to report the full extent of Bill Neill's abuse at the meeting.<sup>230</sup>

#### **BCB's meeting with Mr Horley, Mr Doug Jackson, and Bill Neill**

- 124 BCB gave evidence that Mr Horley also arranged a second meeting, again at her house, between himself, BCB, BCC, Bill Neill, and Mr Doug Jackson.<sup>231</sup>
- 125 As noted above, Mr Horley told the Royal Commission that it was at this meeting that he recalls BCB first making her allegations against Bill Neill.<sup>232</sup>
- 126 BCB gave evidence that during the second meeting Bill Neill was defensive and said that she used to wear revealing clothing.<sup>233</sup> BCB also gave evidence that she did not feel supported and that her credibility was being tested by the elders.<sup>234</sup>
- 127 The Royal Commission heard that again BCB felt too uncomfortable to disclose to the elders the full extent of her abuse by Bill Neill.<sup>235</sup>
- 128 BCB told the Royal Commission that nobody explained to her the purpose of either meeting.<sup>236</sup> Mr Horley gave evidence that he could not recall what was explained to BCB.<sup>237</sup>
- 129 BCB said that after the second meeting, Mr Doug Jackson encouraged her to read an *Awake!* magazine about child sexual abuse, but that nobody explained to her what the outcome of the meetings was or if anything would happen to Bill Neill.<sup>238</sup>

#### **Mr Horley's evidence about the investigation of BCB's allegation**

- 130 Mr Horley told the Royal Commission that at the time, he understood that Biblical principles required the accuser to face the accused<sup>239</sup> and that the relevant procedure was that set out in *Pay Attention 1991*.<sup>240</sup>

<sup>227</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [51].

<sup>228</sup> Transcript of BCB, T15175:43-T15175:7 (Day 147).

<sup>229</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [80].

<sup>230</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [52]-[53].

<sup>231</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [53]-[54].

<sup>232</sup> Transcript of M Horley, T15189:10-43 and T15215:14-19 (Day 147).

<sup>233</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [55]-[56].

<sup>234</sup> Transcript of BCB, T15176:45-T15177:4 (Day 147).

<sup>235</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [55]-[56].

<sup>236</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [51],[54].

<sup>237</sup> Transcript of M Horley, T15196:11-18 (Day 147).

<sup>238</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [58]-[59].

<sup>239</sup> Transcript of M Horley, T15189:45-T15190:2 (Day 147).

<sup>240</sup> Transcript of M Horley, T15190:39-T15191:36 (Day 147).

- 131 Mr Horley accepted in evidence that it is inappropriate to require an accused and his accuser to meet together, but said that he did not reflect on it at the time because he was just following the then procedure.<sup>241</sup> He agreed that it would be very hard for an abused person to disclose the full detail of her abuse before the accused and at least two other men.<sup>242</sup>
- 132 It is submitted that Mr Horley's application of the procedure set out in *Pay Attention 1991*, which required BCB to face her abuser, caused significant distress to BCB and prevented her from disclosing the full extent of her abuse.
- 133 Mr Horley accepted, and it is submitted, that it was totally inappropriate of him to take a person accused of child sexual abuse into the victim's home.<sup>243</sup>

#### **Mr Doug Jackson's evidence about the investigation**

- 134 Mr Doug Jackson agreed that the purpose of the meetings with BCB and Bill Neill was to establish the truth of BCB's allegation in accordance with the Jehovah's Witness organisation protocol.<sup>244</sup> He did not accept that BCB was unaware of the purpose of those meetings, because, he said, although he couldn't remember what he told BCB, he 'would have told her why we were meeting'.<sup>245</sup>

#### **Sufficiency of evidence**

- 135 Mr Horley gave evidence that because Bill Neill denied any intentional misconduct or deliberate touching on his part, the rule requiring two or more witnesses meant that BCB's allegations could not be proven according to the Scriptures and so the matter could not progress to a judicial committee.<sup>246</sup> This was the case even in circumstances where he had no reason to disbelieve BCB's allegations.<sup>247</sup>

#### **Further disclosure / reporting**

- 136 BCB gave evidence that following the committee meeting, Mr Horley discouraged her from discussing her abuse 'out of respect for the Neill family'.<sup>248</sup> Mr Horley told the Royal Commission that he had discouraged further disclosure because he believed 'that gossip and speculation about the matter would be hurtful to BCB and her family, and to Bill and his family'.<sup>249</sup> Mr Horley denied that he was trying to cover the matter up.<sup>250</sup>

<sup>241</sup> Transcript of M Horley, T15189:45-T15190:27 (Day 147).

<sup>242</sup> Transcript of M Horley, T15199:25-38 (Day 147).

<sup>243</sup> Transcript of M Horley, T15216:18-21 (Day 147).

<sup>244</sup> Transcript of D J Jackson, T15228:15-18, and T15228:20-24 (Day 147).

<sup>245</sup> Transcript of D J Jackson, T15227:23-27, and T15227:29-33 (Day 147).

<sup>246</sup> Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [5.1];

Transcript of M Horley, T15192:37-39 (Day 147);

Transcript of M Horley, T15202:19-24 (Day 147);

Transcript of M Horley, T15207:5-12 (Day 147).

<sup>247</sup> Transcript of M Horley, T15203:1-7 (Day 147).

<sup>248</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [62].

<sup>249</sup> Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [5.3].

<sup>250</sup> Transcript of M Horley, T15199:40-T15200:17 (Day 147).

- 137 However, Mr Horley accepted that BCB would have felt silenced and unsupported by his instruction not to speak with others about her abuse.<sup>251</sup>
- 138 BCB did not remember discussing reporting her complaint to the police with anybody before or after the meetings.<sup>252</sup>
- 139 Mr Horley told the Royal Commission that he never said anything to BCB about ‘whether she should or should not report Bill Neill’s behaviour to the authorities’.<sup>253</sup> Mr Horley said that he gave no consideration to whether he or BCB should report the matter to police.<sup>254</sup>
- 140 Mr Horley said that there were very few internal policies and procedures at the time about whether elders should go to police when faced with allegations like those brought by BCB.<sup>255</sup>

#### 4.4 Bill Neill’s removal as an elder

- 141 BCB told the Royal Commission that a few weeks after the meetings with Mr Horley and Mr Doug Jackson, Bill Neill stepped down as an elder.<sup>256</sup> The fact, but not the grounds, of Bill Neill’s deletion as an elder was announced to the congregation.<sup>257</sup>
- 142 Mr Horley said that BCB’s allegations had cast a cloud over Bill Neill’s qualifications as an elder<sup>258</sup> and that he, together with Mr Doug Jackson, recommended that Bill Neill step down.<sup>259</sup> Mr Doug Jackson also said that he considered that Bill Neill no longer met the Scriptural qualifications for serving as an elder since he was guilty of uncleanness and not free from accusation.<sup>260</sup>
- 143 BCB gave evidence that even after she had disclosed her abuse by Bill Neill, she was still expected to attend Bible study organised by Mr Horley<sup>261</sup> and held at Bill Neill’s house.<sup>262</sup> She said that she continued to see Bill Neill several times a week at congregational meetings.<sup>263</sup>

<sup>251</sup> Transcript of M Horley, T15200:19-T15201:41 (Day 147).

<sup>252</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [60].

<sup>253</sup> Transcript of BCB, T15175:29-38 (Day 147);  
Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [5.4].

<sup>254</sup> Transcript of M Horley, T15188:10-16 (Day 147).

<sup>255</sup> Transcript of M Horley, T15205:3-32 (Day 147).

<sup>256</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [63].

<sup>257</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [63];  
Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [6.1].

<sup>258</sup> Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [5.1].

<sup>259</sup> Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [6.1].

<sup>260</sup> Exhibit 29-0004, Statement of Doug Jackson, STAT.0600.001.0001\_R at [6.1].

<sup>261</sup> Transcript of BCB, T15169:37-T15170:23 (Day 147).

<sup>262</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [65].

<sup>263</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [65].

- 144 BCB gave evidence that she was left feeling unsupported by the congregation and was instead encouraged to respect her abuser.<sup>264</sup>
- 145 Mr Horley told the Royal Commission that he and Mr Doug Jackson did not consider it necessary to impose any specific restrictions on Bill Neill.<sup>265</sup>
- 146 Mr Horley agreed, and it is submitted, that restricting Bill Neill's privileges would have been appropriate in relation to some situations.<sup>266</sup>

### The report to the Branch Office

- 147 In a letter dated 1 February 1992, Mr Horley and Mr Doug Jackson reported to the Branch Office on the outcome of their investigation into BCB's allegations.<sup>267</sup> The letter reported the recommendation that Bill Neill step down as an elder because Mr Horley and Mr Doug Jackson had concluded that 'uncleanness' had been committed 'on several occasions (sic)'.<sup>268</sup>
- 148 The letter of 1 February 1992 further reported that both Mr Horley and Mr Doug Jackson were 'impressed by Brother Neill's acceptance of counsel and his humility throughout the ordeal' and recommended that he be appointed as an elder again 'once this has died down'.<sup>269</sup> Mr Horley told the Royal Commission that in this regard the letter used 'unfortunate wording' and he acknowledged that '[m]atters of this nature take many years, if ever, to die down completely'.<sup>270</sup>
- 149 The *Pay Attention 1991* handbook to which Messrs Horley and Jackson would have had regard directed that the privilege of serving as ministerial servant or elder could be recommended only after the individual had ample time to prove himself to be irreprehensible and again 'free from accusation' and had 'freeness of speech'.<sup>271</sup> It is submitted that to simply wait for the matter to 'die down' before reappointing Bill Neill would not have been in accordance with the direction of the Governing Body as recorded in *Pay Attention 1991*.
- 150 Mr Horley gave evidence that although he signed the letter to the Branch Office,<sup>272</sup> he did not believe that Bill Neill had only committed uncleanness 'on several occasions'. Mr Horley accepted that BCB had made other allegations against Bill Neill, but could not

<sup>264</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [62] and [64].

<sup>265</sup> Transcript of M Horley, T15209:11-15;  
Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [9.1];  
Exhibit 29-0004, Statement of Doug Jackson, STAT.0600.001.0001\_R at [9.2];  
Exhibit 29-0003, WAT.0001.002.0504\_R (Tab 70).

<sup>266</sup> Transcript of M Horley, T15209:4-25 (Day 147).

<sup>267</sup> Exhibit 29-0003, WAT.0001.002.0504\_R (Tab 70).

<sup>268</sup> Exhibit 29-0003, WAT.0001.002.0504\_R (Tab 70).

<sup>269</sup> Exhibit 29-0003, WAT.0001.002.0504\_R (Tab 70).

<sup>270</sup> Transcript of M Horley, T15209:39-43 (Day 147).

<sup>271</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0061-0062 (Tab 80);

Exhibit 29-0033, WAT.0019.001.0001 at 0037-0038.

<sup>272</sup> Transcript of M Horley, T15205:34-T15206:2 (Day 147).

explain to the Royal Commission why those allegations had not been detailed in the report to the Branch Office.<sup>273</sup>

- 151 The letter of 1 February 1992 also reported that ‘unfortunately there may be worldly people who also know’ about Bill Neill’s conduct.<sup>274</sup> Mr Horley told the Royal Commission that he had included an expression of concern about how widely known BCB’s allegations were because he had wanted to preserve the cleanness of the congregation and was concerned about the reputation of Jehovah’s name.<sup>275</sup>
- 152 Mr Horley ultimately accepted that he was concerned with Bill Neill’s efficacy as an elder, his qualification to teach, and the proper functioning of the organisation.<sup>276</sup> Mr Horley conceded that his concern was ‘probably not’ about protecting children in the congregation.<sup>277</sup>

#### **Available findings on BCB’s first disclosure**

- F4 The elders bringing the man whom BCB accused of abusing her to her home was unjustified and traumatising for BCB and should not have occurred.
- F5 Although the elders may have been following the documented procedure at the time and they may have believed that Scriptural principle required that the accuser face the accused with her allegations, it was distressing to and unsupportive of BCB to require that of her.
- F6 It was distressing for BCB to be required by the elders to tell of what had happened to her to a group of men, including the man whom she accused of abusing her, and it was not likely to, nor did it, result in BCB disclosing the full extent of her abuse.
- F7 It was inconsistent with the elders’ professed sympathy for BCB for them not to have offered her the opportunity of the support and involvement of women in the process of investigating her allegations of abuse.
- F8 The elders did not explain to BCB the purpose of their investigation and the meetings with her such as to ensure that she had an understanding of that purpose, which left her confused and disempowered.
- F9 The application of the two-witness rule meant that there was insufficient evidence for the elders to act against BCB’s abuser even though they believed her, which left her feeling disbelieved and unsupported, and it left the abuser in the congregation where he may have been a risk to other children.
- F10 Mr Horley telling BCB that she should not discuss her abuse with anyone left her feeling silenced and unsupported.
- F11 BCB was not told by the elders that she could, let alone should, report her abuse to the authorities.
- F12 In circumstances where both investigating elders agreed that there was substance to BCB’s allegations, they should have taken steps against Bill Neill, at least by imposing some

<sup>273</sup> Transcript of M Horley, T15207:36-T15208:38 (Day 147).

<sup>274</sup> Exhibit 29-0003, WAT.0001.002.0504\_R (Tab 70).

<sup>275</sup> Transcript of M Horley, T15206:26-34 (Day 147).

<sup>276</sup> Transcript of M Horley, T15210:13-31 (Day 147).

<sup>277</sup> Transcript of M Horley, T15209:45-T15210:31 (Day 147).

restrictions on his activities involving children and thereby addressing the potential risk that he posed to other children.

F13 It was traumatic for BCB and inappropriate of Mr Horley for him to have required BCB to attend Bible study at Bill Neill's home when he knew that BCB accused Bill Neill of abusing her.

F14 The recommendation of the elders to the Branch Office that Bill Neill be reinstated as an elder 'once this has died down' and their expressed concern 'that there may also be worldly people who also know' demonstrates that they were more concerned about the reputation of Bill Neill and the congregation than about the risk that he posed to children.

#### 4.5 BCB's disclosure in 2012

153 In 2012 in a written statement, BCB disclosed her abuse by Bill Neill to two elders in her local congregation, Joe Bello and David Wood.<sup>278</sup>

154 In a letter dated 18 December 2012, Messrs Bello and Wood forwarded BCB's written statement to the Branch Office.<sup>279</sup>

155 BCB told the Royal Commission that in July 2014, when Mr Bello was visiting her house on an unrelated matter she told him that she was considering reporting her abuse to the Royal Commission.<sup>280</sup> BCB gave evidence that at around the same time, Mr Bello telephoned her husband, BCC, and asked if BCB 'really wants to drag Jehovah's name through the mud'.<sup>281</sup>

156 Mr Bello accepted, and it is submitted, that he was wrong to have said what he said to BCC and that he should never want to 'discourage someone from going to the authorities'.<sup>282</sup> It is further submitted that Mr Bello's discouragement of BCB through what he said to BCC was in direct contravention of the Jehovah's Witness organisation's explicit directive to '[n]ever suggest to anyone that they should not report an allegation of child abuse to the police or other authorities'.<sup>283</sup>

157 Upset by Mr Bello's visit, BCB wrote a second letter recording her feelings about her abuse.<sup>284</sup> Under cover of a letter dated 17 December 2014, Mr Bello, Mr Wood, and Mr Robert Boardman of BCB's local congregation forwarded BCB's second letter to the Branch Office.<sup>285</sup>

<sup>278</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [69]; Exhibit 29-0005, Statement of Joseph Bello, STAT.0594.001.0001\_R at [5.1].

<sup>279</sup> Exhibit 29-0003, WAT.0001.002.0501\_R (Tab 71);

<sup>280</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [70].

<sup>281</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [71]; Exhibit 29-0005, Statement of Joseph Bello, STAT.0594.001.0001\_R at [5.12].

<sup>282</sup> Exhibit 29-0005, Statement of Joseph Bello, STAT.0594.001.0001\_R at [5.13].

<sup>283</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0132 [19] (Tab 120).

<sup>284</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [72].

<sup>285</sup> Exhibit 29-0003, WAT.0001.002.0495 (Tab 72).

## Mr Horley's correspondence with the Branch Office in 2015

- 158 In a letter dated 6 January 2015, Mr Horley provided, at the request of the Service Desk at the Branch Office,<sup>286</sup> a brief summary of events leading to the deletion of Bill Neill as an elder in 'in around 1993'.<sup>287</sup> In his letter, Mr Horley reported that '... it became a matter of her word against his as there were no witnesses to the alleged events. BCB was an attractive young sister and often got around the house in her nightwear ...'.<sup>288</sup> Mr Horley told the Royal Commission that this latter observation was in fact a comment that Bill Neill had made to him.<sup>289</sup> Mr Horley said that Bill Neill's comment 'should have raised stronger warning bells than it did at the time'.<sup>290</sup>
- 159 Mr Horley accepted, in evidence, that a child cannot validly consent to being sexually abused or be blamed for it.<sup>291</sup>

### Available findings on BCB's second disclosure

- F15 It was wrong of Joe Bello, and contrary to the Jehovah's Witness organisation's own direction in that regard, to discourage BCB from reporting to the Royal Commission by asking whether she 'really wants to drag Jehovah's name through the mud'.
- F16 The elders in BCB's present congregation should have supported BCB in her reporting to the Royal Commission if that is what she wanted to do.

## 4.6 The impact on BCB of the abuse and of the organisation's response

- 160 BCB told the Royal Commission about the long term effect that Bill Neill's abuse has had on her. She said that the abuse changed who she was, destroyed her confidence, and held her back from living a normal life.<sup>292</sup> BCB continued to feel as though she was Bill Neill's victim well into her adult life.<sup>293</sup>
- 161 BCB told the Royal Commission that she had a nervous breakdown 10 years ago<sup>294</sup> and has had a lot of therapy to address Bill Neill's abuse.<sup>295</sup> The Royal Commission heard that the abuse has impacted on BCB's health such that she has required ongoing medical and therapeutic treatment.<sup>296</sup> BCB gave evidence that her medical treatment has cost her

<sup>286</sup> Transcript of M Horley, T15210:46-T15211:25 (Day 147).

<sup>287</sup> Exhibit 29-0003, WAT.0001.002.0493\_R (Tab 74).

<sup>288</sup> Exhibit 29-0003, WAT.0001.002.0493\_R (Tab 74).

<sup>289</sup> Transcript of M Horley, T15212:42-9 (Day 147).

<sup>290</sup> Transcript of M Horley, T15213:11-16 (Day 147).

<sup>291</sup> Transcript of M Horley, T15213:18-28 (Day 147).

<sup>292</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [74]-[75].

<sup>293</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [76].

<sup>294</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [77].

<sup>295</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [78].

<sup>296</sup> Transcript of BCB, T15171:41-T15172:34 (Day 147);

Transcript of BCB, T15178:47-T15179:6 (Day 147).

money and that she would welcome compensation if it were to be offered to her by the Jehovah's Witness organisation.<sup>297</sup>

162 BCB said that she felt brainwashed into believing that speaking with 'worldly' people would bring reproach upon Jehovah's name.<sup>298</sup> BCB said that, as a result of reporting her story to the Royal Commission, she is riddled with guilt for betraying the Jehovah's Witness organisation<sup>299</sup> and for 'dragging Jehovah's name through the mud'.<sup>300</sup>

163 BCB told the Royal Commission that, in her view:

- a) the elders should have encouraged her to go to the police<sup>301</sup>
- b) she should not have been confronted by her abuser in her own home,<sup>302</sup> and
- c) there should have been women involved to support her through the process.<sup>303</sup>

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<sup>297</sup> Transcript of BCB, T15179:8-13 (Day 147).

<sup>298</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [77].

<sup>299</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [73].

<sup>300</sup> Transcript of BCB, T15171:28-39 (Day 147).

<sup>301</sup> Transcript of BCB, T15178:5-7 (Day 147).

<sup>302</sup> Transcript of BCB, T15178:19-22 (Day 147).

<sup>303</sup> Transcript of BCB, T15178:24-26 (Day 147).



## Part 5 BCG

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- 164 BCG was born in Queensland and grew up in a strict Jehovah's Witness family.<sup>304</sup> BCG's father, BCH, joined a congregation of Jehovah's Witnesses in Queensland when she was very young, and her mother joined the same congregation a short time thereafter.<sup>305</sup> BCG was formally baptised as a Jehovah's Witness when she was about 16 years old.<sup>306</sup>
- 165 BCG is 43 years old and the mother of four children.<sup>307</sup> She is currently in the final year of a law degree<sup>308</sup> and is no longer a Jehovah's Witness.<sup>309</sup>

### 5.1 BCG's abuse by her father, BCH

- 166 BCG's father, BCH, was appointed as a ministerial servant in the Mareeba Congregation in Far North Queensland when BCG was about 13.<sup>310</sup> BCH was well respected within the congregation and was given special privileges by the congregation elders, including conducting private Bible studies, managing door-to-door preaching and teaching and counselling the members of the congregation.<sup>311</sup>
- 167 As head of the household, BCH dictated and enforced compliance with household rules.<sup>312</sup> BCG said that her father would make her deliver Scriptural talks before the Congregation from the platform in the Kingdom Hall and take part in door-to-door preaching.<sup>313</sup> As a Jehovah's Witness, BCG was taught to love and fear Jehovah and to never question her parents or their decisions.<sup>314</sup>
- 168 BCG was not permitted to associate with people outside the Jehovah's Witness community.<sup>315</sup> She was taught from a young age that 'worldly' people, including the police, were bad and not to be trusted as they served Satan.<sup>316</sup> BCG's parents did not allow BCG to attend sex education classes at school or participate in extra-curricular activities, such as sport, because the organisation advised against it.<sup>317</sup> BCG said that she was not permitted to attend school after Year 10 because choosing higher education over Jehovah was frowned upon by the Jehovah's Witness organisation.<sup>318</sup>

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<sup>304</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [14].

<sup>305</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [7].

<sup>306</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [5].

<sup>307</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [3].

<sup>308</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [3].

<sup>309</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [66].

<sup>310</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [9].

<sup>311</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [9].

<sup>312</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [13]-[14].

<sup>313</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [11].

<sup>314</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [17].

<sup>315</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [14].

<sup>316</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [14] and [19].

<sup>317</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [14].

<sup>318</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [15].

169 The Royal Commission heard that when she was 17, BCG was sexually abused by BCH on a number of occasions over a two week period whilst her mother and siblings were away on holiday.<sup>319</sup>

## 5.2 BCG's attempted disclosure to the Mareeba Congregation elders

170 BCG told the Royal Commission that she initially tried to report her father's abuse to Mr Ali and Mr Bowditch, two elders in the Mareeba Congregation who were also friends of her father's.<sup>320</sup> BCG said that both elders refused to speak with her before she spoke to her father, or without her father being present.<sup>321</sup>

171 Mr Ali told the Royal Commission that he had no recollection of any such conversation with BCG.<sup>322</sup> Mr Ali agreed, however, that to require a person to speak to her father in the first instance was 'consistent with the teaching of the [organisation]'.<sup>323</sup>

172 Mr Bowditch recalled his wife raising with him that BCG needed to talk with him but could not recall his response.<sup>324</sup> He did not however accept that he would have required BCH to be present before speaking with BCB.<sup>325</sup>

## 5.3 Investigation and judicial committee

173 About eight months after BCG was sexually abused by her father while her mother and siblings were away, BCH left BCG's mother for another woman and moved out of the family home.<sup>326</sup> It was not until this time that BCG found the courage to tell her male friend, BCJ, about the abuse.<sup>327</sup> BCJ approached BCG's father to confront him about the abuse and subsequently arranged for BCG to meet with the elders of the Mareeba Congregation.<sup>328</sup>

174 At the time that they became aware of BCG's allegation, Messrs Ali, Bowditch and De Rooy, were already members of a judicial committee considering BCH's extra-marital relationship.<sup>329</sup> Mr Bowditch said that there was a lot of overlap between BCG's complaint and the matters already before the judicial committee and therefore some of BCG's complaint was investigated concurrently.<sup>330</sup> Mr Ali said that the same judicial

<sup>319</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [26]-[27].

<sup>320</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [37] and [38].

<sup>321</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [37] and [38].

<sup>322</sup> Transcript of D Ali, T15323:5-15, T15324:1-2 (Day 148).

<sup>323</sup> Transcript of D Ali, T15325:12-T15326:18 (Day 148).

<sup>324</sup> Transcript of K D Bowditch, T15393:46-T15396:3 (Day 149).

<sup>325</sup> Transcript of K D Bowditch, T15394:5-T15396:19 (Day 149).

<sup>326</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [39].

<sup>327</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [39].

<sup>328</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [39]-[40].

<sup>329</sup> Transcript of A R De Rooy, T15540:37-44 (Day 151).

Transcript of D Ali, T15327:42-45 (Day 148).

Transcript of K D Bowditch, T15396:23-37 (Day 149).

<sup>330</sup> Transcript of K D Bowditch, T15397:6-13 (Day 149).

committee members also dealt with BCG's allegations and that 'it was tied in pretty much together'.<sup>331</sup>

### Interviewing of BCG

175 BCG told the Royal Commission that she was interviewed by Mr De Rooy, Mr Ali and Mr Bowditch on a number of occasions.<sup>332</sup> BCG said that, on each occasion, she was alone and without any support.<sup>333</sup> On at least one occasion, BCH was also present at the meeting.<sup>334</sup>

176 BCG said that did not remember anyone explaining the purpose of the meetings to her, but that she understood that the elders were investigating her allegations.<sup>335</sup>

177 BCG told the Royal Commission that instead of being protected and supported as a victim of child sexual abuse, she felt that the elders sat in judgement of her credibility as a witness and made her feel to blame for what had happened.<sup>336</sup> She said that because the elders were all male and were friends of her father's she was reluctant to speak in any detail about BCH's abuse.<sup>337</sup>

178 BCG said that, at one of the meetings, the elders forced BCG to directly confront her father with her abuse allegations.<sup>338</sup> BCG told the Royal Commission that when her father was brought into the room she was extremely terrified.<sup>339</sup> In the meeting, BCH threatened BCG verbally and physically and blamed her for seducing him.<sup>340</sup>

179 Mr Bowditch and Mr Ali accepted that requiring BCG to make her allegations in front of BCH would have been a traumatising experience for BCG and that the process of requiring a victim of child sexual abuse to make her allegation in the presence of her offender was not conducive to arriving at the truth.<sup>341</sup>

### Allegations of sexual abuse of BCG's sisters

180 Not long after disclosing her abuse to the elders, BCG disclosed to her mother, BCI. BCI told BCG that her father had previously abused BCG's older sister.<sup>342</sup> At around the same time, BCG's two younger sisters each told BCG and her mother that they had also been sexually abused by BCH.<sup>343</sup>

<sup>331</sup> Transcript of D Ali, T15339:26-37 (Day 148).

<sup>332</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [42]-[43].

<sup>333</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [42].

<sup>334</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [42] and [49].

<sup>335</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [42].

<sup>336</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [43], [78] and [80].

<sup>337</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [44].

<sup>338</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [49].

<sup>339</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [49].

<sup>340</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [50];

Transcript of K D Bowditch, T15399:14-22 (Day 149).

<sup>341</sup> Transcript of K D Bowditch, T15399:14-33 (Day 149);

Transcript of D Ali, T15376:17-33 (Day 149).

<sup>342</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [46].

<sup>343</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [47].

- 181 BCG said that although she told the elders about her sisters' sexual abuse allegations against BCH, the elders did not take those allegations into account in their consideration of BCG's allegation against BCH.<sup>344</sup> BCG said that Mr De Rooy told her that the elders could not consider the evidence of her sisters' abuse as they were too young to know what they were talking about and were not witnesses to the 'same event'.<sup>345</sup>
- 182 Mr De Rooy, Mr Ali and Mr Bowditch each told the Royal Commission that they did not recall being told about the abuse of BCG's sisters during the judicial committee meetings.<sup>346</sup>

### **The investigating/judicial committee's conclusion as to the sufficiency of evidence**

- 183 Mr De Rooy, Mr Ali and Mr Bowditch all believed that BCG had been abused by BCH.<sup>347</sup> Despite their belief as to the truth of BCG's allegations, they concluded that without a confession by BCH they were bound by the two-witness rule and had insufficient proof to take action.<sup>348</sup> Mr De Rooy accepted that this outcome was 'not fair' for BCG, but told the Royal Commission that the elders were bound by their Biblical principles.<sup>349</sup>

### **Mr Ali's notes of the judicial committee**

- 184 During the public hearing, Mr Ali was shown a document comprising some 23 pages of photocopied handwritten notes.<sup>350</sup> He told the Royal Commission that the document constituted notes that he had taken during the judicial committee process regarding BCH.<sup>351</sup> He agreed that the page numbers also appeared to be in his handwriting.<sup>352</sup>
- 185 Mr Ali did not dispute that the pages appeared to be ordered consecutively starting at '1', with each page following the numbered page being the reverse of its respective numbered page.<sup>353</sup> He acknowledged that where a page, such as the page between the pages numbered 14 and 15, was unnumbered, it stood to reason that the unnumbered page was the reverse of the preceding numbered page.<sup>354</sup>

<sup>344</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [48];  
Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [52].

<sup>345</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [52].

<sup>346</sup> Transcript of D Ali, T15334:45-47 (Day 148);  
Transcript of A R De Rooy, T15554:20-33 (Day 151);  
Transcript of K D Bowditch, T15405:40-43 (Day 149).

<sup>347</sup> Transcript of K D Bowditch, T15404:5-9 (Day 149);  
Transcript of D Ali, T15330:36-T15331:29, T15330:42-43 (Day 148), T15353:1-13, T15361:10-17 (Day 149);  
Transcript of A R De Rooy, T15547:1-5, T15548:26-42 (Day 151).

<sup>348</sup> Exhibit 29-007, Statement of Dino Ali, STAT.0598.001.0001\_R at [5.5] and [5.6];  
Transcript of D Ali, T15331:1-29 (Day 148);  
Exhibit 29-006, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [6.1].

<sup>349</sup> Transcript of A R De Rooy, T15547:1-40 (Day 151).

<sup>350</sup> Exhibit 29-0008, QLD.0068.001.1478\_R.

<sup>351</sup> Transcript of D Ali, T15342:20-22, T15348:3-5 (Day 149).

<sup>352</sup> Transcript of D Ali, T15342:37-38 (Day 149).

<sup>353</sup> Transcript of D Ali, T15342:33-35, T15343:29-T15344:32 (Day 149).

<sup>354</sup> Transcript of D Ali, T15343:8-T15344:32 (Day 149).

- 186 Mr Ali agreed that the first page of the notes was dated 1 June 1989, or possibly 1 May 1989.<sup>355</sup> It is submitted that it can be accepted that the date is 1 June 1989: the manuscript is clear enough and each of the dates appearing thereafter is either that date or a later date with there being no date recorded between 1 May and 1 June.
- 187 At the foot of the reverse of the page numbered 14 was written '19-7-89 [BCH] appeals, fax to Kevin'.<sup>356</sup> Mr Ali told the Royal Commission that the pages which precede the reverse of page 14 'possibly' record matters dealt with by the judicial committee prior to the date on which BCH lodged his appeal against the committee's decision to disfellowship.<sup>357</sup> It is submitted that the notes clearly record such matters, there being no other sensible reading of them.
- 188 Mr Ali accepted that his notes appeared to be structured in such a way as to first record the name of the person to whom the notes refer, then either by use of a colon or a dash, record what that person told the committee.<sup>358</sup>

### **What Mr Ali's notes say about the abuse of BCG's sisters**

- 189 Mr Ali was taken to pages 4 and 5 of his notes, which relevantly record the following:<sup>359</sup>

Page 4

[BCG] and [BCI] – molesting! 4 – 5 times.

...

- Says [BCH] has abused 2 younger children, possibly [BCK] too at age 2.

Page 5

[BCK] (by herself)

...

On abuse to [BCK]

Yes, at age 3 (remembers vividly).

- 190 Mr Ali was taken to page 8 of his notes, which relevantly records the following:<sup>360</sup>

She does not like what her dad is doing with [redacted] and commendably, when pulled up before [redacted] by [BCH] to deny charge of molestation to [BCK] she insisted on the truth despite [BCH's] efforts to the contrary.

- 191 Mr Ali agreed that the 'she' referred to on page 8 of his notes as extracted above was BCG's older sister, BCK.<sup>361</sup> He agreed that the notes record that BCK herself told the

<sup>355</sup> Transcript of D Ali, T15342:40-47 (Day 149).

<sup>356</sup> Exhibit 29-0008, QLD.0068.001.1478\_R at 1495\_R.

<sup>357</sup> Transcript of D Ali, T15343:3-27 (Day 149).

<sup>358</sup> Transcript of D Ali, T15344:45-T15346:20 (Day 149).

<sup>359</sup> Exhibit 29-0008, QLD.0068.001.1478\_R at 1481\_R and 1482\_R.

<sup>360</sup> Exhibit 29-0008, QLD.0068.001.1478\_R at 1485\_R.

<sup>361</sup> Transcript of D Ali, T15348:45-T15349:10 (Day 149).

judicial committee of himself and Messrs De Rooy and Bowditch, about having been sexually abused by her father.<sup>362</sup>

- 192 Mr Ali was taken to the foot of page 11 of his notes which records the date '17.6.89' and below the date 'Met with [BCI] and [BCG]', and then to the reverse of page 11 of his notes, which relevantly records the following:<sup>363</sup>

...

Interesting that both mentioned [BCK] as admitting to another "attempt" of molesting by [BCH] when going to school at later age...

...

[BCH] took [BCK's] hand to place it on his private parts.

she pulled hand away and refused to speak with him for some time.

- 193 Mr Ali agreed that, on or around 17 June 1989, during the judicial committee process before himself and Messrs De Rooy and Bowditch, BCG and her mother reported to the committee an incident of abuse against BCK by BCH.<sup>364</sup>

#### **What Mr Ali's notes say about BCH's confession**

- 194 Page 12 of Mr Ali's notes records that the judicial committee met on 10 July 1989 to discuss disfellowshipping BCH on 'charges of "LOOSE CONDUCT" and "Lying"'.<sup>365</sup> On the same page, the notes record that an appointment was made over the telephone with BCH and someone else to meet at the Kingdom Hall at 7.30pm on 12 July 1989.<sup>366</sup>

- 195 Mr Ali was taken to page 14 of his notes, which relevantly recorded the following:<sup>367</sup>

[BCH] – told of charges "Loose conduct + lying"

...

[BCH] has admitted to all things and also said that whatever [BCG] had said on molesting was true.

- 196 Having previously agreed to the possibility that the pages prior to the reverse of the page numbered 14 record matters dealt with by the judicial committee prior to BCH's appeal on 19 July 1989,<sup>368</sup> Mr Ali agreed that the notes record BCH confessing to the judicial committee to abusing BCG.<sup>369</sup> Mr Ali agreed that in spite of having confessed to the sexual abuse of his daughter, BCG, BCH was subsequently disfellowshipped by the

<sup>362</sup> Transcript of D Ali, T15347:46-T15348:5 (Day 149).

<sup>363</sup> Exhibit 29-0008, QLD.0068.001.1478\_R at 1489\_R.

<sup>364</sup> Transcript of D Ali, T15350:32-43 (Day 149).

<sup>365</sup> Exhibit 29-0008, QLD.0068.001.1478\_R at 1490\_R.

<sup>366</sup> Exhibit 29-0008, QLD.0068.001.1478\_R at 1490\_R.

<sup>367</sup> Exhibit 29-0008, QLD.0068.001.1478\_R at 1494\_R.

<sup>368</sup> Transcript of D Ali, T15343:3-27 (Day 149).

<sup>369</sup> Transcript of D Ali, T15351:20-26 (Day 149).

committee on grounds relating only to his extra-marital relationship and not to the sexual abuse of BCG.<sup>370</sup>

### Submissions in relation to the evidence before the judicial committee

- 197 Each of Messrs Ali, Bowditch and De Rooy told the Royal Commission that owing to the passage of time, they were unable to recall specific details or the sequence of events in the case of BCG.<sup>371</sup>
- 198 Mr De Rooy denied in evidence that the judicial committee considering BCG's allegations was made aware of the allegations of abuse in respect of BCG's sisters.<sup>372</sup> He told the Royal Commission that had the judicial committee been made aware it would have acted.<sup>373</sup> Mr De Rooy's evidence was that, in spite of the allegations recorded in the notes, 'we did not know of that information'.<sup>374</sup> Mr De Rooy told the Royal Commission that his memory was vague and acknowledged that the notes were likely to be a more reliable record of what information was considered by the judicial committee at the time than his own memory, but insisted that the judicial committee was not aware of the additional allegations.<sup>375</sup>
- 199 Mr De Rooy also told the Royal Commission that it was his recollection that BCH did not confess to abusing BCG until the appeals committee meeting, however Mr De Rooy could not provide any explanation for the confession recorded in Mr Ali's notes.<sup>376</sup>
- 200 In the light of Mr De Rooy's concession as to the reliability of the notes, and Mr Ali's evidence as to their provenance and arrangement, it is submitted that where the notes are reasonably clear they should be accepted in preference to the recollection of the elders. In particular, it should be accepted that:
- a) on or about 1 June 1989, the elders were advised by BCG and her mother that BCG's older sister and her two younger sisters had each been sexually abused by BCH, and
  - b) between 12 and 19 July 1989, and before the judicial committee's decision to disfellowship BCH, BCH confessed to the judicial committee his sexual abuse of BCG.
- 201 It is submitted that contrary to evidence given before the Royal Commission by Messrs Ali, Bowditch, and De Rooy, the judicial committee had before it sufficient evidence in the form of the allegations of BCG's sisters to conclude, according to the evidentiary requirements set out in *Pay Attention 1981*,<sup>377</sup> that BCH had sexually abused BCG.

<sup>370</sup> Transcript of D Ali, T15351:20-26 (Day 149).

<sup>371</sup> Exhibit 29-0007, Statement of Dino Ali, STAT.0598.001.0001\_R at [5(1)];  
Exhibit 29-0010, Statement of Kevin Bowditch, STAT.0602.001.0001\_R at [4.1];  
Exhibit 29-0016, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [5.1].

<sup>372</sup> Transcript of A R De Rooy, T15553:13-22 (Day 151).

<sup>373</sup> Transcript of A R De Rooy, T15553:22, 34-36 (Day 151).

<sup>374</sup> Transcript of A R De Rooy, T15553: 13-22 (Day 151).

<sup>375</sup> Transcript of A R De Rooy, T15553:38-45 (Day 151).

<sup>376</sup> Transcript of A R De Rooy, T15557:15-T15558:28 (Day 151).

<sup>377</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0035.

202 It is submitted that the judicial committee of Messrs Ali, Bowditch and De Rooy failed to take account of the evidence of BCG's sisters and of the confession of BCH in deciding the grounds upon which to disfellowship BCH.

#### **The decision to disfellowship BCH**

203 BCH was ultimately disfellowshipped, not for child sexual abuse, but for 'loose conduct' in relation to his extra-marital relationship and for 'lying' about it.<sup>378</sup>

#### **The report to the Branch Office about the decision to disfellowship BCH**

204 The report of the judicial committee to the Branch Office regarding the decision to disfellowship BCH referred only to the charges of 'loose conduct' and 'lying'.<sup>379</sup> The report did not mention BCG's allegation of child sexual abuse against BCH or the investigation undertaken by Messrs De Rooy, Ali, and Bowditch.<sup>380</sup>

205 Mr Bowditch was unable to explain why the report did not mention BCG's allegation of child sexual abuse.<sup>381</sup>

206 Mr De Rooy told the Royal Commission that the report did not refer to BCG's allegations because, in his view, the investigation into her allegations was still ongoing.<sup>382</sup> He agreed however that there can be no ongoing investigation of a disfellowshipped person.<sup>383</sup>

207 When asked what would have become of BCG's allegation had BCH not appealed the decision to disfellowship him, Mr De Rooy told the Royal Commission that he felt that BCG had the right to go to the police.<sup>384</sup>

208 Mr De Rooy was unable to recall if he supported or encouraged BCG to report her allegations to the authorities.<sup>385</sup>

## **5.4 BCH's appeal**

209 On 19 July 1989, BCH sent a fax to Messrs De Rooy, Bowditch and Ali appealing the judicial committee's decision to disfellowship him for 'loose conduct' and 'lying'.<sup>386</sup> An appeal committee was convened and was comprised of three new elders, Joe Mirariz,

<sup>378</sup> Exhibit 29-0007, Statement of Dino Ali, STAT.0598.001.0001\_R at [5.1], [5.6] and [6.1]; Exhibit 29-0006, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [6.1]; Exhibit 29-0010, Statement of Kevin Bowditch, STAT.0602.001.0001\_R at [5.1];

Exhibit 29-0003, WAT.0001.002.0134\_R (Tab 3);

Exhibit 29-0003, WAT.0001.002.0135\_R (Tab 5);

Exhibit 29-0003, WAT.0001.002.0136\_R (Tab 26).

<sup>379</sup> Exhibit 29-0003, WAT.0001.002.0134\_R (Tab 3).

<sup>380</sup> Exhibit 29-0003, WAT.0001.002.0134\_R (Tab 3).

<sup>381</sup> Transcript of K D Bowditch, T15405:26-28 (Day 149).

<sup>382</sup> Transcript of A R De Rooy, T15559:3-31 (Day 151).

<sup>383</sup> Transcript of A R De Rooy, T15560:33-41 (Day 151).

<sup>384</sup> Transcript of A R De Rooy, T15561:23-26 (Day 151).

<sup>385</sup> Transcript of A R De Rooy, T15562:11-16 (Day 151).

<sup>386</sup> Exhibit 29-0003, QLD.0068.001.1474\_R (Tab 4).



Don Wilson and Jim Bennett.<sup>387</sup> The appeal committee elders were from other congregations in the area.<sup>388</sup> Mr De Rooy, Mr Ali and Mr Bowditch also attended the appeal committee meeting as observers.<sup>389</sup>

- 210 Mr Ali told the Royal Commission that BCG's allegations of sexual abuse resurfaced during the appeal committee meeting.<sup>390</sup> As a result, BCG was brought, alone, before BCH and the six male elders to be interviewed again.<sup>391</sup>
- 211 Messrs Bowditch and De Rooy told the Royal Commission that during the appeal committee meeting BCH confessed to abusing BCG.<sup>392</sup>
- 212 The appeal committee upheld the decision to disfellowship BCH for 'loose conduct' and 'lying', and added, relevantly, the ground of 'porneia' to reflect BCH's confession to 'gross sexual acts against' BCG on five or six occasions.<sup>393</sup>
- 213 In spite of the decision of the appeal committee to add the ground of 'porneia', the form recording BCH's disfellowshipping only recorded the charges of 'loose conduct' and 'lying'.<sup>394</sup> In oral evidence, Mr De Rooy accepted that this was an oversight.<sup>395</sup>
- 214 Mr Bowditch told the Royal Commission that the Mareeba Congregation was not informed of the reason for BCH's disfellowshipping.<sup>396</sup>
- 215 Mr De Rooy and Mr Ali told the Royal Commission that, despite BCH's admission to the appeal committee, they did not consider reporting the matter to police.<sup>397</sup> Mr Ali and Mr Bowditch accepted that the result of this was that BCH, a man they knew to have confessed to child sexual abuse, was left at large in the community.<sup>398</sup>

### **BCG's reaction after BCH's disfellowshipping**

- 216 BCG told the Royal Commission that she was devastated by the decision of the original judicial committee to disfellowship BCH on grounds unrelated to his sexual abuse of

<sup>387</sup> Exhibit 29-0003, WAT.0001.002.0135\_R (Tab 5).

<sup>388</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [54].

<sup>389</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [54].

<sup>390</sup> Transcript of D Ali, T15357:10-12 (Day 149).

<sup>391</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [53];

Exhibit 29-0006, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [6.2].

<sup>392</sup> Exhibit 29-0010, Statement of Kevin Bowditch, STAT.0602.001.0001\_R at [4.12];

Exhibit 29-0006, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [6.2].

<sup>393</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [57] and [58];

Exhibit 29-0003, WAT.0001.002.0135\_R (Tab 5).

<sup>394</sup> Exhibit 29-0003, WAT.0001.002.0136\_R (Tab 26).

<sup>395</sup> Transcript of A R De Rooy, T15581:27-45 (Day 151).

<sup>396</sup> Transcript of K D Bowditch, T15408:39-41 (Day 149).

<sup>397</sup> Transcript of D Ali, T15358:10-15 (Day 149) and T15358:39-T15359:2 (Day 149);

Transcript of A R De Rooy, T15564:25-28 (Day 151).

<sup>398</sup> Transcript of K D Bowditch, T15409:10-11 (Day 149);

Transcript of D Ali, T15358:45-T15359:2 (Day 149).

her.<sup>399</sup> It appeared to her that BCH's abuse of her did not qualify as wrongdoing in the eyes of the Jehovah's Witness organisation.<sup>400</sup>

- 217 Mr Ali's handwritten notes of the original investigation and judicial committee record that BCG was counselled by the elders against speaking to others, including her soon to be fiancé, about her case.<sup>401</sup> Mr De Rooy told the Royal Commission that the counsel was aimed at protecting the confidentiality of the matter and that this was intended to be for BCG's benefit.<sup>402</sup> Mr De Rooy accepted that such counsel may have had the effect of making BCG feel silenced.<sup>403</sup>
- 218 BCG told the Royal Commission that, following BCH's disfellowshipping, many people in the congregation accused her of lying about BCH's abuse and that, as a result, she felt worthless, helpless and embarrassed.<sup>404</sup>
- 219 BCG told the Royal Commission that after and as a result of her experience of the committee meetings with the elders, she attempted suicide.<sup>405</sup> BCG said that she reported her suicide attempt to the elders as it was considered a sin by the Jehovah's Witness organisation.<sup>406</sup> BCG gave evidence that she was chastised by Mr De Rooy for attempting suicide because it was viewed as a serious wrongdoing.<sup>407</sup> Mr De Rooy was unable to recall speaking to BCG about her attempted suicide.<sup>408</sup>

#### **Available findings on the investigation and judicial committee processes following BCG's disclosure**

F17 The elders did not explain to BCG the purpose of their investigation and their meetings with BCG such as to ensure that she had an understanding of that purpose, which left her confused and disempowered.

F18 It was traumatising for BCG to be required by the elders to tell what had happened to her to a group of men, including the man whom she accused of sexually abusing her, and it was not likely to, nor did it, result in BCG disclosing the full extent her abuse.

F19 It would have been supportive of the elders to offer BCG the opportunity of the support and involvement of other women in the process of investigating her allegations of abuse.

F20 During their judicial committee investigation or proceedings the elders received evidence that BCH had abused BCG's elder sister and her two younger sisters, but they took no action in relation to that evidence.

F21 The evidence presented to the judicial committee of BCH having abused his other daughters satisfied the Jehovah's Witness organisation's own rules with regard to sufficiency of evidence

<sup>399</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [53].

<sup>400</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [53].

<sup>401</sup> Exhibit 29-0008, QLD.0068.001.1478\_R at 1482\_R and 1499\_R.

<sup>402</sup> Transcript of A R De Rooy, T15598:9-17 (Day 151).

<sup>403</sup> Transcript of A R De Rooy, T15598:19-22 (Day 151).

<sup>404</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [59].

<sup>405</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [72].

<sup>406</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [60].

<sup>407</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [60].

<sup>408</sup> Transcript of A R De Rooy, T15565:43-45 (Day 151).

to establish that BCH had abused BCG, but the elders wrongly ignored that evidence and accordingly failed to uphold BCG's complaint against BCH.

F22 In the course of the judicial committee process, and before the elders reached a conclusion on BCH's guilt in relation to his extra-marital conduct, BCH confessed to having abused BCG.

F23 The elders inexplicably and wrongly ignored BCH's confession to having abused BCG and thereby, within the precepts of the Jehovah's Witness organisation's own rules and procedures, failed to uphold BCG's complaint against BCH.

F24 BCG was not told by the elders that she could, let alone should, report her abuse to the authorities.

F25 The appeal committee's requirement that BCG give evidence of her sexual abuse by her father to a group of seven men including her named abuser was unjustified and traumatising to BCG and should never have happened.

F26 The failure by the elders to report BCH's sexual abuse of BCG to the police had the result that BCH remained at large in the community and a risk to children, and reflects that the elders were not concerned with child safety but rather with keeping their organisation 'clean'.

F27 The judicial committee's failure to uphold BCG's complaint of abuse by BCH conveyed to BCG that the organisation tolerated child sexual abuse within its ranks.

F28 The advice given by the elders to BCG that she not speak about her abuse to anyone had the effect of silencing her.

F29 The elders' treatment of BCG was unsympathetic and unsupportive and left her feeling worthless and helpless.

## 5.5 The reinstatement of BCH

220 In February 1990, less than eight months after the appeal committee's decision to disfellowship him, BCH applied to the Beenleigh East Congregation for reinstatement as a Jehovah's Witness.<sup>409</sup>

221 Mr Spinks and Mr Monty Baker were both elders in the Beenleigh East Congregation at the time that BCH applied for reinstatement.<sup>410</sup>

222 In a letter dated 19 March 1990, the elders of Beenleigh East Congregation wrote to the Mareeba elders seeking further information about the circumstances of BCH's disfellowshipping.<sup>411</sup> That letter did not refer to or seek further information in relation to BCH's sexual abuse of BCG.<sup>412</sup>

223 Mr Baker said that he and his fellow elders at the Beenleigh East Congregation must have been told about the sexual abuse because it was discussed at the first meeting of the Beenleigh East judicial committee.<sup>413</sup> Mr Baker said that the primary concern of the

<sup>409</sup> Exhibit 29-0003, QLD.0068.001.1466\_R (Tab 10).

<sup>410</sup> Exhibit 29-0019, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [82]-[83].

<sup>411</sup> Exhibit 20-0003, WAT.0006.001.0036\_R (Tab 7).

<sup>412</sup> Exhibit 20-0003, WAT.0006.001.0036\_R (Tab 7);  
Transcript of M J Baker, T15619:19-22 (Day 151).

<sup>413</sup> Transcript of M J Baker, T15619:24-30 (Day 151).

Beenleigh East judicial committee was nevertheless BCH's conduct in relation to the charges of 'loose conduct' and 'lying'.<sup>414</sup>

- 224 In a letter dated 23 April 1990, the elders at the Mareeba Congregation replied to the Beenleigh East elders recommending that BCH's application for reinstatement be rejected on the basis that BCH was not repentant for his wrongdoing.<sup>415</sup>
- 225 Mr De Rooy accepted that although the letter of 23 April 1990 referred to BCH 'sexually molesting his two eldest daughters', the reasons given by the Mareeba elders for rejection of BCH's reinstatement application were concerned only with the continuing relationship between BCH and another woman.<sup>416</sup> Mr De Rooy did not accept that the absence of a reference to child sexual abuse in their reasons suggests that the Mareeba judicial committee did not take the child sexual abuse allegations seriously.<sup>417</sup>
- 226 In around June of 1990, the Beenleigh East judicial committee rejected BCH's first application for reinstatement on the basis, Mr Spinks said, that BCH had not displayed 'godly sadness' or have a record of 'works that befit repentance'.<sup>418</sup> In its report of 15 June 1990, the committee noted that BCH 'denied any incest' and claimed that his confession before the appeal committee at Mareeba had been made 'under pressure'.<sup>419</sup>
- 227 Between September 1990 and April 1992, BCH sent a series of letters to elders from the Mareeba, Beenleigh East and St George Congregations, as well as to the Australia Branch Office. In each letter BCH made a plea for reinstatement.<sup>420</sup>
- 228 In April 1992, both the Branch Office and elders from the Mareeba Congregation sent letters to the St George Congregation, where BCH was at the time attending, advising that the elders at St George should display caution in believing any display of repentance by BCH.<sup>421</sup>
- 229 On 19 October 1992, elders from the St George Congregation wrote to the Mareeba Congregation recommending that there were now 'ample reasons' to support BCH's reinstatement, including that he had expressed 'sincere remorse over his past conduct'.<sup>422</sup>

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<sup>414</sup> Transcript of M J Baker, T15621:44-47 (Day 151).

<sup>415</sup> Exhibit 29-0003, WAT.0006.001.0026\_R (Tab 8).

<sup>416</sup> Transcript of A R De Rooy, T15572:13-16 (Day 151).

<sup>417</sup> Transcript of A R De Rooy, T15573:12-18 (Day 151).

<sup>418</sup> Exhibit 29-0018, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [85].

<sup>419</sup> Exhibit 29-0003, WAT.0006.001.0034\_R (Tab 9).

<sup>420</sup> Exhibit 29-0003, QLD.0068.001.1465\_R (Tab 10);

Exhibit 29-0003, WAT.0006.001.0017\_R (Tab 14);

Exhibit 29-0003, QLD.0068.001.1457\_R (Tab 17).

<sup>421</sup> Exhibit 29-0003, QLD.0068.001.1450\_R (Tab 22);

Exhibit 29-0003, QLD.0068.001.1449\_R (Tab 23).

<sup>422</sup> Exhibit 29-0003 QLD.0068.001.1448\_R (Tab 24).

- 230 By 4 November 1992, elders from the Mareeba Congregation had agreed to ‘go along with [the St George Congregation’s] recommendation for reinstatement’.<sup>423</sup>
- 231 BCH was reinstated on 13 November 1992.<sup>424</sup> Mr De Rooy said that despite agreeing to BCH’s reinstatement, he was ‘very hesitant’ about BCH being reinstated at the time.<sup>425</sup>
- 232 Mr De Rooy accepted that an important component to consider in any decision to reinstate a perpetrator of child sexual abuse is whether or not the perpetrator apologised to the victim.<sup>426</sup> Mr De Rooy said that, as far as he could recall, BCH never issued such an apology to either BCG or her older sister.<sup>427</sup>
- 233 It is submitted that in circumstances where Mr De Rooy remained hesitant about agreeing to reinstate BCH and where BCH had not showed repentance by apologising to BCG,<sup>428</sup> the elders from Mareeba Congregation should not have agreed to reinstate BCH in 1992.

### **BCG’s reaction to BCH’s reinstatement**

- 234 BCG said that when she learned that her father had been reinstated, she told Mr De Rooy that she was concerned for the safety of the congregation and that she intended to report the matter to the police.<sup>429</sup> BCG said that Mr De Rooy responded that if she reported to police, she would be disfellowshipped.<sup>430</sup> Mr De Rooy could not recall this conversation with BCG and did not accept that he might have said that to BCG.<sup>431</sup>

## **5.6 BCG’s correspondence with the Branch Office**

- 235 On 19 December 1995, BCG wrote to the Branch Office expressing concern about her father’s premature reinstatement.<sup>432</sup> In her letter, BCG informed the Branch Office that she was concerned that BCH would sexually abuse other children within the Jehovah’s Witness organisation.<sup>433</sup>
- 236 On 26 February 1996, the Service Desk at the Branch Office responded to BCG, telling her that they would investigate the matter and counselled her to have faith in Jehovah and the elders in her congregation.<sup>434</sup>

<sup>423</sup> Exhibit 29-0003, QLD.0068.001.1447\_R (Tab 25).

<sup>424</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [61]; Exhibit 29-0003, WAT.0001.002.0136\_R (Tab 26).

<sup>425</sup> Transcript of A R De Rooy, T15580:47-T15581:1 (Day 151).

<sup>426</sup> Transcript of A R De Rooy, T15580:7-29 and T15584:1-4 (Day 151); Exhibit 29-0003, WAT.0013.002.0001 at 0046.

<sup>427</sup> Transcript of A R De Rooy, T15580:7-29 (Day 151).

<sup>428</sup> See Exhibit 29-0003, WAT.0013.002.0001 at 0046-47 (Tab 80).

<sup>429</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [62].

<sup>430</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [62].

<sup>431</sup> Transcript of A R De Rooy, T15584:23-29 (Day 151).

<sup>432</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [64]; Exhibit 29-0003, QLD.0068.001.1410\_R (Tab 29).

<sup>433</sup> Exhibit 29-0003, QLD.0068.001.1410\_R at 1417\_R (Tab 29).

<sup>434</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [64];

- 237 BCG told the Royal Commission that upon receiving the Branch Office's letter, she felt angry, upset and let down.<sup>435</sup> BCG told the Royal Commission that she had already put her faith in the elders when she reported the abuse to them but felt that they didn't protect or support her.<sup>436</sup> Mr Geoffrey Jackson told the Royal Commission that he expected any letter from a Branch Office to be written with a spirit of love and concern, and that the Australia Branch's letter did not, on its face, reflect that love and concern.<sup>437</sup>
- 238 On 25 July 1996, the Service Desk at the Branch Office wrote to the body of elders at the Mareeba Congregation asking whether the fact that BCH had not apologised to BCG was a factor taken into consideration in the decision to reinstate BCH.<sup>438</sup> In its letter the Service Desk noted that it undertook to BCG to follow up on this matter, and asked the body of elders to reassure BCG that this was the case.<sup>439</sup>
- 239 There is no evidence that the Jehovah's Witness organisation took any action subsequent to its letter of 25 July 1996 to address the concerns expressed by BCG in her letter, to respond to her letter, or to offer her support.

#### **Available findings on the reinstatement of BCH**

- F30 BCH was reinstated as a Jehovah's Witness little more than three years after he had been disfellowshipped for, amongst other things, five or six counts of sexual abuse of his daughter.
- F31 The decision to reinstate BCH took no account of the risk that BCH posed to children, paid little regard to the fact that he had been disfellowshipped because of child sexual abuse, and was focussed principally on his extra-marital relationship.
- F32 The decision to reinstate BCH took no account of BCH's failure to apologise to BCG, a factor relevant to consideration of sincere repentance, or of what BCG might have had to say about BCH being reinstated.
- F33 The decision to reinstate BCH was disrespectful and unsupportive of BCG.
- F34 The Branch Office's response to BCG on 26 February 1996 caused BCG to feel angry, upset and let down, and did not convey support and concern to BCG on the part of the Jehovah's Witness organisation.

## **5.7 BCG's report to police**

- 240 In or around 1998 or 1999, BCG decided to leave the Jehovah's Witness organisation.<sup>440</sup> BCG said that, as a result of this decision, she was shunned, ostracised and actively avoided by members of her local congregation.<sup>441</sup>

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Exhibit 29-0003, QLD.0068.001.1409\_R (Tab 30).

<sup>435</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [65].

<sup>436</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [65].

<sup>437</sup> Transcript of G W Jackson, T15993:42-T15994:5 (Day 155).

<sup>438</sup> Exhibit 29-0003, QLD.0068.001.1408\_R (Tab 31).

<sup>439</sup> Exhibit 29-0003, QLD.0068.001.1408\_R (Tab 31).

<sup>440</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [66].

<sup>441</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [66].

- 241 After leaving the Jehovah's Witness organisation, BCG reported the abuse by her father to the police.<sup>442</sup> In around 2001, criminal proceedings commenced against BCH in relation to his sexual abuse of BCG.
- 242 The Royal Commission heard evidence from Mr Jason Davies, who was then a case lawyer with the Queensland Office of the Director of Public Prosecutions (**DPP**) assigned to the case of BCH. Mr Davies told the Royal Commission that in preparing the case for prosecution he became concerned that the inculpatory admissions made by BCH during the committee meetings would be rendered inadmissible at trial.<sup>443</sup> Mr Davies said that his concern arose in relation to BCH's admission because of the circumstances in which it was made and that an incentive to early confession was the prospect of reduced punishment.<sup>444</sup> Mr Davies said that after preparing the indictment he had no further involvement in the case, but that it was reported to him that ultimately BCH's inculpatory statements had been excluded on voir dire at the first trial.<sup>445</sup>
- 243 BCH's first trial resulted in a hung jury while his second trial was declared a mistrial.<sup>446</sup> After a third trial which concluded in December of 2004, BCH was convicted for the unlawful and indecent assault and attempted rape of BCG and was sentenced to three years' imprisonment.<sup>447</sup>
- 244 The Royal Commission heard that the elders from the Mareeba Congregation who had presided over the committee meetings and appeal committee meetings gave evidence at the first trial of BCH.<sup>448</sup>
- 245 BCG told the Royal Commission that her experience of the three criminal trials was significantly less traumatic than her experience sitting through the committee meetings.<sup>449</sup>

### **Available findings on the impact of the judicial committee process on criminal proceedings against BCH**

F35 The judicial committee and appeal committee processes that preceded BCG reporting her abuse by her father to the police complicated the criminal proceedings because of the numbers of people involved in those processes and the telling and retelling of the experience.

<sup>442</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [67].  
<sup>443</sup> Exhibit 29-0011, Statement of Jason Davies, STAT.0595.001.0001\_R at [16].  
<sup>444</sup> Transcript of J P Davies, T15423:17-32 (Day 149).  
<sup>445</sup> Transcript of J P Davies, T15421:25-29 (Day 149).  
<sup>446</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [69];  
<sup>447</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [69];  
 Exhibit 29-0003, QLD.0068.003.0104 (Tab 45).  
<sup>448</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [69].  
<sup>449</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [70].

## 5.8 The second disfellowshipping of BCH

- 246 The Royal Commission heard evidence from Mr Allan Pencheff who was an elder in the Loganholme Congregation between 1991 and 2005.<sup>450</sup>
- 247 Mr Pencheff told the Royal Commission that following BCH's reinstatement in 1992, BCH started attending the Loganholme Congregation in Queensland.<sup>451</sup>
- 248 In a letter dated 17 December 1992, the Mareeba Congregation recommended certain restrictions be placed on BCH due to the 'gravity of the wrongs committed' but did not refer to BCH's charge of child sexual abuse, nor recommend any restrictions regarding BCH's exposure to children.<sup>452</sup>
- 249 Mr Pencheff gave evidence that at the time BCH joined the Loganholme Congregation he was restricted from answering at meetings and giving talks from the platform.<sup>453</sup> Mr Pencheff said that he was not aware of any reason to restrict BCH's contact with children.<sup>454</sup> He said that he only became aware of BCH's history of child sexual abuse when criminal proceedings were commenced against BCH in 2001.<sup>455</sup>
- 250 In circumstances where *Pay Attention 1991* provided that privileges could be 'restored progressively when it is determined that the individual has progressed spiritually ...',<sup>456</sup> it is submitted that by omitting reference to the nature of the 'sin' for which BCH had been disfellowshipped the elders at the Mareeba Congregation made it impossible for the elders at the Loganholme to apply restrictions commensurate with the gravity of the 'sin' and to properly assess if BCH had made spiritual progression in accordance with the direction in *Pay Attention 1991*.
- 251 On 1 November 2002, the Service Desk at the Branch Office wrote to the Loganholme Congregation advising that BCH had 'recently been prosecuted for sexually interfering with' BCG and her younger sister.<sup>457</sup> In its letter, the Service Desk noted that until 'his recent guilty plea' BCH had consistently denied that he had sexually abused his daughters.<sup>458</sup> It is not clear why the Service Desk was under the impression that BCH had pleaded guilty, as there is no evidence to suggest that he did so at any time other than before the Mareeba judicial and appeal committees.
- 252 The Service Desk instructed two elders of the Loganholme Congregation to meet with BCH to investigate his lying to elders about the abuse of his daughters.<sup>459</sup> The Loganholme elders were instructed that if BCH refused to confess to his wrongdoing, he

<sup>450</sup> Transcript of A C Pencheff, T15642:39-42 (Day 152).

<sup>451</sup> Transcript of A C Pencheff, T15643:38-45 (Day 152).

<sup>452</sup> Exhibit 29-0003, QLD.0068.001.1446\_R (Tab 27).

<sup>453</sup> Exhibit 29-0018, Statement of Allan Pencheff, STAT.0604.001.0001\_R at [6.3].

<sup>454</sup> Exhibit 29-0018, Statement of Allan Pencheff, STAT.0604.001.0001\_R at [6.4].

<sup>455</sup> Exhibit 29-0018, Statement of Allan Pencheff, STAT.0604.001.0001\_R at [5.1].

<sup>456</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0061 (Tab 80).

<sup>457</sup> Exhibit 29-0003, WAT.0001.002.0112\_R (Tab 40).

<sup>458</sup> Exhibit 29-0003, WAT.0001.002.0112\_R (Tab 40).

<sup>459</sup> Exhibit 29-0003, WAT.0001.002.0112\_R at 0113\_R (Tab 40).



should be informed that he would likely be disfellowshipped for sexually abusing BCG's younger sister as well as for dishonesty.<sup>460</sup>

253 In a memorandum to the Service Desk dated 23 January 2003,<sup>461</sup> Mr Toole (writing from the Legal Department) observed that the primary issue before the Loganholme judicial committee in 2003 was BCH's lying, as opposed to his sexual abuse of BCG.<sup>462</sup> Mr Toole did not accept that it was reasonable to conclude from his memorandum that he considered BCH's dishonesty as being more serious than the child sexual abuse.<sup>463</sup>

### **The decision to disfellowship BCH for lying**

254 Mr Pencheff gave evidence that he was one of the two elders that met with BCH and later chaired the Loganholme judicial committee that was established to consider whether to disfellowship BCH for lying.<sup>464</sup>

255 Mr Pencheff told the Royal Commission that the Loganholme judicial committee accepted the allegations of BCH's three daughters as sufficient evidence to establish that in addition to abusing BCG, BCH had also abused BCG's three sisters.<sup>465</sup>

256 In March 2003, despite accepting the truth of the allegations of BCH's three daughters, and the instruction from the Service Desk that upon conviction BCH 'will likely be disfellowshipped for sexually abusing' BCG's younger sister, the elders at Loganholme Congregation disfellowshipped BCH for 'deliberate, malicious lying and bearing false witness' and not for child sexual abuse.<sup>466</sup>

257 Mr Pencheff did not accept that the reasons for BCH's disfellowshipping recorded in the judicial committee's report suggest that, at the time, the judicial committee considered the charge of lying to be more serious and pressing than a charge of 'porneia' or child sexual abuse.<sup>467</sup> Mr Pencheff said that the charge of child sexual abuse and the charge of dishonesty went 'hand in hand' and that the judicial committee took the charge of child sexual abuse very seriously.<sup>468</sup>

258 It is submitted that the reasons recorded in Mr Toole's memorandum to the Service Desk,<sup>469</sup> the notification of disfellowshipping form,<sup>470</sup> and the judicial committee's

<sup>460</sup> Exhibit 29-0003, WAT.0001.002.0112\_R at 0113\_R (Tab 40).

<sup>461</sup> Exhibit 29-0003, WAT.0001.002.0109 (Tab 41).

<sup>462</sup> Exhibit 29-0003, WAT.0001.002.0109 (Tab 41);  
Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R at [25].

<sup>463</sup> Transcript of V J Toole, T15786:39-41 (Day 152).

<sup>464</sup> Exhibit 29-0018, Statement of Allan Pencheff, STAT.0604.001.0001\_R at [1.4], [5.5], and [7.1];  
Exhibit 29-0003, WAT.0001.002.0107\_R (Tab 42).

Transcript of A C Pencheff, T15645:16-24 (Day 152).

<sup>465</sup> Transcript of A C Pencheff, T15646:43-47 (Day 152).

<sup>466</sup> Exhibit 29-0003, WAT.0001.002.0107\_R (Tab 42);

Exhibit 29-0003, WAT.0001.002.0108\_R (Tab 43).

<sup>467</sup> Exhibit 29-0003, WAT.0001.002.0108\_R (Tab 43);  
Transcript of A C Pencheff, T15650:30-47 (Day 152).

<sup>468</sup> Transcript of A C Pencheff, T15650:30-47 (Day 152).

<sup>469</sup> Exhibit 29-0003, WAT.0001.002.0109\_R (Tab 41).

<sup>470</sup> Exhibit 29-0003, WAT.0001.002.0107\_R (Tab 42).

report regarding their decision to disfellowship BCH,<sup>471</sup> do not support Mr Pencheff's evidence that the Loganholme judicial committee did not consider a charge of lying to be more serious than one of child sexual abuse.

- 259 It is submitted that despite having evidence that BCH had sexually abused BCG's three sisters, the judicial committee disfellowshipped BCH for dishonesty in relation to child sexual abuse, not for the child sexual abuse itself, and that this decision prioritised the charge of dishonesty over the charge of child sexual abuse.

#### **Available findings on the risk management and second disfellowshipping of BCH**

F36 When BCH was reinstated no restrictions were placed on him which were relevant to his risk to children despite his established history of child sexual abuse.

F37 BCH was disfellowshipped a second time for lying in relation to child sexual abuse rather than for child sexual abuse itself.

F38 The reasons canvassed and then given for the second disfellowshipping of BCH show that those from the Jehovah's Witness organisation who were involved were more concerned about a charge of lying than they were about BCH's sexual abuse of his daughters.

### **5.9 BCH's repeated requests for reinstatement**

- 260 Since at least May 2006 BCH has continued to make repeated applications for reinstatement, firstly to the Loganholme Congregation in Queensland, and later to the Kalamunda Congregation in Western Australia.<sup>472</sup>

- 261 Mr Spinks told the Royal Commission that the Service Desk has been closely involved in providing guidance to the elders on the respective judicial committees that have been responsible for considering BCH's applications for reinstatement in the Loganholme and Kalamunda Congregations.<sup>473</sup> Mr Spinks said that '[c]lear direction had been given to the elders that, until [BCH] fully acknowledges his sins of child abuse and lying in connection with these offences, it would be difficult for the committees or the victims to consider that he was repentant'.<sup>474</sup>

<sup>471</sup> Exhibit 29-0003, WAT.0001.002.0108\_R (Tab 43).

<sup>472</sup> Exhibit 29-0003, WAT.0001.002.0104\_R (Tab 46);  
Exhibit 29-0003, WAT.0012.001.0004\_R (Tab 51);  
Exhibit 29-0003, WAT.0012.001.0005\_R (Tab 53);  
Exhibit 29-0003, LOCO.0001.001.0018\_R (Tab 56);  
Exhibit 29-0003, LOCO.0001.001.0025\_R (Tab 57);  
Exhibit 29-0003, WAT.0012.001.0007\_R (Tab 59);  
Exhibit 29-0003, WAT.0001.002.0101\_R (Tab 61);  
Exhibit 29-0003, WAT.0001.002.0098\_R (Tab 64);  
Exhibit 29-0003, WAT.0001.002.0096\_R (Tab 65);  
Exhibit 29-0003, WAT.0001.002.0094\_R (Tab 67).

<sup>473</sup> Exhibit 29-0019, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [88]-[89].

<sup>474</sup> Exhibit 29-0019, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [89];  
Exhibit 29-0003, WAT.0001.002.0091\_R (Tab 69).

262 As at the date of the public hearing, BCH remained disfellowshipped as a Jehovah's Witness.<sup>475</sup>

### 5.10 Impact of abuse

263 BCG told the Royal Commission that she experienced depression during her teens and that after she was sexually abused by her father her depression became worse. BCG attempted suicide as a result of her experience of the committee meetings with the elders in the Mareeba Congregation.<sup>476</sup> BCG stated that, at the time, she couldn't bear the judgement and public vilification by those around her.<sup>477</sup>

264 BCG told the Royal Commission that she has at times feared being ostracised, shunned and vilified by those around her. She said that she has always lived in fear of her father, and that she had lived in fear of Jehovah.<sup>478</sup>

265 BCG told the Royal Commission that during the criminal proceedings against her father, she was terrified that Jehovah would kill her for having reported to the police and for bringing reproach upon his name.<sup>479</sup>

### 5.11 Redress

266 In her written statement, BCG told the Royal Commission that the current beliefs and practices of the Jehovah's Witness organisation – specifically the two-witness rule, the practice of not reporting to authorities outside the organisation, and the factors taken into account when reinstating an alleged perpetrator of child sexual abuse – appear to favour and even protect paedophiles.<sup>480</sup>

267 BCG told the Royal Commission that in her view it was essential that uniform mandatory reporting laws are introduced across Australia to apply to organisations like the Jehovah's Witnesses in order to protect children.<sup>481</sup>

268 BCG also gave evidence that the Jehovah's Witness organisation needed to be made financially accountable in order to redress the suffering of past, present and future victims of child sexual abuse within the Jehovah's Witnesses organisation.<sup>482</sup>

<sup>475</sup> Exhibit 29-0019, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [88]-[89].

<sup>476</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [72].

<sup>477</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [72].

<sup>478</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [74].

<sup>479</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [75].

<sup>480</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [82].

<sup>481</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [82].

<sup>482</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [82].

## Part 6 A Scriptural approach to child sexual abuse policy

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### 6.1 Policies based on the Scriptures

269 The Jehovah's Witnesses organisation relies primarily on Bible passages to set policies and practices.<sup>483</sup> The Jehovah's Witnesses organisation says that it has had Bible-based policies on child sexual abuse for over 30 years and that it is only authorised to address child sexual abuse in accordance with Scriptural direction.<sup>484</sup> These policies have been refined and periodically addressed in various publications over the past several decades.<sup>485</sup>

### 6.2 Governing Body responsible for Scriptural interpretation and policy formulation

#### Interpreting the Scriptures

270 Mr Jackson gave evidence that the primary role of the Governing Body is to interpret the Scriptures.<sup>486</sup> He confirmed in evidence that the Governing Body's interpretation of the Scriptures in relation to particular issues might change or develop from time to time and confirmed that one example of such development was in relation to the relaxation of the prohibition on blood transfusions to allow for blood fractions.<sup>487</sup>

271 Mr O'Brien told the Royal Commission that the Branch Committee is not involved in Scriptural interpretation because it is the Governing Body which provides the definitive Scriptural interpretation.<sup>488</sup> Mr O'Brien said that he was not aware of there being any scope for the Australia Branch to adopt a different Scriptural interpretation to that provided by the Governing Body.<sup>489</sup>

#### Formulation and promulgation of policy

272 Mr Jackson agreed that all policies of the Jehovah's Witness organisation are subject to Scriptural principles and that the Governing Body approves all policies to ensure that they are in keeping with the Scriptures.<sup>490</sup>

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<sup>483</sup> Exhibit 29-0024, First statement of Terrence O'Brien, STAT.0592.001.0001\_R at [75]; Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [23]-[24]; Transcript of R P Spinks, T15682:22-29 (Day 152).

<sup>484</sup> Exhibit 28-0003, WAT.0001.001.0001 at 0006 and 0012 (Tab 133).

<sup>485</sup> Exhibit 29-0024, First statement of Terrence O'Brien, STAT.0592.001.0001\_R at [66].

<sup>486</sup> Transcript of G W Jackson, T15945:17-19 (Day 155).

<sup>487</sup> Transcript of G W Jackson, T15945:25-36 (Day 155).

<sup>488</sup> Transcript of T J O'Brien, T15817:6-22 (Day 153).

<sup>489</sup> Transcript of T J O'Brien, T15817:29-31 (Day 153).

<sup>490</sup> Transcript of G W Jackson, T15977:20-28 (Day 155).

- 273 The Governing Body gives final approval for new publications and audio and video programmes.<sup>491</sup> Mr Jackson agreed that the Governing Body gives final approval for such publications as the:<sup>492</sup>
- a) *Awake!* and *Watchtower* magazines
  - b) *Shepherd the Flock* elders' handbook
  - c) *Organized to do Jehovah's Will* handbook
  - d) *2015 Branch Organization Manual*
  - e) letters signed on behalf of the Governing Body, and
  - f) templates for letters to bodies of elders.
- 274 Branch offices around the world, including the Australia Branch Office,<sup>493</sup> may write articles for the *Awake!* and *Watchtower* publications, but the articles must be submitted to the Governing Body's Writing Committee for approval.<sup>494</sup>
- 275 Mr Jackson and Mr Toole told the Royal Commission that policy letters issued by the Governing Body may be adjusted locally by branch offices to reflect the requirements of local laws.<sup>495</sup> Mr Jackson said that it would be unusual for a branch office to publish its own manual or guidelines in relation to responding to allegations of child sexual abuse.<sup>496</sup>
- 276 From at the least the 1990s, the Australia Branch Office has, under the direction of the Governing Body,<sup>497</sup> periodically issued directives in the form of letters addressed to all bodies of elders providing instruction on how to respond to allegations of child sexual abuse.<sup>498</sup>

### 6.3 Australia Branch Committee authority to produce or revise policy

- 277 Mr Jackson said that it is the Governing Body's expectation that the branch offices around the world will act in accordance with the procedures and guidelines set out in

<sup>491</sup> Exhibit 29-0028, EXH.029.028.0001\_R at 0005\_R;  
Transcript of G W Jackson, T15940:30-39 (Day 155);  
Transcript of T J O'Brien, T15819:13-20, 30-47 (Day 153).

<sup>492</sup> Transcript of G W Jackson, T15941:23-T15942:4 (Day 155);  
see also transcript of T J O'Brien, T15840:25-30 (Day 153).

<sup>493</sup> Transcript of T J O'Brien, T15819:22-28 (Day 153).

<sup>494</sup> Exhibit 29-0028, EXH.029.028.0001\_R at 0138\_R [12], [15]-[16].

<sup>495</sup> Transcript of G W Jackson, T15942:30-46 (Day 155);  
Transcript of V J Toole, T15752:34-41, T15753:10-17 (Day 153);  
Exhibit 29-0028, EXH.029.028.0001\_R at 0067\_R [29]-[30].

<sup>496</sup> Transcript of G W Jackson, T15952:42-T15953:3 (Day 155).

<sup>497</sup> Exhibit 29-0003: WAT.0001.004.0007 (Tab 87); WAT.0012.001.0025 (Tab 90); WAT.0004.001.0021 (Tab 98); WAT.0001.004.0020 (Tab 99); WAT.0001.004.0023 (Tab 110); WAT.0001.004.0075 (Tab 126).

<sup>498</sup> Namely, but not limited to:

Exhibit 29-0003: WAT.0001.004.0004 (Tab 81); WAT.0001.004.0005 (Tab 83); WAT.0001.004.0011 (Tab 89); WAT.0002.001.0001 (Tab 97); WAT.0002.001.0015 (Tab 119); WAT.0001.004.0066 (Tab 124);  
Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [3.1];  
Exhibit 29-0007, Statement of Dino Ali, STAT.0598.001.0001\_R at [3.2].

the *2015 Branch Organization Manual*.<sup>499</sup> Mr O'Brien told the Royal Commission that 'the theocratic or Scriptural direction that the Governing Body provides, is the same in every branch and for all Jehovah's Witnesses, worldwide'.<sup>500</sup>

- 278 Mr O'Brien explained that the Branch Committee faithfully implements and follows the direction of the Governing Body.<sup>501</sup> Mr Toole said that Jehovah's Witness congregations in Australia take their direction and instructions from the Branch Office.<sup>502</sup>
- 279 Mr Jackson explained that although there is an expectation that branch committee members will follow the direction of the Governing Body, 'there are provisions for those branch committees to get back to us if they see that there is something that doesn't work, and we can adjust it accordingly'.<sup>503</sup>
- 280 In contrast to what is set out above, Mr Spinks' evidence was that as long as the Australia Branch Office doesn't stray from the Scriptures, it has the 'full authority to produce documents, to clearly set out for seminars, letters to elders, letters to publishers, what needs to be made clear locally'.<sup>504</sup> Mr Spinks said that the Australia Branch has the authority to 'determine something different from what is set out in the [current documents] that have come down from New York'.<sup>505</sup>
- 281 There is no evidence to support Mr Spinks' version on the authority of the Australia Branch Office to publish things differently from, or without the approval of, the Governing Body. To the contrary, documents in evidence include an exchange of correspondence between the Australia Branch Office and the Governing Body's Service Committee where the former seeks from the latter agreement to the inclusion of an article on a particular subject in a newsletter.<sup>506</sup> There is also correspondence demonstrating that the Governing Body's committees set policies and procedures and guidelines for dealing with issues arising in relation to child sexual abuse for the Australia Branch.<sup>507</sup>
- 282 In the circumstances, it is submitted that the Royal Commission should prefer the documentary evidence and the oral evidence of Messrs Jackson, Toole and O'Brien to

<sup>499</sup> Transcript of G W Jackson, T15931:39, T15932:32 (Day 155);

Exhibit 29-0028, EXH.029.028.0001 at 0005\_R;

Transcript of T J O'Brien, T15822:15-23 (Day 153).

<sup>500</sup> Transcript of T J O'Brien, T15816:26-32 (Day 153).

<sup>501</sup> Transcript of T J O'Brien, T15822:15-23 (Day 153).

<sup>502</sup> Exhibit 29-0003, WAT.0013.001.0001\_R at 0075 [2] (Tab 109).

Transcript of V Toole, T15754:11-15 (Day 153).

<sup>503</sup> Transcript of G W Jackson, T15939:39-45 (Day 155).

<sup>504</sup> Transcript of R P Spinks, T15688:12-21 (Day 152).

<sup>505</sup> Transcript of R P Spinks, T15692:27-35 (Day 152).

<sup>506</sup> Exhibit 29-0003: WAT.0001.004.0014 (Tab 93), WAT.0012.001.0009 (Tab 94), WAT.0004.001.0026 (Tab 96), and WAT.0004.001.0027 (Tab 100).

<sup>507</sup> Exhibit 29-0003: WAT.0004.001.0010 (Tab 86), WAT.0001.004.0007 (Tab 87), WAT.0012.001.0025 (Tab 90), WAT.0004.001.0014 (Tab 91), WAT.0012.001.0013 (Tab 91), WAT.0012.001.0014 (Tab 91), WAT.0012.001.0011 (Tab 92), WAT.0004.001.0021 (Tab 98), WAT.0001.004.0020 (Tab 99), WAT.0012.001.0023 (Tab 101), WAT.0012.001.0016 (Tab 103), WAT.0012.001.0022 (Tab 104), WAT.0001.004.0023 (Tab 110), WAT.0001.004.0025 (Tab 110), WAT.0004.001.0058 (Tab 113), WAT.0004.001.0060 (Tab 113), WAT.0012.001.0027 (Tab 113), WAT.0002.001.0011 (Tab 114), WAT.0002.001.0013 (Tab 115), and WAT.0001.004.0046 (Tab 116).

that of Mr Spinks regarding the extent of a branch office's authority to determine policies and procedures.

#### **Available findings on the authority of the Governing Body**

F39 Mr Spinks' evidence that the Australia Branch has full authority to produce documents, seminars, letters to elders and letters to publishers without the approval or agreement of the Governing Body is rejected.

F40 The Governing Body retains authority in respect of all publications in the name of the Jehovah's Witness organisation and any view or perspective contrary to that of the Governing Body is not tolerated.

### **6.4 Flexibility of Scriptural interpretation**

283 Mr O'Brien gave evidence that although the Jehovah's Witness organisation is governed by first century Biblical principles, Jehovah's Witnesses believe that many of those principles 'are timeless, in any place, any time'.<sup>508</sup>

284 Mr Spinks told the Royal Commission that if the learnings of science in relation to sexual abuse were in conflict with the Jehovah's Witnesses' understanding of the Bible, then '[a]bsolutely the Bible will prevail'.<sup>509</sup> He also gave evidence that where there is 'clear Scriptural arrangement' or 'clear instructions in the Scriptures', the Jehovah's Witness organisation's approach to the application of the Bible will not change as society changes.<sup>510</sup>

285 While Mr Jackson<sup>511</sup> and Mr Spinks<sup>512</sup> both accepted that the Governing Body may change its interpretation of the Scriptures from time to time, several witnesses, including Mr Jackson, told the Royal Commission that there was no scope for flexibility in the interpretation of the Scriptures in relation to:

- a) the two-witness rule<sup>513</sup>
- b) the practice of shunning<sup>514</sup>
- c) the practice of disfellowshipping unrepentant individuals and reproofing repentant individuals<sup>515</sup>
- d) the reinstatement of repentant individuals,<sup>516</sup> and

<sup>508</sup> Transcript of T J O'Brien, T15826:18-34 (Day 153).

<sup>509</sup> Transcript of R P Spinks, T15700:13-19 (Day 152).

<sup>510</sup> Transcript of R P Spinks, T15699:19-22 (Day 152).

<sup>511</sup> Transcript of G W Jackson, T15945:25-28, T15946:12-15 (Day 155).

<sup>512</sup> Transcript of R P Spinks, T15689:25-29; 31-38 (Day 152).

<sup>513</sup> Transcript of R P Spinks, T15705:38-40 (Day 152);

Transcript of T J O'Brien, T15833:21-28 (Day 153).

<sup>514</sup> Transcript of G W Jackson, T15984:4 (Day 155);

Transcript of T J O'Brien, T15851:44-T15852:3 (Day 153).

<sup>515</sup> Transcript of R P Spinks, T15707:5-12 (Day 152).

<sup>516</sup> Transcript of R P Spinks, T15707:5-12 (Day 152).

- e) there being no role for women as decision-makers in the judicial committee process.<sup>517</sup>

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<sup>517</sup> Transcript of G W Jackson, T15954:46-T15955:3 (Day 155);  
Transcript of T J O'Brien, T15831:40-T15832:6 (Day 153) (contra).



## Part 7 Current systems, policies and procedures for responding to allegations of child sexual abuse

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### 7.1 Documents said to record current policy and procedure

- 286 Mr Spinks told the Royal Commission that the current policies of the Jehovah's Witnesses organisation for dealing with an accusation of child sexual abuse are outlined in:<sup>518</sup>
- a) the Bible (the English edition published by the Jehovah's Witness organisation is the *New World Translation of the Holy Scriptures*)
  - b) the current elders' Handbook entitled *Shepherd the Flock of God*<sup>519</sup>
  - c) Jehovah's Witness organisation publications available to all congregants approaching baptism,<sup>520</sup> such as *Organized to Do Jehovah's Will*<sup>521</sup>
  - d) updated guidelines issued by the Governing Body to all branch offices in August 2013 regarding how service desks should field questions from elders regarding child abuse matters (the **2013 Service Desk Guidelines**),<sup>522</sup> and
  - e) letters sent to all bodies of elders, in particular the letter of 1 October 2012,<sup>523</sup> which consolidated into one letter the spiritual advice and guidance provided in various letters from preceding years as to how Jehovah's Witnesses handle allegations of child abuse.<sup>524</sup>
- 287 Mr Spinks and Mr O'Brien also told the Royal Commission that a pivotal *Watchtower* article entitled 'Let Us Abhor What is Wicked' published in January 1997 clarifies in Biblical terms the principles to which a congregation should have regard in considering how a 'child molester' should be viewed and treated.<sup>525</sup>

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<sup>518</sup> Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [23]-[24].

<sup>519</sup> Exhibit 29-0003, WAT.0003.001.0001 (Tab 120).

<sup>520</sup> Transcript of D J Jackson, T15263:30-32 (Day 148);  
Transcript of R P Spinks, T15672:12-14 (Day 152);  
Transcript of T J O'Brien, T15843:32-36 (Day 153).

<sup>521</sup> Exhibit 29-0003, WAT.0013.001.0001 (Tab 109).

<sup>522</sup> Exhibit 29-0003, WAT.0001.004.0076 (Tab 126).

<sup>523</sup> Exhibit 29-0003, WAT.0001.004.0066 (Tab 124).

<sup>524</sup> Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [18];  
Exhibit 29-0003, WAT.0001.004.0066 at [1] (Tab 124).

<sup>525</sup> Exhibit 29-0003, WAT.0001.004.0306 (Tab 85);  
Exhibit 29-0024, First statement of Terrence O'Brien, STAT.0592.001.0001\_R at [57];  
Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [19].

## 7.2 Training

- 288 Elders within the Jehovah’s Witness organisation are given periodic training on the implementation of its policies and procedures.<sup>526</sup> The training takes the form of one-day programmes or seminars called *Kingdom Ministry Schools*.<sup>527</sup>
- 289 Messrs De Rooy, Ali, Bowditch and Doug Jackson each told the Royal Commission that from the 1990s they had received specific instruction in the form of discussions at elders’ schools and training courses on responding to child sexual abuse.<sup>528</sup>
- 290 Mr O’Brien told the Royal Commission that aside from what is published in the Jehovah’s Witness organisation’s literature, congregational elders are not given specific training on identifying child sexual abuse.<sup>529</sup>

## 7.3 Initial response to an allegation of child sexual abuse

### Congregation should report wrongdoing

- 291 *Organized to do Jehovah’s Will* instructs members of the Jehovah’s Witness organisation that ‘gross sins’ should be reported to the elders because they threaten the moral cleanness of the congregation.<sup>530</sup> A person may approach the congregational elders ‘either to confess their own sin or to report what they know regarding the wrongdoing of others’.<sup>531</sup>
- 292 *Organized to do Jehovah’s Will* also instructs members that once a matter has been reported to the elders, ‘you will have taken the matter as far as you can’, that the matter should be left in the hands of the elders, and that one should ‘trust in Jehovah that it will be resolved’.<sup>532</sup>

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<sup>526</sup> Exhibit 29-0003, WAT.0001.001.0001 at 0009 (Tab 133);  
 Exhibit 29-0004, Statement of Doug Jackson, STAT.0600.001.0001\_R at [3.1];  
 Exhibit 29-0007, Statement of Dino Ali, STAT.0598.001.0001\_R at [3.1];  
 Exhibit 29-0016, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [3.1];  
 Exhibit 29-0010, Statement of Kevin Bowditch, STAT.0602.001.0001\_R at [3.1];  
 Exhibit 29-0018, Statement of Allan Pencheff, STAT.0604.001.0001\_R at [3.1];  
 Exhibit 29-0005, Statement of Joseph Bello, STAT.0594.001.0001\_R at [3.1].

<sup>527</sup> Exhibit 29-0024, First statement of Terrence O’Brien, STAT.0592.001.0001\_R at [72]-[73];  
 Exhibit 29-0003, WAT.0013.001.0001 at 0053 - 0055 (Tab 109).

<sup>528</sup> Exhibit 29-0004, Statement of Doug Jackson, STAT.0600.001.0001\_R at [3.2];  
 Exhibit 29-0007, Statement of Dino Ali, STAT.0598.001.0001\_R at [3.3];  
 Exhibit 29-0016, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [3.4];  
 Exhibit 29-0010, Statement of Kevin Bowditch, STAT.0602.001.0001\_R at [3.3].

<sup>529</sup> Exhibit 29-0024, Statement of Terrence O’Brien, STAT.0592.001.0001\_R at [64].

<sup>530</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0085 (Tab 109).

<sup>531</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0088 (Tab 109).

<sup>532</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0086 (Tab 109).

## Types of Scriptural wrongdoing that include child sexual abuse

293 The official position of the Jehovah's Witness organisation is that it abhors child sexual abuse and that it will not protect any perpetrator of such repugnant acts.<sup>533</sup>

294 Elders are instructed that child sexual abuse includes:

... sexual intercourse with a minor; oral or anal sex with a minor; fondling the genitals, breasts, or buttocks of a minor; voyeurism of a minor; indecent exposure to a minor; soliciting a minor for sexual conduct; or any kind of involvement with child pornography. Depending on the circumstances of the case, it may also include "sexting" with a minor. "Sexting" describes the sending of nude photos, seminude (sic) photos, or sexually explicit text messages electronically, such as by phone.<sup>534</sup>

295 The Jehovah's Witness organisation also instructs elders that child sexual abuse is captured by one or more of the following Scriptural offences:

- a) *porneia*, which includes sexual intercourse, oral or anal sex, 'immoral use of the genitals, whether in a natural or perverted way, with lewd intent'<sup>535</sup>
- b) *brazen or loose conduct*, which is conduct which reflects 'an attitude that betrays disrespect, disregard, or even contempt for divine standards, laws, and authority' and includes child sexual abuse,<sup>536</sup> and
- c) *gross uncleanness*, which can include, to the extent that an adult involves a child in the viewing, 'an entrenched practice of viewing, perhaps over a considerable period of time, abhorrent forms of pornography that is sexually degrading', including child pornography.<sup>537</sup>

## Elders to report immediately to the Branch Office / Legal Department

296 Upon receipt of an allegation or complaint of child sexual abuse, two elders from the congregation should immediately contact the Branch Office Legal Department for legal advice.<sup>538</sup> Mr Toole said that this is a direction issued by the Governing Body to elders serving throughout the world.<sup>539</sup> The direction to call the Legal Department applies

<sup>533</sup> Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [21(a)] and [22]; Exhibit 29-0003, WAT.0001.004.0066 at 0068 [9] (Tab 124); Exhibit 29-0003, WAT.0001.001.0001 at 0015 (Tab 133).

<sup>534</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0066 [3] (Tab 124).

<sup>535</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0060 [5] (Tab 120); Exhibit 29-0003, WAT.0001.004.0076 at 0078 [16] (Tab 126).

<sup>536</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0061-0062 [9]-[10] (Tab 120); Exhibit 29-0003, WAT.0001.004.0076 at 0078 [16] (Tab 126).

<sup>537</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0064-0065 [13]-[14] (Tab 120); Exhibit 29-0003, WAT.0001.004.0076 at 0079 [19] (Tab 126).

<sup>538</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0066 [4] (Tab 124); Exhibit 29-0003, WAT.0003.001.0001 at 0132 [18] (Tab 120); Exhibit 29-0003, WAT.0014.001.0009 at 0012 [14] (Tab 131A).

<sup>539</sup> Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R at [13]; Transcript of V J Toole, T15752:19-32 (Day 153).

‘even’ in circumstances where the abuse alleged is historical, and where the allegation is based on the testimony of only one witness.<sup>540</sup>

### **Branch Office Legal Department to advise on legal obligations**

297 The Branch Office Legal Department will provide to the congregational elders ‘legal advice based on the facts and the applicable law’, including in relation to any mandatory reporting obligations applicable to the congregational elders.<sup>541</sup>

### **Guidance provided by the Service Department / Desk**

298 After calling the Legal Department, the elders may be directed to contact the Service Department for assistance with any questions regarding theocratic or judicial aspects of the case, how to protect children, and how to spiritually comfort and support the victim.<sup>542</sup> The Service Department also provides guidance on when and how elders should interview a young victim of child abuse.<sup>543</sup>

299 The *2013 Service Desk Guidelines* provide for the guidance that should be offered when an elder is calling in relation to reports from publishers of an awareness that a person in an appointed role has ‘molested a child in the past’.<sup>544</sup> Those Guidelines say that the elders should be informed of any legal obligation to report to authorities that may apply, and that ‘individuals should not be discouraged from reporting matters to the authorities but should be reminded of the need for confidentiality when speaking with others, thus avoiding a charge of slander’.<sup>545</sup>

300 Mr Spinks gave evidence that in the first instance the advice given to congregational elders reporting an incident of child sexual abuse is generic advice ‘from the published material’, followed by a request that the elders provide the Service Desk with details in writing to enable the Service Desk to assist them.<sup>546</sup> Mr Spinks said that the generic advice offered is set out on page 131 of the elders’ handbook, *Shepherd the Flock*, which reads as follows:<sup>547</sup>

Child abuse is a crime. Never suggest to anyone that they should not report an allegation of child abuse to the police or other authorities. If you are asked, make it clear that whether to report the matter to authorities or not is a personal decision for each individual to make and that there are no congregation sanctions for either decision. Elders will not criticize anyone who reports such an allegation to the authorities. If the victim wishes to make a report, it is his or her absolute right to do so. – Gal. 6:5.<sup>548</sup>

<sup>540</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0067 [4] (Tab 124).

<sup>541</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0067 [4]-[5] (Tab 124).

<sup>542</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0067 [5] (Tab 124);  
Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [25]-[26] and [28]-[33].

<sup>543</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0084 [46]-[47] (Tab 126).

<sup>544</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0081 [31]-[33] (Tab 126).

<sup>545</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0081 [33] (Tab 126).

<sup>546</sup> Transcript of R P Spinks, T15661:2-18 (Day 152).

<sup>547</sup> Transcript of R P Spinks, T15661:20-31, T15661:44-T15662:1-4 (Day 152).

<sup>548</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0132-133 [19] (Tab 120).

- 301 Mr Spinks told the Royal Commission that it was not the practice of the Service Desk to put or confirm in writing the advice given in the first instance to elders.<sup>549</sup>
- 302 Although the *Shepherd the Flock* handbook advises that '[t]he branch office will ... give direction based on the circumstances involved in each situation',<sup>550</sup> Mr Spinks accepted that the position is that following provision of generic advice to elders by the Service Desk, 'then it is over to the elders as to what they do' and that the Service Desk does not offer 'specific advice in a particular situation'.<sup>551</sup>
- 303 However, it was the evidence of Mr Horley in particular, but also of Messrs De Rooy, Bello and Doug Jackson, that they as congregational elders specifically rely upon the advice of the Branch Office in handling complaints of child sexual abuse.<sup>552</sup> Mr Horley told the Royal Commission that he would need to seek advice and take direction from the Branch Office on how to proceed in relation to matters involving reporting to police,<sup>553</sup> application of the two-witness rule,<sup>554</sup> interviewing of survivors,<sup>555</sup> flexibility of Scriptural interpretation,<sup>556</sup> fairness of the process,<sup>557</sup> and how he might proceed if faced with BCB's situation again today.<sup>558</sup>
- 304 Mr Horley also said that there may have been changes to the process, but that those changes are not recorded in the elders' handbook, and that is where the Branch Office may offer further advice when elders contact it as directed.<sup>559</sup>
- 305 It is submitted that the present practice of the Service Desk of offering generic advice about how to handle a complaint of child sexual abuse is unlikely to provide sufficient guidance to congregational elders who are directed to contact the Branch Office for, and expect, specific guidance<sup>560</sup> in handling such a complaint. It is further submitted that there is therefore a risk that congregational elders with little or no experience of handling complaints of child sexual abuse are left without proper guidance to deal with such complaints, thereby exposing victims of abuse to the risk of further trauma as a result of inexperienced handling of their complaints.

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<sup>549</sup> Transcript of R P Spinks, T15661:2-6 (Day 152).

<sup>550</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0132 [18] (Tab 120).

<sup>551</sup> Transcript of R P Spinks, T15662:45-T15663:8 (Day 152).

<sup>552</sup> Transcript of M Horley, T15186:6-8, T15193:2-3, T15193:13-15, T15193:46-T15194:3, T15196:3-9, T15198:7-12, T15198:31-36, T15218:18-23, T15219:23-26, and T15220:39-42 (Day 147);

Transcript of D J Jackson, T15233:12-16, T15255:19-26 (Day 147);

Transcript of J Bello, T15268:47-T15269:2 (Day 148);

Transcript of A R De Rooy, T15579:29-34 (Day 151).

<sup>553</sup> Transcript of M Horley, T15186:6-8 (Day 147).

<sup>554</sup> Transcript of M Horley, T15193:2-3, T15193:13-15, T15193:46-T15194:3 (Day 147).

<sup>555</sup> Transcript of M Horley, T15198:7-12, T15198:31-36, T15219:23-26 (Day 147).

<sup>556</sup> Transcript of M Horley, T15196:3-9 (Day 147).

<sup>557</sup> Transcript of M Horley, T15220:39-42 (Day 147).

<sup>558</sup> Transcript of M Horley, T15218:18-23 (Day 147).

<sup>559</sup> Transcript of M Horley, T15220:39-42 (Day 147).

<sup>560</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0132 [18] (Tab 120).

## 7.4 Investigation of allegations of child sexual abuse

### Two elders to investigate every allegation

306 Elders are instructed that, having carefully reviewed the letter to all bodies of elders of 1 October 2012<sup>561</sup> and paragraphs 18-21 of Chapter 12 of the *Shepherd the Flock* handbook,<sup>562</sup> two congregational elders should investigate every allegation of child sexual abuse.<sup>563</sup>

### Victim to give testimony before the elders and the accused

307 As a part of their investigation, the elders are instructed that they should speak to the accused about the allegation.<sup>564</sup> If the accused denies the allegation, then the elders 'should try to arrange a meeting with him and the accuser together'.<sup>565</sup> In the case of an allegation of child sexual abuse, the elders are directed to contact the Branch Office before arranging a meeting with the child and the accused.<sup>566</sup>

308 Mr Spinks gave evidence that since the mid-1990s the Jehovah's Witness organisation has 'recognised that a victim or a survivor should not have to confront their abuser'.<sup>567</sup> The only document which Mr Spinks was able to identify in which this policy was stated was a 'S-337' form dated 1998<sup>568</sup> which had recently been located by an older member of the Service Department stuck inside his copy of the superseded *Pay Attention 1991* elders' handbook.<sup>569</sup>

309 Mr Spinks told the Royal Commission that the S-337 form was an outline of what circuit overseers would go through in their meetings with bodies of elders in the applicable six month period and that the policy would not have been restated in subsequent S-337 forms.<sup>570</sup>

310 In the circumstances, the document cannot be said to be a current record of policy and is of very limited relevance. Be that as it may, it provides as follows:<sup>571</sup>

#### BEFORE FORMING A JUDICIAL COMMITTEE (4 min.)

1. How can the person who is a witness to a serious sin aid both the wrongdoer and the congregation? (The witness should make sure the responsible elders become aware of it. Usually best to approach the person involved first, though it is not wrong to go directly to elders. He should

<sup>561</sup> Exhibit 29-0003, WAT.0001.004.0066 (Tab 124).

<sup>562</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0132 [18]-[19] (Tab 120).

<sup>563</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124);

Exhibit 29-0003, WAT.0013.001.0001 at 0088 (Tab 109);

Exhibit 29-0003, WAT. 0003.001.0001 at 0073 [38] (Tab 120).

<sup>564</sup> Exhibit 20-0003, WAT. 0003.001.0001 at 0073 at [38] (Tab 120).

<sup>565</sup> Exhibit 20-0003, WAT. 0003.001.0001 at 0073 at [39] (Tab 120).

<sup>566</sup> Exhibit 20-0003, WAT. 0003.001.0001 at 0073 at [39] (Tab 120).

<sup>567</sup> Transcript of R P Spinks, T15686:36-39 (Day 152).

<sup>568</sup> Exhibit 29-0020, EXH.029.020.0001.

<sup>569</sup> Transcript of R P Spinks, T15687:15-21 (Day 152).

<sup>570</sup> Transcript of R P Spinks, T15702:5-38 (Day 152).

<sup>571</sup> Exhibit 29-0020, EXH.029.020.0001 at 0003.

encourage the wrongdoer to approach the elders, then after a reasonable period of time check with the elders to be sure they know)...

2. When is it not advisable for the witness to confront the accused alone? What should elders do? (When he is a party to the wrongdoing, is a victim, or is extremely timid. Children who are victims of molestation should not be required to confront the accused. In some cases two elders or an elder and the witness can confront the accused)

#### JUDICIAL COMMITTEE HEARING PROCEDURE (24 min.)

...

2. Explain what is to be done if the accused person does not admit guilt. (The alleged wrongdoer has right to face his accusers. In most cases, he will have opportunity to hear their testimony and reply. After presenting accusation and its source, the committee will give the accused opportunity to respond. However, if, perhaps due to distance, it is impractical for the witness to be present, this should not prevent the committee from proceeding.

311 The paragraphs extracted from the S-377 form above appear to mirror very closely the instruction offered to elders in *Pay Attention 1991*.<sup>572</sup> The paragraphs, however, expand upon *Pay Attention 1991* in two respects. First, in the context of the requirement that a witness should confront the accused before approaching elders, the S-377 form specifies that child victims of molestation should not be required to confront the accused. It is submitted that on its face the S-377 form exemption for children who are victims of sexual abuse applies only to children (i.e. not when child victims are adults) and it does not apply beyond the requirement that a person in the first instance confront the person who has wronged them, let alone to the stage at which elders are investigating a complaint. Secondly, the form provides for an exemption from presentation of an allegation before the accused and the committee if such presentation is impractical. This latter provision was later incorporated into the *Shepherd the Flock* elders' handbook,<sup>573</sup> and as with the provision in *Shepherd the Flock*, it is submitted, appears only to provide for exemption in circumstances of practical difficulty (such as distance) rather than when the witness is a victim of child sexual abuse.

312 Mr Spinks gave further evidence that a statement written by the victim and given to the investigating elders would be sufficient at the investigative stage of a matter.<sup>574</sup> He agreed that insofar as the S-337 form supported that policy, it only did so in respect of the investigative stage as opposed to the judicial hearing stage of a matter.<sup>575</sup>

313 Mr Spinks told the Royal Commission that an accuser facing their abuser via written statement 'conforms perfectly with the Scriptural requirement'.<sup>576</sup> The Scriptural requirement referred to is presumably that recorded in *Pay Attention 1991* as

<sup>572</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0050-51 (Tab 80).

<sup>573</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0090-91 [2] (Tab 120).

<sup>574</sup> Transcript of R P Spinks, T15704:11-14 (Day 152)

<sup>575</sup> Transcript of R P Spinks, T15704:47-T15705:20 (Day 152)

<sup>576</sup> Transcript of R P Spinks, T15706:39-45 (Day 152).

'[a]ccusers should be willing to assume their responsibility, as was required in Israel (Deut. 17:6, 7; 19: 16-21)'.<sup>577</sup> The first of those references provides that 'the hand of the witnesses should be the first to come against him to put him to death' and the second provides that those who make false allegations must be 'removed' from the congregation.

### **If the accuser or accused refuses to meet with the elders**

314 The *Shepherd the Flock* handbook provides that if the accused denies an allegation of wrongdoing and he or his accuser refuses to speak to the elders, 'the elders will leave matters in Jehovah's hands (Deut.19:15-17; 1 Tim. 5:19, 24, 25 ...)'.<sup>578</sup>

315 Mr Spinks told the Royal Commission that if someone accused of a crime refused to answer an allegation, he would be disfellowshipped on a charge of brazen loose conduct, which is 'an absolute disregard for the authority and standards'.<sup>579</sup>

### **Interviewing children**

316 The 2013 Service Desk Guidelines address when elders should interview a young child victim of sexual abuse. Specifically, the Guidelines set out the advice that should be offered to elders who call the Service Desk for advice about interviewing a child.<sup>580</sup> The Guidelines provide, for instance, that if there is 'more than one accuser and thereby already sufficient evidence to handle the matter judicially ... there is likely no need to interview the young child'.<sup>581</sup>

317 Mr Spinks accepted that on the evidence before the Royal Commission, in circumstances where elders are unable to interview a child because it would be too traumatizing or the child's parents do not consent, and there was no confession or other evidence,<sup>582</sup> then the elders are unable to take judicial action.<sup>583</sup>

318 Mr Spinks also agreed that it was quite probable that elders involved in interviewing a child victim of sexual abuse would not have any specialised training in dealing with child victims of trauma.<sup>584</sup>

### **Establishing the veracity of an allegation**

319 As was the position in 1991, elders are not authorized to form a judicial committee in order to take congregational action unless the child sexual abuse is proven according to Biblical standards which are satisfied by evidence of:<sup>585</sup>

<sup>577</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0051 (Tab 80).

<sup>578</sup> Exhibit 20-0003, WAT. 0003.001.0001 at 0073-74 at [39] (Tab 120).

<sup>579</sup> Transcript of R P Spinks, T15740:26-32 (Day 152).

<sup>580</sup> Exhibit 29-0003, WAT.0001.004.0075 at 0084 [46]-[51] (Tab 126).

<sup>581</sup> Exhibit 29-0003, WAT.0001.004.0075 at 0084 [46] (Tab 126).

<sup>582</sup> Exhibit 29-0003, WAT.0001.004.0075 at 0084 [46] (Tab 126).

<sup>583</sup> Transcript of R P Spinks, T15708:32-39 (Day 152).

<sup>584</sup> Transcript of R P Spinks, T15710:2-5 (Day 152).

<sup>585</sup> Exhibit 29-0019, Annexure 2, STAT.0591.001.0018 at [2.2];  
Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124).



- a) a confession from the accused, which ‘may be accepted as conclusive proof without other corroborating evidence. (Josh 7:19)’<sup>586</sup>
- b) the two-witness rule, which appears to have been modified slightly by the 1 October 2012 letter to require that the witnesses are ‘credible’<sup>587</sup>
- c) the testimony of two or three witnesses to separate incidents of the same kind of wrongdoing,<sup>588</sup> or
- d) strong circumstantial evidence testified to by at least two witnesses.<sup>589</sup>

320 Mr Spinks told the Royal Commission that in some cases a combination of the four Scriptural criteria for establishing the truth of an allegation ‘may be used as a basis for taking congregational action’.<sup>590</sup> Mr Spinks did not specify the type of circumstances in which such an approach might be taken.

321 Elders are instructed that the testimony of youths may be considered by the investigating elders, who must ‘determine whether the testimony has the ring of truth’.<sup>591</sup> The 2013 Service Desk Guidelines advise elders to have regard to certain criteria as set out in the *Shepherd the Flock* handbook in assessing the veracity of a child’s allegation.<sup>592</sup> Those criteria include the level of maturity of the child or youth, the consistency of the child’s memory, and the reputation of the child’s parents.<sup>593</sup>

322 The testimony of ‘unbelievers and disfellowshipped or disassociated ones’ may also be considered, but the elders are advised to weigh any such testimony carefully.<sup>594</sup> Mr Jackson told the Royal Commission that the reason for this direction to elders is because ‘someone who is not a [Jehovah’s] Witness may have no difficulties at all about telling a lie’.<sup>595</sup>

### **Oral and further evidence about the flexibility of the two-witness rule**

323 It was Mr O’Brien’s evidence that simply because the two-witness rule applies does not mean that a victim is not believed or that the elders don’t take precautions.<sup>596</sup>

<sup>586</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0072 [37] (Tab 120);  
Exhibit 29-0003, WAT.0001.004.0066 at 0068 (Tab 124).

<sup>587</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0072 [37] (Tab 120);  
Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124);  
Exhibit 29-0003, WAT.0013.001.0001 at 0084 (Tab 109).

<sup>588</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0072-0073 [37] (Tab 120);  
Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124).

<sup>589</sup> Exhibit 29-0019, Annexure 2, STAT.0591.001.0018 at [2.2];  
Exhibit 29-0003, WAT.0003.001.0001 at 0062 [11] (Tab 120).

<sup>590</sup> Exhibit 29-0019, Annexure 2, STAT.0591.001.0023 at [2.2].

<sup>591</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0073 [37] (Tab 120).

<sup>592</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0084 [47] (Tab 126).

<sup>593</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0134 [21] (Tab 120).

<sup>594</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0073 [37] (Tab 120).

<sup>595</sup> Transcript of G W Jackson, T15997:4-20 (Day 155).

<sup>596</sup> Transcript of T J O’Brien, T15833:21-33 (Day 153).

- 324 Messrs Horley, De Rooy, Ali and Bowditch each said that notwithstanding that they believed BCB's and BCG's allegations of abuse, they were bound by the two-witness rule in handling the respective complaints.<sup>597</sup>
- 325 Mr Spinks and Mr O'Brien both said that the two-witness rule is a Scriptural direction that the Jehovah's Witnesses do not have the authority to change.<sup>598</sup>
- 326 Mr Spinks accepted that more often than not, there will only be one witness to an incident of sexual abuse.<sup>599</sup> Mr Spinks also told the Royal Commission that he had no reason to question the proposition as published in the Jehovah's Witness organisation's own publications that allegations of sexual abuse are almost always justified.<sup>600</sup>
- 327 Mr Jackson's evidence was that there is a Scriptural basis to the two-witness rule. He referred specifically to Matthew 18:16, Deuteronomy 19:15, 2 Corinthians 13:1 and 1 Timothy 5:19.<sup>601</sup>
- 328 Mr Jackson was asked about the extent to which Deuteronomy 22:23-27 should inform the Scriptural foundation of the two-witness rule.<sup>602</sup> Deuteronomy 22:23-27 offers the example of a man raping a woman in a field in circumstances where there are no witnesses to the rape and where in spite of the absence of a second witness, the man is to be put to death. It was put to Mr Jackson, and he accepted, that that Scripture contemplates a case where there are no witnesses to the rape other than the woman herself.<sup>603</sup> It was also put to Mr Jackson, and he agreed, that only one witness was sufficient, in those circumstances, for the man to be put to death.<sup>604</sup> Mr Jackson told the Royal Commission that added to the single witness in the situation contemplated by Deuteronomy 22:23-27 was the 'circumstance' of the rape.<sup>605</sup> Mr Jackson said that the Jehovah's Witnesses had 'already acknowledged that circumstances can also be one of the witnesses'.<sup>606</sup> The principal 'circumstance' of the rape was that there was no third-person witness, as is usually the case with instances of child sexual abuse.
- 329 It was suggested to Mr Jackson that this Scripture provided the basis for the Governing Body not to apply the two-witness rule in the case of sexual abuse, or that it called into

<sup>597</sup> Transcript of M Horley, T15202:19-24 and T15203:1-4 (Day 147);  
 Transcript of K D Bowditch, T15404:5-9 and T15405:45-T15406:1 (Day 149);  
 Transcript of D Ali, T15331:1-29 (Day 148), T15353:6-13 and T15361:10-17 (Day 149);  
 Transcript of A R De Rooy, T15547:1-40 (Day 151);  
 Exhibit 29-0007, Statement of Dino Ali, STAT.0598.001.0001\_R at [5.6];  
 Exhibit 29-0016, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [6.1].

<sup>598</sup> Transcript of R P Spinks, T15705:31-40 (Day 152);

Transcript of T J O'Brien, T15833:21-28 (Day 153).

<sup>599</sup> Transcript of R P Spinks, T15710:40-43 (Day 152).

<sup>600</sup> Transcript of R P Spinks, T15710:45-T15711:7 and T15716:25-39 (Day 152);

Exhibit 29-0003, WAT.0001.004.0205 at 0210 (Tab 78);

Exhibit 29-0003, WAT.0001.004.0238 at 0241 (Tab 82).

<sup>601</sup> Transcript of G W Jackson, T15967:33-T15969:46 (Day 155).

<sup>602</sup> Transcript of G W Jackson, T15970:-T15971:47 (Day 155).

<sup>603</sup> Transcript of G W Jackson, T15971:16-20 (Day 155).

<sup>604</sup> Transcript of G W Jackson, T15971:26-29 (Day 155).

<sup>605</sup> Transcript of G W Jackson, T15971:19-24 (Day 155).

<sup>606</sup> Transcript of G W Jackson, T15972:1-3 (Day 155).

question the proper foundation to the two-witness rule in the case of sexual abuse. Mr Jackson's answer was to say that the Jehovah's Witnesses believe that there is a proper foundation to the rule because of the number of times that it is emphasised in the Scriptures.<sup>607</sup> Mr Jackson did not say that there is no prospect of modifying the application of the two-witness rule within Scriptural requirements so as to make it inapplicable to cases of sexual abuse.

- 330 In a statement provided to the Royal Commission after the close of the public hearing, Mr Jackson offered an alternative explanation of Deuteronomy 22:23-27 to that which he had accepted in oral evidence.<sup>608</sup> In his statement Mr Jackson explained that the man's guilt had been judged at an earlier stage in Deuteronomy, and that the referenced verses dealt only with establishing guilt (or absence thereof) on the part of the woman.<sup>609</sup> In his statement, Mr Jackson did not seek to explain the reason for the difference between his oral and written evidence as to context of Deuteronomy 22:23-27.
- 331 It is submitted that there is little utility in attempting to resolve the conflict between Mr Jackson's oral and his subsequent written evidence on the subject of the relevance of Deuteronomy 22:23-27 to the flexibility of the two-witness rule. However, it is open to the Royal Commission to note the difficulty experienced by even a member of the Governing Body in arriving at an interpretation of Deuteronomy 22:23-27 which renders it irrelevant to the application of the two-witness rule.
- 332 Mr Jackson was asked to what extent the Jehovah's Witness organisation was bound by the Scriptures to maintain and apply the two-witness rule.<sup>610</sup> He did not respond to the question, instead telling the Royal Commission that he 'thought that that had already been established in the hearings, but, if not, certainly that is something that we need to follow up'.<sup>611</sup>
- 333 Following his oral evidence on the subject of Deuteronomy 22:23-27, Mr Jackson was taken to the *Shepherd the Flock* handbook and to the example regarding witnesses to adultery.<sup>612</sup> It was put to Mr Jackson, and he agreed, that the example in the handbook that two witnesses observing the opportunity for adultery, as opposed to two witnesses directly observing the adultery itself, demonstrates circumstances where the two witnesses to the opportunity will be sufficient to establish the case of adultery.<sup>613</sup>
- 334 It was then put to Mr Jackson that the same principles should apply in the case of child sexual abuse.<sup>614</sup> Mr Jackson did not respond directly to the proposition and instead told

<sup>607</sup> Transcript of G W Jackson, T15971:43-T15972:10 (Day 155).

<sup>608</sup> Exhibit 29-0035, Statement of Geoffrey William Jackson, STAT.0670.001.0001 at [15]-[20].

<sup>609</sup> Exhibit 29-0035, Statement of Geoffrey William Jackson, STAT.0670.001.0001 at [18]-[19].

<sup>610</sup> Transcript of G W Jackson, T15974:4-7 (Day 155).

<sup>611</sup> Transcript of G W Jackson, T15974:14-16 (Day 155).

<sup>612</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0062 [11] (Tab 120).

<sup>613</sup> Transcript of G W Jackson, T15972:23-T15973:20 (Day 155).

<sup>614</sup> Transcript of G W Jackson, T15973:22-25 (Day 155).

the Royal Commission that it was ‘a very large question and ... something that we would need to consider carefully’.<sup>615</sup>

- 335 Mr Jackson nevertheless agreed that circumstantial or corroborating evidence such as the evident trauma of a victim of child sexual abuse ‘would need to be taken into account’ as corroborating evidence in the determination of the veracity of an allegation.<sup>616</sup> It was not clear however if it was Mr Jackson’s evidence that the witness of the evident trauma experienced by a victim of child sexual abuse could therefore constitute the required second witness.<sup>617</sup> Mr Jackson said that the Jehovah’s Witness organisation is interested in following up such matters after the Royal Commission.<sup>618</sup>
- 336 It is submitted that Mr Jackson was evasive and unhelpful in assisting the Royal Commission to understand whether there is scope for interpretation of the two-witness rule such that would allow for action to be taken in circumstances where there is only one direct witness to an incident of child sexual abuse.
- 337 It is further submitted that the current position is that where the victim is the only witness to an incident of child sexual abuse and the abuser does not confess, the Jehovah’s Witness organisation will not take action until such time as a second child is abused in similar circumstances by the same accused person. It is submitted that this position is untenable and is completely at odds with the organisation’s expression of abhorrence of child sexual abuse.
- 338 Accordingly, the Jehovah’s Witness organisation should be encouraged to explore the possibility adverted to by Mr Jackson of considering a more flexible interpretation of the two-witness rule such that would allow for the acceptance of circumstantial and corroborating evidence, such as the evident trauma of a victim of child sexual abuse.

#### **Oral evidence that wrongdoing must ultimately be established by elders**

- 339 Mr Jackson gave evidence that the ultimate decision to establish the nature and the occurrence of wrongdoing in the investigation of an allegation of child sexual abuse, must be made by the investigating elders.<sup>619</sup> Mr Jackson told the Royal Commission that the scriptural basis for this requirement is the headship principle in 1 Corinthians 11:3.<sup>620</sup>
- 340 Mr Jackson told the Royal Commission that there is ‘no leeway whatsoever’ in the Jehovah’s Witnesses system of beliefs for allowing women to be elders.<sup>621</sup> Mr O’Brien’s evidence was to like effect,<sup>622</sup> as was that of Mr Spinks.<sup>623</sup> Mr Jackson went on to tell the

<sup>615</sup> Transcript of G W Jackson, T15973:22-35 (Day 155).

<sup>616</sup> Transcript of G W Jackson, T15973:37-47 (Day 155).

<sup>617</sup> Transcript of G W Jackson, T15973:37-44 (Day 155).

<sup>618</sup> Transcript of G W Jackson, T15973:45-47 (Day 155).

<sup>619</sup> Transcript of G W Jackson, T15961:16-45 (Day 155).

<sup>620</sup> Transcript of G W Jackson, T15962:3-7 (Day 155).

<sup>621</sup> Transcript of G W Jackson, T15951:1826 (Day 155).

<sup>622</sup> Transcript of T J O’Brien, T15831:40-T15832:6; T15863:23-38; T15866:21-26 (Day 153).

<sup>623</sup> Transcript of R P Spinks, T15706:20-27 (Day 152).

Royal Commission that the Bible teaches that a judge must be a man but was, at the time, unable to provide a specific scriptural reference in support of his understanding.<sup>624</sup>

- 341 In his written statement provided to the Royal Commission following the close of the public hearing, Mr Jackson offered the relevant scriptural references to which he adverted but was unable to provide during the hearing. Specifically, he referred to various books of the Old Testament which, he said, describe judges and priests as being all male.<sup>625</sup> Mr Jackson said that although the Mosaic Law of the Old Testament ended '[o]n Pentecost 33 C.E.', its principles 'guided the first century Christian congregation and served as the context for future practices'.<sup>626</sup> Mr Jackson explained that it is on this basis that the apostle Paul 'identifies only male members of the congregation as potential elders' in 1 Timothy 3:1.<sup>627</sup>
- 342 It should be noted by the Royal Commission that, in his statement, Mr Jackson referred only to those books of the Old Testament in which men are described as judges, and did not refer to Judges 4:4-5 which tells of the female judge, Deborah. Specifically, the verses report that Deborah, 'a prophetess, the wife of Lappidoth, was judging Israel at that time' and that the 'Israelites would go up to her for judgment'. Since a woman judge was apparently accepted in the Old Testament, it is not apparent why women should not be judges of 'Christian' guilt or innocence in the Jehovah's Witness organisation.
- 343 Mr Jackson accepted that it would be possible for the Jehovah's Witness organisation to consider, through research and checking the Scriptures, whether the process could be modified to allow women to be involved in the decision as to whether an allegation was true or false.<sup>628</sup>
- 344 It is submitted that the current position is that the ultimate decision to establish the veracity of an allegation of child sexual abuse must be made by investigating elders and that an elder must be a man. The Jehovah's Witness organisation should however be encouraged to explore the possibility adverted to by Mr Jackson of developing the process to allow women to be involved in deciding the truth or otherwise of a sexual abuse allegation, and that there is real and identified scope for the organisation to do so in accordance with the Scriptures.

### **The role of women in the investigation of an allegation of child sexual abuse**

- 345 Mr O'Brien accepted that women bring a different perspective and understanding to that of men to an issue such as whether or not a young girl or woman was sexually assaulted.<sup>629</sup>
- 346 Mr O'Brien said that at the investigative stage of a matter there is no Biblical requirement that a victim of child sexual abuse present his or her allegation in person

<sup>624</sup> Transcript of G W Jackson, T15955:8-36 (Day 155).

<sup>625</sup> Exhibit 29-0035, Statement of Geoffrey William Jackson, STAT.0670.001.0001 at [4]-[5].

<sup>626</sup> Exhibit 29-0035, Statement of Geoffrey William Jackson, STAT.0670.001.0001 at [6].

<sup>627</sup> Exhibit 29-0035, Statement of Geoffrey William Jackson, STAT.0670.001.0001 at [6].

<sup>628</sup> Transcript of G W Jackson, T15959:46-T15960:11 (Day 155).

<sup>629</sup> Transcript of T J O'Brien, T15830:28-33 (Day 153).

to three elders.<sup>630</sup> He told the Royal Commission that the question of whether women could be involved in the investigation process requires further consideration. Specifically, he advised that ‘if it’s based upon the Bible standards, then [the Branch Committee] would present that as one of the recommendations from the Commission’ and that he didn’t ‘see why a woman couldn’t be involved in the process, particularly in establishing the victim’s statement, so she doesn’t have to face three men’.<sup>631</sup>

- 347 Mr Jackson agreed that an elder may find it difficult to appreciate exactly how a young woman making an allegation of child sexual abuse might feel in making that allegation.<sup>632</sup>
- 348 Mr Jackson said that there is no Biblical impediment to women being involved in the investigation of alleged sexual abuse.<sup>633</sup> He told the Royal Commission that in circumstances where elders cannot talk to a victim because perhaps to do so would traumatise the victim too much, two women close to the victim may take the victim’s testimony and convey it to the investigating elders.<sup>634</sup> Mr Jackson agreed, however, that one of the tasks of elders who hear allegations of child sexual abuse is to measure the credibility of the person alleging the abuse.<sup>635</sup>
- 349 It is submitted that Mr Jackson’s evidence is not entirely consistent with the position clearly set out in *Shepherd the Flock* (and referred to above) that should an accuser refuse to meet with elders, then the matter can proceed no further and is ‘left in Jehovah’s hands’.<sup>636</sup>
- 350 It is submitted that the current process of investigation doesn’t provide for, or even allow, the involvement of women as investigators or even to receive a complainant’s statement and pass it on to the investigating elders. Further, in the light of Mr Jackson’s evidence that an elder, and therefore not a woman in the congregation, must determine the credibility of a witness, there is limited scope for the involvement of women in the investigation.
- 351 It is nevertheless submitted that the Jehovah’s Witness organisation should be encouraged to explore ways in which women can be involved in the investigation of allegations of child sexual abuse, in particular to avoid the need for a complainant to have to make a statement directly to or in the presence of elders. Mr Jackson’s evidence that there is no Biblical impediment to women being involved in the investigation and that two women close to the victim may take the victim’s testimony and convey it to the investigating elders, is a positive indication that the Jehovah’s Witness organisation may be able to improve this aspect of the existing procedure even within what they perceive to be their Scriptural strictures.

<sup>630</sup> Transcript of T J O’Brien, T15827:35-47 (Day 153).

<sup>631</sup> Transcript of T J O’Brien, T15828:10-20, T15831:20-28 (Day 153).

<sup>632</sup> Transcript of G W Jackson, T15957:41-T15958:2 (Day 155).

<sup>633</sup> Transcript of G W Jackson, T15954:11-27 (Day 155).

<sup>634</sup> Transcript of G W Jackson, T15961:26-35 (Day 155).

<sup>635</sup> Transcript of G W Jackson, T15957:25-29 (Day 155).

<sup>636</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0073 [39] (Tab 120).

### Where there is insufficient evidence to substantiate the allegation

352 Where according to the Scriptural rules there is insufficient evidence to substantiate an allegation of child sexual abuse, the matter is held in abeyance and elders are directed to 'remain vigilant with regard to the conduct and activity of the accused'.<sup>637</sup> In this event, no further action is taken in relation to the complaint and the matter is 'left in Jehovah's hands'.<sup>638</sup>

### Where there is sufficient evidence to substantiate the allegation

353 If sufficient evidence is discovered, the body of elders will assign a judicial committee to administer Scriptural discipline to the wrongdoer.<sup>639</sup> Child sexual abuse is recognised as an offence for which a judicial committee should be formed.<sup>640</sup>

#### Available findings on the investigation process

F41 There are no circumstances in which the survivor of a sexual assault should have to make her allegation in the presence of the person whom she accuses of having assaulted her, and, contrary to the present position, the documents, manuals and instructions produced by the Jehovah's Witness organisation should make this clear.

F42 The requirement that two or more eyewitnesses to the same incident are required in the absence of a confession from the accused, the testimony of two or three witnesses to separate incidents of the same kind of wrongdoing, or strong circumstantial evidence testified to by at least two witnesses (i.e. the two witness rule):

- a) means that in respect of child sexual abuse which almost invariably occurs in private, very often no finding of guilt will be made in respect of a guilty accused
- b) causes victims of child sexual abuse to feel unheard and unsupported when it results in allegations of child sexual abuse not being upheld
- c) is a danger to children in the Jehovah's Witness organisation because its consequence is that very often nothing is done about an abuser in the organisation
- d) does not seem to be applied by the Jehovah's Witness organisation in the case of an accusation of adultery, which suggests that adultery is taken more seriously by the organisation than child sexual abuse, and
- e) needs to be revisited by the Jehovah's Witness organisation with a view to abandoning it or at least reformulating it to ensure that safe decisions as to someone being guilty of child sexual abuse can be made more easily.

F43 The requirement that only elders (i.e. men) can participate in the making of decisions in the investigation process on whether or not someone has committed child sexual abuse:

- a) is a fundamental flaw in that process which weakens the decisions by excluding women, and

<sup>637</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124); Exhibit 29-0019, Annexure 2, STAT.0591.001.0018 at [3.1].

<sup>638</sup> Exhibit 29-0003, WAT. 0003.001.0001 at 0073 at [39] (Tab 120); Exhibit 29-0003, WAT.0001.004.0310 at 0314 (Tab 84).

<sup>639</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0088 (Tab 109); Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [38].

<sup>640</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0062 [10] (Tab 120).

- b) needs to be revisited by the Jehovah's Witness organisation to ensure a meaningful role for women.

## 7.5 Establishment of a judicial committee

### Formation of a judicial committee

- 354 If wrongdoing is serious enough and it has been established by investigating elders that there is sufficient evidence of the wrongdoing having been committed, at least three elders will form a judicial committee to determine if the accused is genuinely repentant.<sup>641</sup>
- 355 Mr O'Brien told the Royal Commission that ultimately the adjudication process will require three men because the elders must be men and it is the elders who are shepherds and who make the judicial decisions.<sup>642</sup>
- 356 When deciding if a judicial committee is necessary in the case of historical wrongdoing, the elders are to consider, among other things, whether the person confessed voluntarily, whether the matter is widely known, and if the lives of others are affected.<sup>643</sup> In relation to the latter consideration, a life might be affected if, for example, child sexual abuse or adultery is involved.<sup>644</sup>
- 357 In cases involving allegations of child sexual abuse, elders are directed to contact their circuit overseer who will designate an experienced elder from a congregation in the circuit to sit on the judicial committee.<sup>645</sup>

### Purpose of a judicial committee

- 358 The purpose of a judicial committee is for the elders to establish if the accused person is genuinely repentant and to determine the appropriate penalty having regard to that person's degree of repentance. Elders on a judicial committee are charged with safeguarding the congregation and provide assistance to the wrongdoer.<sup>646</sup>

### Confidentiality of a judicial committee

- 359 Elders are instructed that the fact of a judicial committee should not be disclosed to persons not entitled to know and '[s]trict confidentiality must be maintained to avoid

<sup>641</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0088 (Tab 109);  
Exhibit 29-0003, WAT.0003.001.0001 at 0059 [1] (Tab 120);  
Exhibit 29-0003, WAT.0003.001.0001 at 0082 [1] (Tab 120).

<sup>642</sup> Transcript of T J O'Brien, T15828:2-4; T15830:1-4 (Day 153).

<sup>643</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0075 [44] (Tab 120).

<sup>644</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0075 [44] (Tab 120).

<sup>645</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124);  
Exhibit 29-0003, WAT.0001.004.0072 (Tab 125).

<sup>646</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0059 [1] (Tab 120).



unnecessary entanglement with secular authorities who may be conducting a criminal investigation of the matter'.<sup>647</sup>

360 Mr Toole agreed that passing information or making a report to secular authorities would not produce an entanglement with those authorities.<sup>648</sup>

## 7.6 Judicial committee hearing procedure

### Process explained to the accused

361 An accused person is invited to attend a meeting with the judicial committee and the elders are instructed to make clear to the accused that the meeting is a judicial hearing.<sup>649</sup> Elders are directed to try and put the accused at ease and invite him to make a personal statement.<sup>650</sup>

362 There is no specific provision in the Jehovah's Witness organisation's documents that directs the elders to ensure that the accuser, when appearing before the judicial committee, is also at ease.

### Accuser to present allegation in presence of the accused

363 If the accused maintains that he or she is innocent, then 'the witnesses to the wrongdoing should be presented and their testimony should be given in the presence of the accused'.<sup>651</sup> The *Shepherd the Flock* handbook provides that:

It is best that the witnesses give their testimony in person. However, it may be that the witnesses live a great distance away or for some reason are not able to be physically present. If so, their testimony may be presented in the hearing of the accused by a secure phone call or perhaps submitted in writing and read to the accused. The accused should be given the opportunity to respond to the testimony.<sup>652</sup>

364 On its face, the reference to 'witnesses' in this provision includes the person who complains of having been abused (save perhaps in the rare case where there are sufficient other witnesses to not require the victim to be a witness). The result is that as the provision stands, it is only in the case of the victim living a great distance away or there being some other reason of practicality that prevents a witness from being physically present that her evidence can be taken by telephone or submitted in writing. This raises the question of requiring the victim to give evidence in the presence of the three (male) members of the judicial committee and her abuser.

<sup>647</sup> Exhibit 29-0003, WAT.0014.001.0009 at 0011 (Tab 131A).

<sup>648</sup> Transcript of V J Toole, T15766:14-19 (Day 153).

<sup>649</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0084 [6] (Tab 120).

<sup>650</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0089 [1]-[2] (Tab 120).

<sup>651</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0090-91 [2] (Tab 120); Exhibit 29-0020, EXH.029.020.0001 at 0003.

<sup>652</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0091 [2] (Tab 120).

- 365 Mr Toole accepted that the judicial committee process does not lend itself to a young abused person being full and frank about the details of her abuse.<sup>653</sup> That stands to reason given the obvious difficulty that a young woman, for example, would have in recounting to three elders intimate details of a sexual nature.
- 366 Despite what is stated in *Shepherd the Flock* as quoted above, each of Messrs Spinks, Toole and O'Brien gave evidence that a victim of child sexual abuse does not these days need to face her abuser in a judicial committee unless she wants to.<sup>654</sup> Mr O'Brien told the Royal Commission that a victim need not be involved after she has provided a statement to the elders detailing her abuse.<sup>655</sup> Mr Jackson agreed that there are no circumstances in which the survivor of a sexual assault should have to make her allegation in the presence of the person whom she accuses of having assaulted her.<sup>656</sup>
- 367 It is submitted that the evidence of Messrs, Spinks, Toole and O'Brien is not supported by the available documentary evidence. That is to say, there is nothing in the documents which sets out the judicial committee process that provides for a complainant to give evidence only by way of statement other than what is recorded above. The Jehovah's Witness organisation is meticulous in setting out its processes in writing in various manuals and letters, and in ensuring that uniform processes are used throughout the world. Accordingly, to the extent that it suggests deviation from what is provided for or allowed under the documented processes, the evidence of the witnesses cannot be accepted.

### Presence of support person

- 368 The *Shepherd the Flock* handbook instructs that those wishing to attend to provide moral support should not be allowed to do so. It relevantly provides that the judicial committee will:
- [H]ear only those witnesses who have relevant testimony regarding the alleged wrongdoing. Those who intend to testify only about the character of the accused should not be allowed to do so. The witnesses should not hear details and testimony of other witnesses. Observers should not be present for moral support.<sup>657</sup>
- 369 Mr Spinks told the Royal Commission that the Jehovah's Witness organisation does allow a person complaining of child sexual abuse to have a support person present.<sup>658</sup>
- 370 Mr Spinks said that the passage in the *Shepherd the Flock* handbook disallowing support persons applied to the accused and did not apply to child sexual abuse matters.<sup>659</sup> He

<sup>653</sup> Transcript of V J Toole, T15802:16-22 (Day 153).

<sup>654</sup> Transcript of T J O'Brien, T15833:43-T15834:26 (Day 153);  
Transcript of V J Toole, T15802:16-22 (Day 153);  
Transcript of R P Spinks, T15704:21-29 (Day 152).

<sup>655</sup> Transcript of T J O'Brien, T15828:4-8 (Day 153).

<sup>656</sup> Transcript of G W Jackson, T15952:16-20 (Day 155).

<sup>657</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0091 [3] (Tab 120).

<sup>658</sup> Transcript of R P Spinks, T15693:29-33 (Day 152).

<sup>659</sup> Transcript of R P Spinks, T15693:42-44 and T15694:4-6 (Day 152).

agreed in evidence that the passage was confusing and told the Royal Commission that it could be better written to make clear that the prohibition on moral support applied only to the accused.<sup>660</sup>

- 371 It is submitted that the present documented position is that a victim is not allowed to be accompanied by a support person when appearing before a judicial committee. To the extent that this is not the case, the documents should be revised to reflect the true procedure and allowances in respect of support for a victim of child sexual abuse.

#### **Available findings on the judicial committee process**

F44 Under the current documented judicial committee process, if the evidence of the complainant is to be taken into account then she must give evidence in person unless she lives a great distance away or for some other reason is not able to be physically present.

F45 The stated willingness of the Jehovah's Witness organisation in Australia to have the evidence of a complainant of child sexual abuse give evidence remotely or by way of a written statement should be formalised and documented so that those running judicial committee processes and those affected by them are properly advised of the position.

F46 Under the current documented judicial committee process, a complainant of child sexual abuse is prohibited from having someone present with her in the judicial committee process to offer support.

F47 The stated willingness of the Jehovah's Witness organisation in Australia to allow a complainant of child sexual abuse to be accompanied by a support person of her choosing should be formalised and documented so that those running judicial committee processes and those affected by them are properly advised of the position.

F48 The current documented process for responding to allegations of child sexual abuse within the Jehovah's Witness organisation is focussed largely on the rights and comfort of the accused, with little regard to the requirements of a victim of abuse.

## **7.7 Assessment of repentance**

- 372 Having heard the testimony of the witnesses to the wrongdoing and/or the confession and personal statement of the accused, the judicial committee elders are instructed to convene alone to consider the degree of repentance of the accused.<sup>661</sup>
- 373 The primary task of the elders on a judicial committee in circumstances where guilt has been established and where the wrongdoer is genuinely repentant, is to rehabilitate and restore the wrongdoer irrespective of the gravity of the wrongdoing or sin.<sup>662</sup>
- 374 The Jehovah's Witnesses consider that 'repentance involves a deep regret over a damaged relationship with Jehovah, remorse over the reproach brought upon Jehovah's

<sup>660</sup> Transcript of R P Spinks, T15695:2-18 (Day 152).

<sup>661</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0091-92 [5] (Tab 120).

<sup>662</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0089 (Tab 109);  
Exhibit 29-0003, WAT.0004.001.0027 (Tab 100).

name and people, and a sincere longing to come back into God's favour'.<sup>663</sup> The *Shepherd the Flock* handbook provides that the judicial committee's decision as to degree of repentance of a wrongdoer should not 'be determined by the notoriety of the wrong'.<sup>664</sup> The judicial committee should look for clear works of repentance commensurate with his wrongdoing. (2 Cor.7:10, 11)'.<sup>665</sup>

- 375 The *Shepherd the Flock* handbook provides elders with a non-exhaustive list of indicators of genuine repentance to which they might have regard when assessing the repentance of a wrongdoer.<sup>666</sup>
- 376 Mr Spinks gave evidence that the risk of re-offending is not part of any assessment of repentance and acknowledged that in a court-setting there would likely be expert evidence before the decision-makers as to that risk.<sup>667</sup>

#### Available findings on the management of risk

F49 The failure of the Jehovah's Witness organisation to take into account the risk of re-offending when considering whether an offender is repentant, and consequently in deciding whether to merely reprove rather than to disfellowship, or whether to re-admit someone who has previously been disfellowshipped, does not adequately take account of considerations of child safety and should be revisited.

## 7.8 Sanctions for wrongdoing – deletion

- 377 The *Shepherd the Flock* handbook provides that if it comes to light that a serving elder or ministerial servant has committed a disfellowshipping offence such as child sexual abuse, he would likely be disqualified from serving 'for many years'.<sup>668</sup> Deletion of an elder is announced to the congregation and the circuit overseer is required to report deletion to the Branch Office.<sup>669</sup>
- 378 In his first written statement, Mr Spinks told the Royal Commission that an elder or ministerial servant is immediately removed if he is found to have engaged in child sexual abuse.<sup>670</sup>

<sup>663</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0092 [6] (Tab 120).

<sup>664</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0092 [7] (Tab 120).

<sup>665</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0092 [7] (Tab 120).

<sup>666</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0093-94[10] (Tab 120).

<sup>667</sup> Transcript of R P Spinks, T15713:44-T15714:10 (Day 152).

<sup>668</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0039 [20] (Tab 120).

<sup>669</sup> Exhibit 29-0003, WAT.0002.001.0034 at 0035 (Tab 128);

Exhibit 29-0003, WAT.0002.001.0039 at 0043 (Tab 129);

Transcript of D J Jackson, T15247:10-17 (Day 148).

<sup>670</sup> Exhibit 29-0019, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [72] and [74];

Exhibit 29-0003, WAT.0002.001.0034 at [10]-[12] (Tab 128).

## 7.9 Sanctions for wrongdoing - reproof

379 If a judicial committee determines that a wrongdoer is genuinely repentant, including in cases of child sexual abuse, then it reproves the wrongdoer.<sup>671</sup>

### Announcement of reproof - public or private

380 Reproof is a form of discipline that allows the wrongdoer to remain a member of the congregation<sup>672</sup> and which involves telling the accused that he is reproofed either entirely in private or before those aware of the wrongdoing.<sup>673</sup> It is a sanction intended to discipline the wrongdoer and warn the onlookers that wrongdoing has been committed.<sup>674</sup>

381 The judicial committee determines whether to make the announcement of reproof publicly or privately.<sup>675</sup> If the wrongdoing is widely known or is likely to become widely known in the congregation, the elders are instructed that a public announcement will 'safeguard the reputation of the congregation'.<sup>676</sup> Alternatively, if the elders consider that the 'congregation needs to be on guard concerning the repentant wrongdoer', for example, in cases involving child sexual abuse, then announcing the reproof publicly will 'serve as a protection for the congregation'.<sup>677</sup>

382 While the fact of reproof may be announced, the grounds of the reproof are not.<sup>678</sup>

### Application of restrictions

383 A person who is judicially reproofed is disqualified from special privileges, such as serving in a position of authority.<sup>679</sup> Judicial restrictions are also imposed on those who are reproofed, which restrictions might include being counselled by the elders about appropriate behaviour with children.<sup>680</sup>

<sup>671</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068 (Tab 124);  
Exhibit 29-0003, WAT.0003.001.0001 at 0097-0098 [18], (Tab 120);  
Exhibit 29-0003, WAT.0013.001.0001 at 0089 (Tab 109);  
Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [43];  
Exhibit 29-0019, Annexure 2, STAT.0591.001.0023 at [4.9];  
Exhibit 29-0003, WAT.0001.001.0001 at 0007 and 0016 (Tab 133).

<sup>672</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068 (Tab 124);  
Exhibit 29-0003, WAT.0003.001.0001 at 0097-0098, (Tab 120);  
Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [43];  
Exhibit 29-0019, Annexure 2, STAT.0591.001.0023 at [4.9];  
Exhibit 29-0003, WAT.0001.001.0001 at 0007 and 0016 (Tab 133).

<sup>673</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0097-0101 (Tab 120).

<sup>674</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0089 (Tab 109);  
Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124);  
Exhibit 29-0003, WAT.0003.001.0001 at 0097-0098 [20] (Tab 120).

<sup>675</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0098 [20] (Tab 120).

<sup>676</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0098-99 [20] (Tab 120).

<sup>677</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0099 [20] (Tab 120).

<sup>678</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0099 [21] (Tab 120);  
Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [62].

<sup>679</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0098 [19] (Tab 120).

<sup>680</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0098 [19] (Tab 120);

384 The *Organized to do Jehovah's Will* handbook provides that restrictions are removed in time 'as the individual's spiritual recovery becomes manifest'.<sup>681</sup> However, more recent directives advise elders not to extend privileges 'hastily' and that a person who has been found to have committed child sexual abuse may never be recommended to receive privileges.<sup>682</sup>

### Practical effect of reproof as a sanction

385 Mr O'Brien agreed with the proposition that the practical effect of reproof is that a known offender is left 'in the congregation and in the family, if the offender is in a family'.<sup>683</sup>

#### Available findings on sanctions - reproof

F50 Since it is the policy or practice of the Jehovah's Witness organisation not to report allegations of child sexual abuse to the police (other than if required by law to do so), if a known abuser is found to be repentant and for that reason merely reproofed rather than disfellowshipped he remains in the congregation and a risk to children in the congregation.

F51 The system of not announcing the reasons for reproof means that members of the congregation are not warned about the risk that such a wrongdoer poses to children in the congregation.

F52 The sanction of reproof therefore does nothing to protect children in the congregation and in the broader community.

## 7.10 Sanctions for wrongdoing - disfellowshipping

386 If the wrongdoer is unrepentant for committing a 'gross sin', he is to be disfellowshipped from the congregation.<sup>684</sup> To be disfellowshipped means to be excommunicated from, or cast out of, the Jehovah's Witness organisation.<sup>685</sup> Congregation members are directed not to associate with disfellowshipped persons.<sup>686</sup>

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Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [45]-[46];

Exhibit 29-0019, Annexure 2, STAT.0591.001.0023 at [4.16];

Exhibit 29-0003, WAT.0013.001.0001 at 0089 (Tab 109);

Exhibit 29-0003, WAT.0001.004.0066 at 0068 [12] (Tab 124).

<sup>681</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0089 (Tab 109).

<sup>682</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0069-71 [15],[23] (Tab 124);

Exhibit 29-0003, WAT.0001.004.0076 at 0080-81 [28] (Tab 126).

<sup>683</sup> Transcript of T J O'Brien, T15834:28-32 (Day 153).

<sup>684</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124);

Exhibit 29-0003, WAT.0003.001.0001 at 0101 [26] (Tab 120);

Exhibit 29-0019, Annexure 2, STAT.0591.001.0023 at [4.7]-[4.8];

Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [89].

<sup>685</sup> Exhibit 29-0003, WAT.0001.001.0001 at 0007 and 0016 (Tab 133).

<sup>686</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0087 and 0090 (Tab 109);

Exhibit 29-0007, Statement of Dino Ali, STAT.0598.001.0001\_R at [2.3].

387 The purpose of disfellowshipping is to ‘protect the flock and safeguard the cleanness of the congregation’.<sup>687</sup> When a person is disfellowshipped, the branch office is to be notified.<sup>688</sup>

388 Unless the disfellowshipped person appeals the judicial committee’s decision to disfellowship, the judicial committee explains to the person the need for genuine repentance and advises as to the steps the person ought to take in order to be reinstated as a Jehovah’s Witness.<sup>689</sup>

### **Announcement of disfellowshipping**

389 When a person is disfellowshipped for child sexual abuse, an announcement is made to the congregation to the effect that the person is ‘no longer one of Jehovah’s Witnesses’.<sup>690</sup> The announcement is made to the congregation so that it knows not to associate with the disfellowshipped person.<sup>691</sup>

390 While the fact of disfellowshipping is announced, the grounds are not.<sup>692</sup>

### **Practical effect of disfellowshipping**

391 Mr O’Brien agreed with the proposition that ‘disfellowshipping leaves a known offender in the family and/or at large in the community’.<sup>693</sup>

#### **Available findings on sanctions - disfellowshipping**

F53 Since it is the policy or practice of the Jehovah’s Witness organisation not to report allegations of child sexual abuse to the police (other than if required by law to do so), if a known abuser is disfellowshipped he remains in the community and a risk to children in the community.

F54 The sanction of disfellowshipping does nothing to protect children in the community.

## **7.11 Appealing a disfellowshipping decision**

392 Disfellowshipping decisions may be appealed within seven days.<sup>694</sup> Appeal committees are formed ‘even if there seems to be no valid basis for it’<sup>695</sup> comprising, to the extent

<sup>687</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0086 and 0090 (Tab 109).

<sup>688</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0102 [33] (Tab 120).

<sup>689</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0091 (Tab 109).

<sup>690</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0102 [32] (Tab 120).

Exhibit 29-0003, WAT.0013.001.0001 at 0091 (Tab 109).

<sup>691</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0091 (Tab 109).

<sup>692</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0102 [32] (Tab 120);

Exhibit 29-0003, WAT.0013.001.0001 at 0091 (Tab 109);

Exhibit 29-0024, Statement of Terrence O’Brien, STAT.0592.001.0001\_R at [62];

Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [41].

<sup>693</sup> Transcript of T J O’Brien, T15834:34-36 (Day 153).

<sup>694</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0105 (Tab 120).

<sup>695</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0105 (Tab 120).

possible, impartial elders from a different congregation and selected by the circuit overseer, who hear the case *ab initio*.<sup>696</sup>

## 7.12 Reinstatement as a Jehovah's Witness

393 A disfellowshipped person may be reinstated into the congregation after the passage of 'sufficient' time if the judicial committee determines that the individual is truly repentant and the reason(s) for their removal from the congregation have been abandoned.<sup>697</sup>

394 The decision to reinstate is always made by the judicial committee that decided to disfellowship the person.<sup>698</sup> Where the disfellowshipped person applies for reinstatement in a new congregation, the bodies of elders in both the new and old congregation are expected to communicate and exchange relevant information.<sup>699</sup>

395 The *Shepherd the Flock* handbook instructs elders to apply restrictions in all cases of reinstatement.<sup>700</sup>

## 7.13 Support for survivors of child sexual abuse

### Role of elders

396 Congregational elders are instructed to be kind, tender, empathetic, compassionate and patient when dealing with survivors of child sexual abuse.<sup>701</sup>

397 The Jehovah's Witness organisation recognises that elders are not mental health professionals or therapists and counsels against elders taking on such a role.<sup>702</sup> Elders are instead described as 'spiritual shepherds', whose role is to ensure that a survivor's worth is not 'diminished by the shameful way they were treated' and to convey that 'the important thing is how Jehovah views them'.<sup>703</sup>

398 Mr O'Brien told the Royal Commission that '[a]lmost every elder would use on their shepherding calls visiting a victim of any kind' Jehovah's Witness articles and Scriptures

<sup>696</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0105 (Tab 120);  
Exhibit 29-0003, WAT.0013.001.0001 at 0090-91 (Tab 109).

<sup>697</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [94];  
Exhibit 29-0003, WAT.0003.001.0001 at 0120 (Tab 120);  
Exhibit 29-0003, WAT.0013.001.0001 at 0093 (Tab 109).

<sup>698</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0119 (Tab 120);  
Exhibit 29-0003, WAT.0013.001.0001 at 0093 (Tab 109).

<sup>699</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0093 (Tab 109).

<sup>700</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0122 [12] (Tab 120).

<sup>701</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0070 [21] (Tab 124);  
Exhibit 29-0003, WAT.0003.001.0001 at 0054 [21] (Tab 120).

<sup>702</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0055 [22] (Tab 120);  
Exhibit 29-0003, WAT.0001.004.0001 at 0003 (Tab 81).

<sup>703</sup> Exhibit 29-0003, WAT.0001.004.0001 at 0003 (Tab 81);  
Exhibit 29-0003, WAT.0001.004.0004 (Tab 81).



that are specific to the needs of the victim.<sup>704</sup> He suggested that the Jehovah's Witness organisation could write and ask circuit overseers to make specific enquiries in their circuit congregations about victims of child sexual abuse, and make sure that the proper Scriptures are being used to console those victims.<sup>705</sup>

- 399 Elders are cautioned against meeting alone with 'a sister who is a victim of abuse, suffers from depression, or for any other reason is in a delicate emotional state' as a woman in such a state 'may be more vulnerable and may be prone to develop improper feelings toward an elder meeting with her'.<sup>706</sup>

### **Role of women in survivor support**

- 400 While noting that 'a sister would not get involved in matters that need the attention of the elders', the *Shepherd the Flock* handbook advises elders that on occasion, a female survivor of child sexual abuse may approach an older woman in the congregation for help and emotional support.<sup>707</sup>

### **Access to professional counselling / medical services**

- 401 The Jehovah's Witness organisation recognises that some survivors of child sexual abuse require professional medical attention and condones the seeking of such assistance to the extent that it does not conflict with Bible principles.<sup>708</sup>
- 402 Mr Spinks told the Royal Commission that the types of therapies that might conflict with Bible principles do not include '[m]ainstream therapy, normal psychiatric, psychological therapy', but might include 'some of the more extreme and radical therapies'.<sup>709</sup>
- 403 Mr Toole told the Royal Commission that he is not aware of any policy that positively states that elders should advise survivors of child sexual abuse of their right to seek professional psychological assistance.<sup>710</sup>
- 404 It is submitted that the present position of the Jehovah's Witness organisation is that elders should not discourage survivors of child sexual abuse from seeking professional support from outside of the organisation, nor should they encourage it or actively advise as to a person's right to do so.

<sup>704</sup> Transcript of T J O'Brien, T15857:34-40 (Day 153);  
Exhibit 29-0003, WAT.0001.004.0325 (Tab 77);  
Exhibit 29-0003, WAT.0001.004.0205 (Tab 78).

<sup>705</sup> Transcript of T J O'Brien, T15857:42-T15858:13 (Day 153).

<sup>706</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0057 [28] (Tab 120).

<sup>707</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0055 [24] (Tab 120).

<sup>708</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0056 [25] (Tab 120).

<sup>709</sup> Transcript of R P Spinks, T15675:32-46 (Day 152).

<sup>710</sup> Transcript of V J Toole, T15801:1-6 (Day 153).

## 7.14 Reporting to authorities

### Brief overview of relevant reporting regimes

- 405 Each state and territory in Australia has now enacted ‘mandatory reporting laws’. These laws require designated persons outside of a child’s family to report known and suspected child sexual abuse to child welfare agencies.<sup>711</sup> The mandatory reporting regime has developed throughout Australia over a 40 year period since 1969.<sup>712</sup> Currently, the laws share many features across jurisdictions: the duty is obligatory, must be immediately complied with, and applies to suspected past and present abuse; and the report destination is usually the jurisdiction’s department of child protection.<sup>713</sup>
- 406 The approach to mandatory reporting is not currently uniform across Australia and the relevant laws were created in different jurisdictions at different times.<sup>714</sup> Consequently, several significant differences remain across jurisdictions,<sup>715</sup> including the categories of persons who are obliged to make reports.<sup>716</sup> The reporting duty is normally applied to professions which typically deal with children in the course of their work (such as teachers, police, doctors and nurses).<sup>717</sup> In the Northern Territory, however, the duty applies to every adult.<sup>718</sup> In South Australia the duty has been specifically extended to apply to ministers of religion,<sup>719</sup> ‘although the duty does not extend to information communicated in the course of a religious confession’.<sup>720</sup>
- 407 Mandatory reporting laws are distinct from provisions making it a crime not to report criminal conduct to the authorities. These crimes are referred to as concealment offences. It used to be that the common law crime of misprision of a felony made it an

<sup>711</sup> *Children and Young People Act 2008* (ACT) s 356; *Children and Young Persons (Care and Protection) Act 1998* (NSW) ss 23, 27; *Care and Protection of Children Act* (NT) ss 15, 16, 26; *Child Protection Act 1999* (Qld) s 13E-I; *Children’s Protection Act 1993* (SA) ss 6, 10, 11; *Children, Young Persons and Their Families Act 1997* (Tas) ss 3, 14; *Children, Youth and Families Act 2005* (Vic) ss 162, 182, 184; *Children and Community Services Act 2004* (WA) ss 124A-H; *Family Law Act 1975* (Cth) s 67ZA.

<sup>712</sup> Associate Professor Ben Mathews, *Mandatory reporting laws for child sexual abuse in Australia: A legislative history*, *Royal Commission into Institutional Responses to Child Sexual Abuse*, Sydney, August 2014 (the **RC Mandatory Reporting Report**) at 1.2.1.4.

<sup>713</sup> RC Mandatory Reporting Report at 1.2.1.6; *Children and Young People Act 2008* (ACT) s 356; *Children and Young Persons (Care and Protection) Act 1998* (NSW) ss 23, 27; *Care and Protection of Children Act* (NT) ss 15, 16, 26; *Child Protection Act 1999* (Qld) s 13E-I; *Children’s Protection Act 1993* (SA) ss 6, 10, 11; *Children, Young Persons and Their Families Act 1997* (Tas) ss 3, 14; *Children, Youth and Families Act 2005* (Vic) ss 162, 182, 184; *Children and Community Services Act 2004* (WA) ss 124A-H; *Family Law Act 1975* (Cth) s 67ZA.

<sup>714</sup> RC Mandatory Reporting Report at 1.2.1.2-3.

<sup>715</sup> RC Mandatory Reporting Report at 1.2.1.7 and 1.2.1.7(b).

<sup>716</sup> RC Mandatory Reporting Report at 1.2.1.7 and 1.2.1.7(a).

<sup>717</sup> *Children and Young People Act 2008* (ACT) s 356; *Children, Young Persons and Their Families Act 1997* (Tas) s 14; *Children, Youth and Families Act 2005* (Vic) s 182; *Children and Community Services Act 2004* (WA) ss 124B; *Child Protection Act 1999* (Qld) s 13E; *Children and Young Persons (Care and Protection) Act 1998* (NSW) s 27.

<sup>718</sup> *Care and Protection Act 2007* (NT), s 26.

<sup>719</sup> *Children’s Protection Act 1993* (SA) s 11(2)(ga), as amended by the *Children’s Protection (Miscellaneous) Amendment Act 2005* (SA).

<sup>720</sup> RC Mandatory Reporting Report at 1.2.1.7(a); *Children’s Protection Act 1993* (SA), s 11(4).

offence for anyone to conceal his or her knowledge of the commission of a felony, but that offence has been abolished in most Australian jurisdictions.<sup>721</sup> In New South Wales, s 316 of the *Crimes Act 1900* (NSW) makes it a criminal offence for a person with knowledge or belief that a serious indictable offence has been committed to not report to authorities information that may materially assist in securing the apprehension or prosecution or conviction of the offender. Similarly in Victoria, s 327 of the *Crimes Act 1958* (Vic) makes it a criminal offence for a person to not disclose to a police officer information that leads the person for form to a reasonable belief that a sexual offence has been committed. Both jurisdictions provide a defence of reasonable excuse for withholding information<sup>722</sup> and exempt clergy members who obtain the information in the course of their profession<sup>723</sup> or a religious confession.<sup>724</sup>

### **Mandatory reporting and the Jehovah's Witness organisation**

- 408 Since at least 1995, congregational elders have been instructed to contact the Branch Office Legal Department to ascertain if any reporting obligations apply in respect of an allegation of child sexual abuse.<sup>725</sup> Mr Toole told the Royal Commission that the Jehovah's Witness organisation in Australia considers itself bound by mandatory reporting legislation in Victoria, South Australia and the Northern Territory.<sup>726</sup>
- 409 Mr Toole told the Royal Commission that in 1999 the world headquarters of the Jehovah's Witness organisation clarified that '[w]here the law does not obligate elders to report cases that come to their attention, there is no need for them to do so ...'.<sup>727</sup> Mr Spinks gave evidence that it is not the practice of the Jehovah's Witness organisation to report child sexual abuse to police,<sup>728</sup> nor has the organisation ever claimed 'to have instructed the elders to go to the authorities'.<sup>729</sup>
- 410 In August of 2002, members of all congregations in Australia were advised by the Branch Office that congregational elders have long been instructed to report allegations of child sexual abuse 'where required to by law to do so, even when there is only one witness'.<sup>730</sup> In October of 2002, the Australia Branch Office Legal Department issued a letter to all bodies of elders clarifying that '[w]hether or not they are "required by law to [report]"', can only be determined at the time when the elders contact the Society after receiving a report of child abuse'.<sup>731</sup>

<sup>721</sup> RC Mandatory Reporting Report at 2.6.3 (footnote 94);  
See also, for example, *Crimes Act 1900* (NSW), s 341; Schedule 11 to the *Criminal Law Consolidation Act 1935* (SA); and *Crimes (Classification of Offences) Act 1981* (Vic), ss 2 and 4.

<sup>722</sup> *Crimes Act 1958* (Vic), s 327(2); *Crimes Act 1900* (NSW), s 316(1).

<sup>723</sup> *Crimes Act 1900* (NSW), s 316(4) and (5); *Crimes Regulation 2010* (NSW), r 4(f).

<sup>724</sup> *Crimes Act 1958* (Vic), s 327(7); *Evidence Act 2008* (Vic), ss 127(1) and (4).

<sup>725</sup> Exhibit 29-0003, WAT.0001.004.0005 at 0005 (Tab 83).

<sup>726</sup> Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R at [29]-[30].

<sup>727</sup> Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R at [16];

Exhibit 29-0003, WAT.0001.004.0020 at 0020 (Tab 99).

<sup>728</sup> Transcript of R P Spinks, T15665:10-15 (Day 152).

<sup>729</sup> Transcript of R P Spinks, T15671:45-T15672:1 (Day 152).

<sup>730</sup> Exhibit 29-0003, WAT.0004.001.0001 at 0002 (Tab 105).

<sup>731</sup> Exhibit 29-0034, CORR.0182.001.0005 at 0005.

- 411 It is submitted that in the light of the letter of October 2002 and other directives issued only to elders, the letter of August 2002 to all Jehovah's Witnesses is misleading as to the true position of the organisation in relation to reporting child sexual abuse to authorities, that true position being that elders do not report to authorities unless directed to do so by the Branch Office.
- 412 Mr Toole told the Royal Commission that he has been taking calls from elders to the Legal Department for at least the last two years. He said that he discusses with the elders calling for advice what mandatory reporting obligations might apply.<sup>732</sup>
- 413 In a letter dated 10 January 2012, all bodies of elders in South Australia were advised by the Branch Office Legal Department of new mandatory reporting obligations and of the need to immediately contact the Branch Office upon receipt of any allegations of child abuse.<sup>733</sup>

### **Concealment offences and the Jehovah's Witness organisation**

- 414 Mr Spinks gave evidence that in recent weeks it has been explained to him that some states impose criminal sanctions on those who do not report knowledge of a criminal offence, i.e. concealment offences as distinct from mandatory reporting obligations.<sup>734</sup> Mr Spinks said that he understood that in resolving the truth of an allegation of child sexual abuse, through the Jehovah's Witness investigative and judicial process, an elder's state of knowledge changes from being knowledge of an accusation of a criminal offence to knowledge of the commission of a criminal offence.<sup>735</sup> That is to say, it is clear that in circumstances where elders have found a sexual offence to have been committed where concealment offences exist they are prima facie obliged to report to the police.
- 415 Mr Toole gave evidence that before being called before the Royal Commission, it had been his understanding that the 'prevailing' legislation governing reporting of child sexual abuse was the state and territory mandatory reporting legislative schemes.<sup>736</sup> He said that it had been a 'wake-up call' to learn that the concealment offences applied independently of the mandatory reporting provisions.<sup>737</sup> He told the Royal Commission that once the public hearing was concluded the Jehovah's Witness organisation in Australia would be engaging senior counsel to advise on any reporting obligations, including those arising under the criminal law.<sup>738</sup>
- 416 Mr Toole told the Royal Commission that if the law required it, then the Jehovah's Witness organisation would be happy to report child sexual abuse to authorities.<sup>739</sup> It was put to him that in NSW at least, the legislation had required reporting of such crimes since 1990, and before that the common law had imposed a similar obligation.<sup>740</sup> Mr

<sup>732</sup> Transcript of V J Toole, T15759:41-T15760:2 (Day 153).

<sup>733</sup> Exhibit 29-0003, WAT.0001.004.0065 (Tab 123).

<sup>734</sup> Transcript of R P Spinks, T15666:14-22 (Day 152).

<sup>735</sup> Transcript of R P Spinks, T15666:7-12, 34-38 (Day 152).

<sup>736</sup> Transcript of V J Toole, T15789:8-21 (Day 153).

<sup>737</sup> Transcript of V J Toole, T15789:16-27 (Day 153).

<sup>738</sup> Transcript of V J Toole, T15789:16-42 (Day 153).

<sup>739</sup> Transcript of V J Toole, T15790:13-20 (Day 153).

<sup>740</sup> Transcript of V J Toole, T15790:22-29 (Day 153).

Toole said that although he understood what was put to him, the Jehovah's Witness organisation has not reported child sexual abuse on the understanding that only the mandatory reporting laws applied.<sup>741</sup> Mr Toole confirmed that the organisation's understanding was also his understanding.<sup>742</sup>

- 417 It is implicit in Mr Toole's confession to a 'wake-up call' that prior to being called to give evidence before the Royal Commission he did not advise elders from New South Wales of their obligations under the concealment laws. It follows that where elders in NSW formed the view that child sexual abuse had occurred they were obliged under sanction of the criminal law to report those cases to the police.
- 418 Mr Toole should accordingly be referred to the Law Society of New South Wales for possible investigation.

#### Available findings on reporting

F55 Prior to this case study, the Jehovah's Witness organisation in Australia did not advise congregational elders of their obligations to report the commission of criminal offences to the police under s 316 of the *Crimes Act 1900* (NSW).

F56 This report is referred to the Law Society of New South Wales in relation to the conduct of Mr Toole in having failed to advise congregational elders of their obligations to report their knowledge of the commission of certain criminal offences to the police.

#### Reporting to secular authorities more generally

- 419 Elders are instructed that, in the absence of mandatory reporting obligations, it is the right of the individual to decide whether to report child sexual abuse to the police or other secular authorities.<sup>743</sup> The *Shepherd the Flock* handbook instructs elders that:

... If you are asked, make it clear that whether to report the matter to the authorities or not is a personal decision for each individual to make and that there are no congregational sanctions for either decision...<sup>744</sup>

[emphasis added]

- 420 The 2013 Service Desk Guidelines direct the Service Desk to advise elders not to discourage individuals from reporting matters to the authorities, but that they should remind individuals of the 'need for confidentiality when speaking with others, thus avoiding any charge of slander'.<sup>745</sup>

<sup>741</sup> Transcript of V J Toole, T15791:3-33 (Day 153).

<sup>742</sup> Transcript of V J Toole, T15791:12-17 (Day 153).

<sup>743</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0132-133 [19] (Tab 120); Exhibit 29-0003, WAT.0004.001.0001 at 0002 (Tab 105).

<sup>744</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0132 [19] (Tab 120).

<sup>745</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0081 [33] (Tab 126).

- 421 Mr Spinks said that the Service Desk does not instruct elders to report to the authorities.<sup>746</sup>
- 422 Messrs Spinks, Toole and O'Brien each gave evidence that Jehovah's Witness elders do not have the right Scripturally to usurp a victim's 'right' to report an allegation of child sexual abuse to the authorities, and as such, elders do not themselves report allegations of child sexual abuse to authorities.<sup>747</sup>
- 423 Mr Spinks said that the Scriptures that support the Jehovah's Witness organisation's position in relation to reporting to authorities are 2 Corinthians 1:24 and Galatians 6:5.<sup>748</sup>
- 424 2 Corinthians 1:24 provides, 'Not that we are the masters over your faith, but we are fellow workers for your joy, for it is by your faith that you are standing'. In and of itself, it is not at all apparent how this passage prohibits elders from reporting child sexual abuse to secular authorities. Furthermore, it is submitted that application of the passage as Mr Spinks suggests appears inconsistent with the organisation's own teachings about the role of elders, which is as a 'shepherd' to the 'flock' with an obligation to care for the flock's safety.<sup>749</sup>
- 425 Galatians 6:5 provides that '[f]or each one will carry his own load'. Again, it is not at all apparent how this passage prohibits elders from reporting child sexual abuse to authorities. In fact, it is submitted that the preceding verses<sup>750</sup> suggest that the 'one' being told to 'carry his own load' is not a victim of a serious crime; rather the preceding verses suggest that the counsel is intended to apply to a wrongdoer bearing responsibility for his wrongs.
- 426 It is accordingly submitted that the Royal Commission should not accept Mr Spinks' evidence regarding the Scriptural basis for the position of the Jehovah's Witness organisation regarding not reporting crimes to the authorities.

#### Further evidence of Mr Spinks

- 427 Mr Spinks gave evidence that when a child is in a situation where the threat of harm remains, the Service Desk instructs elders to speak to the parent or guardian of that child and assist that person to 'do all they can, including going to the authorities, if that's what ... the guardian/parent is willing to do ... and remind them that they ... will have the full support of the elders in doing that'.<sup>751</sup>
- 428 Mr Spinks said that if the elders are not in a position of being able to take judicial action, for example if there is only one witness to the alleged abuse or if it is too traumatising

<sup>746</sup> Transcript of R P Spinks, T15663:10-12 (Day 152).

<sup>747</sup> Transcript of R P Spinks, T15720:36-T15721:12 (Day 152);  
Transcript of V J Toole, T15763:6-15 (Day 153);  
Transcript of T J O'Brien, T15835:33-41 (Day 153).

<sup>748</sup> Transcript of R P Spinks, T15721:3-8 (Day 152).

<sup>749</sup> Transcript of T J O'Brien, T15847:13-18 (Day 153).

<sup>750</sup> See Galatians 6:1-4.

<sup>751</sup> Transcript of R P Spinks, T15662:5-19 (Day 152).

for the victim witness to speak to elders, then '[t]he parents would be reminded that it's their absolute right to take this to the authorities, and the elders will support them in it'.<sup>752</sup>

429 It is submitted that Mr Spinks' evidence that elders are told to make sure that survivors of child sexual abuse and their families have the absolute right to report to the authorities should not be accepted. Mr Spinks' evidence in this regard is not credible in the light of his earlier evidence that the advice given to elders by the Service Desk is generic advice as read out from page 131 of the *Shepherd the Flock* handbook.<sup>753</sup> The relevant paragraph provides that survivors and their families should be advised of the right to report to authorities if they ask.<sup>754</sup>

430 Insofar as elders reporting to authorities themselves is concerned, Mr Spinks said that if there were uniform mandatory reporting requirements across Australia, then the Jehovah's Witnesses 'will willingly and happily comply'.<sup>755</sup>

### Further evidence of Mr Toole

431 In his written statement, Mr Toole told the Royal Commission that the Branch Committee instructs the Legal Department to direct elders to clearly explain to a victim of child sexual abuse and/or to the victim's family, that they have an absolute right to report the matter to authorities.<sup>756</sup> Mr Toole gave evidence that it was his understanding that this instruction was given by the Branch Committee in harmony with the direction given in the letter to all bodies of elders of 1 October 2012, although he was unable to identify that direction in the letter.<sup>757</sup> Instead, Mr Toole told the Royal Commission that the instruction from the Branch Committee was 'in the spirit of what's being discussed' in the letter of 1 October 2012.<sup>758</sup>

432 Mr Toole accepted that the Legal Department does not have any written instruction from the Branch Committee to direct elders to explain to a victim or her family, their right to report abuse to authorities.<sup>759</sup>

433 Mr Toole gave evidence that in at least the last two and a half years he has taken three to four calls regarding allegations of child sexual abuse every month.<sup>760</sup> He told the Royal Commission that in each case where he provides advice to elders and where there is no mandatory reporting obligation, it is his practice to instruct elders to:

... go back to the victim or their family and explain to them very clearly that they have the absolute right to be able to go and report this matter to the

<sup>752</sup> Transcript of R P Spinks, T15708:33-T15709:4 (Day 152).

<sup>753</sup> Transcript of R P Spinks, T15661:26-T15662:3 (Day 152).

<sup>754</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0132 [19] (Tab 120).

<sup>755</sup> Transcript of R P Spinks, T15665:38-42 (Day 152).

<sup>756</sup> Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R [15].

<sup>757</sup> Transcript of V J Toole, T15759:9-27 (Day 153).

<sup>758</sup> Transcript of V J Toole, T15759:25-27 (Day 153).

<sup>759</sup> Transcript of V J Toole, T15759:34-39 (Day 153).

<sup>760</sup> Transcript of V J Toole, T15760:18-30 (Day 153).

authorities. That's their privilege and they need to understand that, and that you will support them in whatever decision they make.<sup>761</sup>

434 Although Mr Toole gave evidence that elders in the Jehovah's Witnesses do not have the right, Scripturally, to take away an individual's right to decide whether to report a child sexual abuse complaint to the police,<sup>762</sup> he later agreed that 'in some circumstances, there would be a need for elders to report to the authorities'.<sup>763</sup> Mr Toole said further that the Legal Department will do 'whatever needs to be done to protect a child', and that '[i]f it means going to the police, we would have no hesitation in going to the police'.<sup>764</sup>

#### **Further evidence of Mr O'Brien**

435 Mr O'Brien agreed in evidence that the fact that the Jehovah's Witness organisation's disciplinary procedures can leave a perpetrator of child sexual abuse at large in the community 'can only be resolved with systematic reporting to the authorities'.<sup>765</sup>

436 Mr O'Brien gave evidence that elders in the Jehovah's Witness organisation do not see that they have the right, Scripturally, to take away the right of a victim or parent of a victim to report child sexual abuse to police, by themselves reporting child sexual abuse to the police.<sup>766</sup> However he later told the Royal Commission that the organisation would report a complaint of child sexual abuse to the police 'if the child remains at risk and there is no responsible adult within the family to remove [the child] from further risk of abuse'.<sup>767</sup> Mr O'Brien said that he did not personally have any experience or knowledge of a matter being reported to police by the organisation.<sup>768</sup>

437 Mr O'Brien accepted in evidence that, unlike child protection authorities, the Jehovah's Witness organisation does not have the power to intervene in a family situation to ensure protection of the child.<sup>769</sup>

#### **Evidence of Mr Jackson**

438 It was Mr Jackson's evidence that where a child remains at risk of abuse, 'the elders should encourage the guardian of the child, or whoever is in that family arrangement who is not the perpetrator, to notify the authorities'.<sup>770</sup> It was put to Mr Jackson that there is a Jehovah's Witness practice of not reporting child sexual abuse allegations to the authorities unless required by law to do so.<sup>771</sup> Rather than responding to the

<sup>761</sup> Transcript of V J Toole, T15759:41-T15760:16 (Day 153).

<sup>762</sup> Transcript of V J Toole, T15763:6-15 (Day 153).

<sup>763</sup> Transcript of V J Toole, T15763:42-45 (Day 153).

<sup>764</sup> Transcript of V J Toole, T15794:23-26 (Day 153).

<sup>765</sup> Transcript of T J O'Brien, T15834:34-44 (Day 153).

<sup>766</sup> Transcript of T J O'Brien, T15835:33-41 (Day 153).

<sup>767</sup> Transcript of T J O'Brien, T15860:34-37 (Day 153).

<sup>768</sup> Transcript of T J O'Brien, T15860:39-T15861:17 (Day 153).

<sup>769</sup> Transcript of T J O'Brien, T15835:22-31 (Day 153).

<sup>770</sup> Transcript of G W Jackson, T15966:30-T15967:4 (Day 155).

<sup>771</sup> Transcript of G W Jackson, T15965:2-5 (Day 155).



proposition, Mr Jackson said that he was ‘not familiar with the statistics or the general practice ...’.<sup>772</sup>

- 439 Mr Jackson was asked if there was a Scriptural basis to the practice or policy of the Jehovah’s Witness organisation of not reporting child sexual abuse to authorities unless required to do so by law.<sup>773</sup> He explained in response that there ‘is a spiritual dilemma’ arising out of the question of reporting to authorities.<sup>774</sup> Mr Jackson said that one aspect of that dilemma arises when an elder learns of an allegation of child sexual abuse and must consider his obligation of confidence in accordance with the Scriptural guidance in Proverbs 25:8-10.<sup>775</sup> Another aspect of the dilemma, he explained, was the Scriptural requirement in 1 Peter 5:2-3 that an elder ‘does not have the authority to lord it over or take over control of a family arrangement’ where a survivor or her guardian has the right to decide if they want to report to authorities.<sup>776</sup>
- 440 Mr Jackson said that the spiritual dilemma to which he referred arises out of the conflict between the elders’ adherence to those Scriptural principles and the desire to ‘make sure that children are cared for’.<sup>777</sup>
- 441 Mr Jackson did however accept that it would be possible for the Jehovah’s Witness organisation to consider adopting a policy which says that in cases where there are others at risk, a report must be made to the authorities.<sup>778</sup>
- 442 Mr Jackson nonetheless qualified his evidence in relation to the capacity for the Jehovah’s Witness organisation to require elders to report to authorities and said that there were ‘Scriptural factors that maybe make that a little complicated, and it would certainly be a lot easier if we had mandatory laws on that’.<sup>779</sup>

### **Documentary evidence**

- 443 As dealt with in Part 2 above, the Royal Commission received evidence that of 1,006 alleged perpetrators of child sexual abuse identified by the Jehovah’s Witness organisation since 1950, not one was reported by the organisation to secular authorities.<sup>780</sup>

### **Submissions in relation to reporting to authorities**

- 444 It is not possible, on the available evidence, to conclude that it is the practice of the Jehovah’s Witness organisation to:
- a) positively advise victims and/or their families of their right to report allegations of child sexual abuse to the authorities, and/or

<sup>772</sup> Transcript of G W Jackson, T15965:6-7 (Day 155).

<sup>773</sup> Transcript of G W Jackson, T15965:11-14 (Day 155).

<sup>774</sup> Transcript of G W Jackson, T15965:6-8 (Day 155).

<sup>775</sup> Transcript of G W Jackson, T15965:19-39 (Day 155).

<sup>776</sup> Transcript of G W Jackson, T15965:41-T15966:21 (Day 155).

<sup>777</sup> Transcript of G W Jackson, T15966:21-23 (Day 155).

<sup>778</sup> Transcript of G W Jackson, T15967:10-14 (Day 155).

<sup>779</sup> Transcript of G W Jackson, T15967:19-22 (Day 155).

<sup>780</sup> Exhibit 29-0021, WAT.999.013.0012.

- b) encourage victims and/or their families to report allegations of child sexual abuse to the authorities.

#### **Available findings on the Jehovah's Witness organisation's policy on reporting**

F57 It is the policy and practice of the Jehovah's Witness organisation in Australia to not report allegations of child sexual abuse to the police or other authorities unless required by law to do so.

F58 The basis for this policy is said to be respect for the 'right' of the victim to herself decide whether to make a complaint to the authorities.

F59 That basis has no justification where the victim is still a minor at the time that the abuse comes to the attention of the organisation, or where there are others who may still be at risk at the hands of the alleged abuser.

F60 Since the organisation cannot remove an alleged abuser from the family or take other positive steps to safeguard children in the family from continuing risk, the organisation should have a policy to report all allegations of child sexual abuse to the authorities unless an adult victim specifically requests that a report not be made and there is no appreciable risk of children being abused.

### **7.15 The evidence of Mr Davies, formerly of the Queensland DPP**

445 Mr Davies, formerly of the Queensland DPP,<sup>781</sup> gave evidence that his experience of the internal processes of the Jehovah's Witness organisation with respect to allegations of child sexual abuse gave him cause for concern from a prosecutorial perspective for the following reasons:

- a) the delay in allegations coming to police attention caused by the internal handling of child sexual abuse complaints and the acceptance by the organisation that there is no need to refer such allegations to secular authorities<sup>782</sup>
- b) the questionable admissibility of inculpatory statements made by the accused during the disfellowshipping process owing to the incentive of a reduced penalty if an admission as to the alleged conduct is made<sup>783</sup>
- c) the impact on the survivor of the internal handling of their complaint, in particular in relation to the number of people to whom the survivor is required to disclose the details of their complaint,<sup>784</sup> and
- d) as a consequence of the number of people involved in handling a complaint, the potential for contamination of the survivor's evidence before it reaches the police.<sup>785</sup>

<sup>781</sup> Exhibit 29-0011, First statement of Jason Davies, STAT.0595.001.0001\_R at [3]-[9].

<sup>782</sup> Exhibit 29-0012, Supplementary statement of Jason Davies, STAT.0595.002.0001\_R at [8]; Transcript of J Davies, T15422:41-T15423:6, 42-46 (Day 149).

<sup>783</sup> Transcript of J Davies, T15424:4-6 (Day 149); Exhibit 29-0011, First statement of Jason Davies, STAT.0595.001.0001\_R at [16]-[18]; Exhibit 29-0012, Supplementary statement of Jason Davies, STAT.0595.002.0001\_R at [6]-[7];

<sup>784</sup> Transcript of J Davies, T15424:9-25 (Day 149).

<sup>785</sup> Transcript of J Davies, T15424:27-39 (Day 149).

### **Available findings on the impact of the Jehovah’s Witness organisation’s processes on criminal processes**

- F61 The internal processes of the Jehovah’s Witness organisation for handling allegations of child sexual abuse cause significant delay in a complaint coming, if ever, before authorities.
- F62 Admissions made by an accused during the investigative and/or judicial committee process administered by the Jehovah’s Witness organisation may not be admissible in criminal proceedings because of the circumstances in which they are made, including that incentives such as reduction in penalty are offered if an admission is made.
- F63 The number of people to whom a survivor of child sexual abuse is required to divulge the detail of her complaint exacerbates the trauma already suffered by a survivor of such abuse.
- F64 There is significant risk of contamination of a survivor’s evidence as a result of the number of times and circumstances in which a survivor is required to divulge the detail of her complaint before her abuse is, if ever, reported to the authorities.

## **7.16 Redress and acknowledgment**

- 446 Mr O’Brien told the Royal Commission the Jehovah’s Witness organisation in Australia does not have a redress scheme for responding to and potentially compensating victims of child sexual abuse in Australia because, to date, it has never received a claim.<sup>786</sup>
- 447 Mr O’Brien gave evidence that the involvement of the Jehovah’s Witness organisation in a collective redress scheme would require the approval of the 26 members of Watchtower Australia and the Governing Body.<sup>787</sup> Mr O’Brien said that he would recommend that the Jehovah’s Witness organisation establish a redress scheme of its own to care for victims of child sexual abuse.<sup>788</sup>
- 448 In the context of humanitarian relief, Mr Jackson told the Royal Commission that ‘the Governing Body is happy for our organisation to spend money helping persons ... who [have] been traumatised or affected in a bad way’.<sup>789</sup> Mr Jackson said in evidence that, subject to the Scriptures, participation of the Jehovah’s Witness organisation with other institutions in a coordinated redress scheme is ‘not something that is totally out of the option pool’.<sup>790</sup>
- 449 Mr Jackson told the Royal Commission that although Jehovah’s Witnesses try to ‘keep a high moral standard’ and ‘treat victims in a loving way’, he had not personally been involved in Governing Body discussions regarding consideration of the issue of an

<sup>786</sup> Exhibit 29-0003, WAT.9999.004.0003 (Tab 135);  
Transcript of T J O’Brien, T15835:46-T15836:5 (Day 153).

<sup>787</sup> Transcript of T J O’Brien, T15836:24-T15837:3, T15838:10-T15839:9 (Day 153)

<sup>788</sup> Transcript of T J O’Brien, T15837:5-T15838:8 (Day 153)

<sup>789</sup> Transcript of G W Jackson, T15985:38-44 (Day 153)

<sup>790</sup> Transcript of G W Jackson, T15986:16-32 (Day 153)

apology to survivors of child sexual abuse.<sup>791</sup> He said in evidence that he was unable to speak ‘collectively for everybody’ but the Governing Body has ‘apologised on other matters in the past’ and so an apology to survivors of child sexual abuse ‘is perceivable’.<sup>792</sup>

- 450 Mr Jackson agreed with the proposition put to him that ‘it is very important for people in such senior positions as [his] to really have a good understanding of the perspective of a survivor of abuse’.<sup>793</sup> He also said that empathised with BCG. However, he had neither read the statements nor heard the evidence of BCG, nor did he seem to be aware of the fact that BCG was a woman,<sup>794</sup> purportedly on account of being too busy. However he had clearly taken considerable time to follow the evidence of Jehovah’s Witness witnesses.<sup>795</sup> Mr Jackson accordingly failed to live by the principle that he said he regarded as important, namely that he should have a good understanding of the perspective of a survivor of abuse, and his stated empathy with BCG was hollow.

#### **Available findings on Mr Jackson’s stated empathy for survivors**

F65 Mr Jackson’s failure to have read or be familiar with the testimony of the survivor witnesses yet to have read or otherwise familiarised himself with the testimony of Jehovah’s Witness witnesses belies his stated empathy for the survivors and his stated recognition of the importance of their perspectives.

<sup>791</sup> Transcript of G W Jackson, T15985:16-25 (Day 153).

<sup>792</sup> Transcript of G W Jackson, T15985:29-32 (Day 153).

<sup>793</sup> Transcript of G W Jackson, T15990:32-42 and T15991:35-44 (Day 155).

<sup>794</sup> Transcript of G W Jackson, T15990:24-30 (Day 155).

<sup>795</sup> Transcript of G W Jackson, T15951: 26-42, T15952:27-32, T15954:16-27, T15965:16-19 (Day 155).

## Part 8 Current systems, policies, and procedures for preventing child sexual abuse

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### 8.1 Parental responsibility

451 The Jehovah's Witness organisation considers that the primary responsibility for the protection of children lies with parents.<sup>796</sup> In his written statement, Mr O'Brien said that this is particularly so as the organisation does not have programmes or facilities that separate children from their parents.<sup>797</sup>

452 In his written statement, Mr O'Brien also told the Royal Commission that the Jehovah's Witness organisation believes that loving and protective parents are the best deterrent to child abuse.<sup>798</sup>

#### Education through publications

453 Mr O'Brien described the position of the Jehovah's Witness organisation as being that parental education of children about sex and the dangers of child sexual abuse can be a major factor in its prevention.<sup>799</sup> He said that the Jehovah's Witness organisation educates parents via study groups and publications to help protect their children from child sexual abuse.<sup>800</sup> The 2013 Service Desk Guidelines instruct the branch service desks to advise elders to 'periodically remind parents of the need to review with their children articles in the organization's publications'.<sup>801</sup>

454 A number of *Awake!* and *Watchtower* publications dating back to 1970 and produced by the Jehovah's Witness organisation address child sexual abuse.<sup>802</sup>

### 8.2 Information sharing

#### Sharing between congregations and the branch office

455 The Jehovah's Witness organisation offers theocratic guidance on the sharing of information between relevant bodies of elders through 'letters of introduction' when a member moves from one congregation to another.

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<sup>796</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068 [10] (Tab 124).

<sup>797</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [67].

<sup>798</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [67].

<sup>799</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [55].

<sup>800</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [65]; Transcript of T J O'Brien, T15842: 37-42 (Day 153).

<sup>801</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0081 [34].

<sup>802</sup> Exhibit 29-0003, WAT.0001.004.0225 (Tab 75); Exhibit 29-0003, WAT.0001.004.0223 (Tab 76), Exhibit 29-0003, WAT.0001.004.0205 (Tab 78), Exhibit 29-0003, WAT.0001.004.0238 (Tab 82), Exhibit 29-0003, WAT.0001.004.0007 (Tab 87), Exhibit 29-0003, WAT.0001.004.0128 (Tab 106); Exhibit 29-0003, WAT.0001.004.0253 (Tab 112); Exhibit 29-0003, WAT.0001.004.0066 at 0068 [10] (Tab 124).

- 456 When a ‘known child molester’ moves to another congregation, elders are instructed to send a letter of introduction (copied to the Branch Office) with full and complete information about the person’s background and current situation to the elders of the new congregation.<sup>803</sup> The Branch Office, and not the congregational elders, determines whether or not a person is a ‘known child molester’.<sup>804</sup> Whether or not a person is a ‘known child molester’ depends upon whether he is known by the congregation to be such and is therefore ‘not “free from accusation” or “irreprehensible”, nor does he have “a fine testimony from people on the outside”’. (1 Tim. 3:1-7, 10; 5:22; Titus 1:7).<sup>805</sup>
- 457 The Branch Office determines what information regarding the accusation may be shared with the new congregation.<sup>806</sup> For example, if 20 years have passed since a person sexually abused a child and the Branch Office has determined that the person can be appointed to a position of trust, then there is no need for information regarding the person’s history of offending to be passed to a new congregation.<sup>807</sup>

### Information requests from secular authorities

- 458 All elders are directed to immediately contact the Branch Office if approached by secular authorities requesting access to congregational records or seeking testimony from elders.<sup>808</sup> In November 2014, all bodies of elders were instructed never to ‘reveal confidential information to anyone unless theocratic procedure requires it or the branch office has instructed you to do so’, and were given examples of people who may seek such information as including police, government officials, school personnel, and family members.<sup>809</sup>
- 459 Elders are instructed that the reason for resisting production of confidential records to authorities, even when those records are sought under subpoena, prior to consultation with the Branch Office Legal Department is that the records may be protected by ‘minister-communicant privilege’ or legal professional privilege.<sup>810</sup>

### Confessional privilege

- 460 In 1997 and 1999, the Australia Branch Office communicated with the headquarters of the Jehovah’s Witness organisation in relation to the availability of confessional privilege when information or documents are sought by secular authorities from the Jehovah’s Witness organisation.<sup>811</sup> The ultimate position of the organisation appears, at least in

<sup>803</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0133 [20] (Tab 120);

Exhibit 29-0019, Annexure 2, STAT.0591.001.0018 at [4.21];

Exhibit 29-0003, WAT.0001.004.0066 at 0069 (Tab 124);

Exhibit 29-0003, WAT.0001.004.0076 at 0083 [41] (Tab 126).

<sup>804</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0069 [15] (Tab 124).

<sup>805</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0069 [15] (Tab 124).

<sup>806</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0133 [21] (Tab 120);

Exhibit 29-0019, Annexure 2, STAT.0591.001.0018 at [3.2]-[3.4].

<sup>807</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0083 [42] (Tab 126).

<sup>808</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0088 [19] (Tab 120).

<sup>809</sup> Exhibit 29-0003, WAT.0014.001.0009 at 0005 [10] (Tab 131A).

<sup>810</sup> Exhibit 29-0003, WAT.0014.001.0009 at 0006 [12] (Tab 131A).

<sup>811</sup> Exhibit 29-0003, WAT.0004.001.0010 (Tab 86); Exhibit 29-0003, WAT.0001.004.0007 (Tab 87); Exhibit 29-0003, WAT.0012.001.0025 (Tab 90); Exhibit 29-0003, WAT.0004.001.0014 (Tab 91); Exhibit 29-0003,

1997, to have been that it would be appropriate to try to claim confessional privilege where a confession is obtained by a judicial committee and that any actions associated with that judicial committee, such as reporting to the body of elders and to the branch office, would form part of the confessional ritual for the purposes of any such claim.<sup>812</sup>

461 In oral evidence, Mr Toole agreed that it is possible that ‘the confidentiality of the confession in the case of the Jehovah’s Witnesses is very qualified’ and that ‘a lot of different people ... end up having access to that information’.<sup>813</sup>

462 Mr Toole said that although for the past 15 years the Jehovah’s Witnesses have taken the position of waiving confessional privilege when approached by authorities, there may be circumstances in which that position could change.<sup>814</sup>

### 8.3 Appointments to positions of authority in the organisation

#### Qualification

463 Elders and ministerial servants hold positions of trust within the congregation.<sup>815</sup> The Jehovah’s Witness organisation offers theocratic guidance on the qualification of a known child molester for such positions of responsibility.<sup>816</sup> For instance, an elder must be a man who is ‘irreprehensible, be free from accusation, and [has] a fine testimony from people on the outside’.<sup>817</sup> An elder should have a wife and children in subjection<sup>818</sup> and he should not have been recently reprovved for wrongdoing.<sup>819</sup>

#### Inquiry as to candidate’s history

464 Circuit overseers are responsible for the appointment of elders and ministerial servants following recommendation of candidates for appointment by congregational bodies of elders.<sup>820</sup>

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WAT.0012.001.0011 (Tab 92); Exhibit 29-0003, WAT.0001.004.0014 (Tab 93); Exhibit 29-0003, WAT.0001.004.0020 (Tab 99).

<sup>812</sup> Exhibit 29-0003, WAT.0004.001.0014 at 0017 (Tab 91); Exhibit 29-0003, WAT.0012.001.0014 at 0015 (Tab 91); Exhibit 29-0003, WAT.0012.001.0011 (Tab 92).

<sup>813</sup> Transcript of V J Toole, T15774:36-46 (Day 153).

<sup>814</sup> Transcript of V J Toole, T15775:1-3 (Day 153); Exhibit 29-0003, WAT.0014.001.0009 at 0010 [6].

<sup>815</sup> Exhibit 29-0024, Statement of Terrence O’Brien, STAT.0592.001.0001\_R at [82]-[83]; Exhibit 29-0003, WAT.0002.001.0034 at 0034-0035 (Tab 128); Exhibit 29-0003, WAT.0013.001.0001 at 0016-0023 (Tab 109); Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [78]; Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [15]; Exhibit 29-0003, WAT.0002.001.0001 at 0001 (Tab 97).

<sup>816</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068-0071 (Tab 124); Exhibit 29-0003, WAT.0003.001.0001 at 0031-0042 (Tab 120).

<sup>817</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0018 (Tab 109).

<sup>818</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0015-17 (Tab 109); Exhibit 29-0003, WAT.0003.001.0001 at 0032 [5] (Tab 120).

<sup>819</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0033 [7] (Tab 120); Exhibit 29-0003, WAT.0013.001.0001 at 0018 (Tab 109).

<sup>820</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0080 [25] (Tab 126); Exhibit 29-0003, WAT.0002.001.0034 at [1]-[2] (Tab 128);

- 465 If a man is nominated by his congregation's body of elders, the circuit overseer is instructed to inquire as to whether the man has a history of child sexual molestation'.<sup>821</sup> Prior to announcement of appointment as an elder in Australian states and territories where it is required, the candidate must obtain a working with children check (a **WWCC**).<sup>822</sup>
- 466 Mr O'Brien told the Royal Commission that the Jehovah's Witness organisation complies fully with legislative requirements to ensure all relevant persons have the necessary clearances for working with children.<sup>823</sup> Mr Toole said that there are approximately 7,000 elders and ministerial servants currently serving in Jehovah's Witnesses congregations in Australia who have obtained child related police checks.<sup>824</sup>
- 467 Mr Toole accepted, and it is submitted, that to some degree the efficacy of the WWCC is undermined by the practice of Jehovah's Witnesses not to systematically report those in their midst accused of child sexual abuse.<sup>825</sup> That is because the system depends on reports being made to authorities in order to maintain the WWCC database. There is therefore an element of hypocrisy in the Jehovah's Witness organisation claiming credit for having obtained clearances for working with children for its elders and ministerial servants, but at the same time not reporting the offences of its elders and ministerial servants which would prevent them from being able to obtain working with children clearance.

#### **Available findings on the system of prevention of child sexual abuse - WWCC**

F66 The documented practice of the Jehovah's Witness organisation of not reporting child sexual abuse to the authorities undermines the efficacy of the working with children check system, a system to which the organisation says it subscribes and with which it says it complies.

- 468 If a man has 'a history of child molestation' he is not automatically disqualified from appointment as an elder or ministerial servant. For instance, the 2013 Service Desk Guidelines provide that if a man molested a child in the 'distant past' and 'if there is no apparent outcry', he may be recommended for appointment as a ministerial servant.<sup>826</sup> Similarly, if a man is known to have sexually abused a child before he was baptised as a Jehovah's Witness, he is not necessarily disqualified from holding a position of responsibility in the congregation.<sup>827</sup>
- 469 Since at least 1998, elders have been instructed that it is 'best to wait at least 20 years since the last incident of child abuse was committed before retaining or appointing a

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Exhibit 29-0003, WAT.0002.001.0039 at [1] (Tab 129).

<sup>821</sup> Exhibit 29-0003, WAT.0002.001.0034 at [4] (Tab 128);

Exhibit 29-0003, WAT.0002.001.0039 at 0040 [6] (Tab 129).

<sup>822</sup> Exhibit 29-0003, WAT.0002.001.0034 at 0035 (Tab 128).

<sup>823</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [78].

<sup>824</sup> Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R at [31].

<sup>825</sup> Transcript of V J Toole, T15775:35-47 (Day 153).

<sup>826</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0078 [14] (Tab 126).

<sup>827</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0076 [3]-[4] (Tab 126).



former child abuser’, although there may be exceptions to this, including if the abuse was committed prior to baptism.<sup>828</sup>

### Reappointment of elders and ministerial servants

470 If 20 years have passed since the child sexual abuse and the man has served faithfully, there is no outcry from the congregation, and ‘everything else points to his currently enjoying Jehovah’s blessing’, then the branch office may decide disqualification from service is not necessary. However, the 2013 Service Desk Guidelines warn that:

if a former child molester continues in a position of responsibility, whether the sin occurred before or after baptism – there may be serious problems if he later molests a child. This could bring reproach on Jehovah’s name ...<sup>829</sup>

471 Since 1950, 28 alleged perpetrators of child sexual abuse were appointed to a position of authority after having been the subject of an allegation of child sexual abuse. Further, of 127 alleged perpetrators of child sexual abuse deleted as elders or ministerial servants as a result of allegations of child sexual abuse, 16 were later reappointed.<sup>830</sup>

## 8.4 Congregational risk management of known offenders

### Counselling and monitoring of persons accused of child sexual abuse

472 Elders are instructed to counsel a person found to have committed child sexual abuse to:

... refrain from displaying affection for children, to avoid hugging or holding children on their lap, never to be alone with a child (other than their own), not to allow children to spend the night in their home ...<sup>831</sup>

473 Mr Spinks told the Royal Commission that soon after a reproof for child sexual abuse is imposed and an announcement made to the congregation, the elders may deliver a ‘warning lecture’ to the congregation about the type of sin and how to prevent it.<sup>832</sup> Mr Spinks told the Royal Commission that, in this way, ‘congregation members are aided in their ability to protect children from child sexual abuse’.<sup>833</sup>

474 Elders are instructed that a “‘known child molester” should be told not to work alone with children in the field ministry ... This serves to protect any minor who answers the door, the former abuser, and the reputation of the congregation’.<sup>834</sup>

<sup>828</sup> Exhibit 29-0003, WAT.0004.001.0021 at [1]-[2] (Tab 98).

<sup>829</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0077 [11] (Tab 126).

<sup>830</sup> Exhibit 29-0021, WAT.9999.013.0012.

<sup>831</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068-0069 (Tab 124);  
Exhibit 29-0003, WAT.0001.004.0076 at 0082 [35] (Tab 126).

<sup>832</sup> Exhibit 29-0019, First statement of Rodney Spinks, STAT0591.001.0001\_R at [44];  
Exhibit 29-0003, WAT.0003.001.0001 at 0100 [23] (Tab 120).

<sup>833</sup> Exhibit 29-0019, First statement of Rodney Spinks, STAT0591.001.0001\_R at [44].

<sup>834</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0082 [36] (Tab 126).

- 475 If a person has been assessed by the judicial committee as displaying genuine repentance and is reproved, the judicial committee is to ‘monitor the spiritual progress of the repentant wrongdoer’.<sup>835</sup>
- 476 If the Branch Office considers a person to be a ‘predator’, the Service Desk will advise congregational elders to meet with parents of ‘minor children’ in the congregation and issue a warning about the person.<sup>836</sup>
- 477 In circumstances where a person has been accused of child sexual abuse and the elders are not authorised to take judicial action, for example, because the person did not confess and there was only one witness to the conduct, the elders are instructed to ‘remain vigilant with regard to the conduct and activity of the accused’.<sup>837</sup>
- 478 Mr O’Brien told the Royal Commission that the elders would meet with a person against whom an allegation of child sexual abuse had been made but not proven and ‘give very clear direction on what restrictions would apply to their association with children, with others in the congregation, and [the elders] would monitor that’.<sup>838</sup>
- 479 Mr O’Brien said that others in the congregation would not be aware of the restrictions placed upon a person against whom an allegation of child sexual abuse had been made.<sup>839</sup> He accepted that in those circumstances supervision of that person is therefore confined to when the elders or an elder is present to observe the person.<sup>840</sup>
- 480 Mr O’Brien gave evidence that the extent to which elders are able to discharge their obligation to care for the congregation is restricted by application of two-witness rule and that ‘unless there is a second witness to a similar type of event, or the same event, then ‘the elders’ hands are tied with warning the person’.<sup>841</sup>

### **Evaluation of risk and treatment of offenders**

- 481 Mr Spinks accepted that the processes used by secular society to evaluate the risk of re-offending were not used by the Jehovah’s Witnesses.<sup>842</sup>
- 482 Mr Spinks also gave evidence that the Jehovah’s Witnesses did not offer any kind of programmes for the professional treatment of offenders.<sup>843</sup>
- 483 Dr Monica Applewhite, who was engaged by the Jehovah’s Witness organisation to provide expert evidence about its practices and procedures, told the Royal Commission that ‘once somebody abuses, once their internal mechanisms of control have allowed

<sup>835</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0099 [22] (Tab 120).

<sup>836</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0069 [13] (Tab 124);  
Exhibit 29-0003, WAT.0001.004.0076 at 0083 [40] (Tab 126).

<sup>837</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124).

<sup>838</sup> Transcript of T J O’Brien, T15847:34-41 (Day 153).

<sup>839</sup> Transcript of T J O’Brien, T15847:43-45 (Day 153).

<sup>840</sup> Transcript of T J O’Brien, T15847:47-T15848:16 (Day 153).

<sup>841</sup> Transcript of T J O’Brien, T15848:18-28 (Day 153).

<sup>842</sup> Transcript of R P Spinks, T15715:45-T15716:1 (Day 152).

<sup>843</sup> Transcript of R P Spinks, T15716:14-20 (Day 152).

them to cross that line once, I don't have confidence in those internal mechanisms of control for the future'.<sup>844</sup>

### **Available findings on the system of prevention of child sexual abuse – risk of reoffending**

F67 The practices and procedures of the Jehovah's Witness organisation for the prevention of child sexual abuse, and in particular for the management of the risk of an abuser reoffending, do not take account of the actual risk of an offender reoffending and accordingly place children in the organisation at significant risk of sexual abuse.

## **8.5 Records management**

484 The Jehovah's Witness organisation's current document retention policy provides that records concerning an individual accused of child molestation are to be indefinitely retained in the congregational confidential file.<sup>845</sup> Since 2009 the Australia Branch Office has required that all congregational documents relating to a matter of established child abuse be sent to the Branch Office.<sup>846</sup>

485 Mr Toole stated that indefinite retention of records relating to child abuse has been a long-standing practice of the Jehovah's Witness organisation.<sup>847</sup>

486 Elders are also directed that records relating to the appointment and deletion of elders and ministerial servants should be kept indefinitely.<sup>848</sup>

<sup>844</sup> Transcript of M L Applewhite, T15498:9-13 (Day 150).

<sup>845</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124);

Exhibit 29-0003, WAT.0001.004.0076 at 0083 [41] (Tab 126).

Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R at [44];

Exhibit 29-0019, Annexure 2, STAT.0591.001.0018 at [4.12];

Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [63].

<sup>846</sup> Exhibit 29-0003, WAT.0002.001.0015 (Tab 119).

<sup>847</sup> Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R at [33]-[34].

<sup>848</sup> Exhibit 29-0003, WAT.0002.001.0034 at 0037 [15] (Tab 128).

## Part 9 Additional issues

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### 9.1 Accessibility and clarity of information regarding systems policies and procedures

#### Identification of body of documents recording current policy

- 487 Messrs Toole, Spinks and O'Brien told the Royal Commission that the letter to all bodies of elders dated 1 October 2012 is the document which offers current spiritual advice and guidance to elders on how to handle matters involving child sexual abuse.<sup>849</sup>
- 488 That letter to all bodies of elders instructs elders to destroy earlier letters regarding institutional handling of child sexual abuse.<sup>850</sup> The letter instructs elders to first have regard to the *Shepherd the Flock* handbook and to relevant Scriptural principles involved, and to consult the 1 October 2012 letter each time a matter of child abuse arises.<sup>851</sup>
- 489 Mr Spinks told the Royal Commission that current child sexual abuse policy is recorded in the 1 October 2012 letter, the *Shepherd the Flock* handbook, the 2013 Service Desk Guidelines, the *Organized to do Jehovah's Will* handbook, and the Bible.<sup>852</sup> However, Mr Spinks also said that these documents do not represent the complete direction given to elders in relation to responding to allegations of child sexual abuse, but rather they are the relevant documents dealing with 'key issues'.<sup>853</sup> Mr Spinks acknowledged that it would be hard in those circumstances for anyone to know what the position is in relation to current policy and procedure.<sup>854</sup>
- 490 Mr Spinks agreed in evidence that it would be difficult for an elder to ascertain the current policy and on what material to rely in handling a matter, but he said that this is the reason elders are instructed to immediately contact the Branch Office when they receive an allegation of child sexual abuse.<sup>855</sup>

#### Clarity and accessibility to elders of current policy

- 491 The Royal Commission heard evidence that it is the practice of the Jehovah's Witness organisation to encourage survivors of child sexual abuse and their families to report the abuse to authorities. Mr Spinks did not accept that the true practice is in fact, as specified in the *Shepherd the Flock* handbook, that elders are instructed only to discuss reporting to authorities if asked.<sup>856</sup> Mr Spinks agreed that the *Shepherd the Flock*

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<sup>849</sup> Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R [13]; Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R [18], [24]; Exhibit 29-0024, First statement of Terrence O'Brien, STAT.0592.001.0001\_R [54].

<sup>850</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0066 [1] (Tab 124).

<sup>851</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0066 [1]-[2] (Tab 124).

<sup>852</sup> Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R [24].

<sup>853</sup> Transcript of R P Spinks, T15683:15-43 (Day 152).

<sup>854</sup> Transcript of R P Spinks, T15687:34-T15688:3 (Day 152).

<sup>855</sup> Transcript of R P Spinks, T15684:17-24 (Day 152).

<sup>856</sup> Transcript of R P Spinks, T15747:10-29 (Day 152).

handbook is one document that needs to change to reflect the actual policy of the Jehovah's Witness organisation.<sup>857</sup>

- 492 Mr Spinks also accepted that the *Shepherd the Flock* handbook was 'confusing ... to say the least' as to the policy on whether a survivor may be accompanied by a support person in a judicial committee proceeding.<sup>858</sup>
- 493 Mr Spinks was unable to identify where in the suite of documents said to record current policy, the Jehovah's Witness organisation's policy that an accuser need not face the accused in the investigative and judicial committee process was recorded.<sup>859</sup>
- 494 Mr Jackson agreed that the documents, manuals and instructions of the Jehovah's Witness organisation should make clear that a survivor of sexual assault should not have to make her allegation in the face of her abuser.<sup>860</sup>
- 495 Mr O'Brien told the Royal Commission that one matter to which the Jehovah's Witness organisation could give greater consideration is the provision to elders of clearly and more specific and tailored information and documentation as to the process for the handling of investigations and judicial committees involving child sexual abuse.<sup>861</sup>

#### **Clarity and accessibility to survivors and their families of information regarding systems, policies and procedures**

- 496 Mr O'Brien gave evidence that a copy of *Organized to do Jehovah's [Will]* is issued to each member of the congregation prior to baptism.<sup>862</sup> He also told the Royal Commission that every member of the congregation is provided with a copy of the Watchtower library on CD, which is updated annually, includes publications going back many years, and is searchable.<sup>863</sup> Mr O'Brien also described the publicly available Jehovah's Witness organisation website as a mean of providing information to congregants.<sup>864</sup>
- 497 It would appear that only the letter to all congregations of 28 August 2002<sup>865</sup> has specifically addressed to all members of the Jehovah's Witness organisation the organisation's process for handling of complaints of child sexual abuse. The 1 October 2012 letter and the elders' *Shepherd the Flock* handbook are not available to publishers, and the 2013 Service Desk Guidelines are not even available to circuit overseers, elders and ministerial servants.

<sup>857</sup> Transcript of R P Spinks, T15747:31-33 (Day 152).

<sup>858</sup> Transcript of R P Spinks, T15695:16-18 (Day 152).

<sup>859</sup> Transcript of R P Spinks, T15686:36-T15687:28 (Day 152) and see paragraphs 308 to 312 of these submissions.

<sup>860</sup> Transcript of G W Jackson, T15952:34-40 (Day 155).

<sup>861</sup> Transcript of T J O'Brien, T15832:24-33 (Day 153).

<sup>862</sup> Transcript of T J O'Brien, T15843:27-43 (Day 153).

<sup>863</sup> Transcript of T J O'Brien, T15858:32-45 (Day 153).

<sup>864</sup> Transcript of T J O'Brien, T15858:47-T15859:4 (Day 153).

<sup>865</sup> Exhibit 29-0003, WAT.0004.001.0001 (Tab 105).

- 498 Mr Spinks accepted that a victim of child sexual abuse should have access to a clear policy and procedure about how to raise their allegation and how the Jehovah's Witness organisation will respond.<sup>866</sup> He also accepted that there was currently no document to which a victim of child sexual abuse could turn that would explain the process.<sup>867</sup>
- 499 Mr O'Brien told the Royal Commission that the Jehovah's Witness organisation could give greater consideration to provision of clear information about the processes to victims and their parents.<sup>868</sup>

### Submissions in relation to clarity of information

- 500 It is submitted that the Jehovah's Witness organisation's current policies and procedures for responding to allegations of child sexual abuse are insufficiently documented and accessible to those responsible for their implementation.
- 501 It is submitted that the Jehovah's Witness organisation's current policies and procedures for responding to allegations of child sexual abuse are not sufficiently clear and accessible to those who might wish to make a complaint of child sexual abuse.

#### Available findings on the accessibility of procedures and policies

F68 The Jehovah's Witness organisation's documented procedures for reporting on and responding to allegations of child sexual abuse are deficient in that they are not documented in such a way as to be easily accessible in one document and available to all interested or affected parties and some matters that are stated to be the policies or practices of the organisation are not recorded at all.

## 9.2 Leaving the Jehovah's Witness organisation

- 502 The relevance of the question of leaving the organisation arises from the not improbable scenario of a survivor of abuse in the organisation wanting to leave the organisation – particularly if she feels that her complaint of abuse was not dealt with adequately or if her abuser remains in the organisation.
- 503 The *Organized to do Jehovah's Will* publisher's handbook provides explicitly that a person who no longer wishes to be known as a Jehovah's Witness, will by the action of stating as much, disassociate himself from the Jehovah's Witness organisation:

The term "disassociation" applies to the action taken by a person who, although a baptised member of the congregation, deliberately repudiates his Christian standing, rejecting the congregation by his actions or by stating that he no longer wants to be recognised as or known as one of Jehovah's Witnesses. Because he is disassociated, his situation before Jehovah is far different from that of an inactive Christian, one who no longer shares in the field ministry. An inactive person may have failed to study God's Word

<sup>866</sup> Transcript of R P Spinks, T15684:35-43 (Day 152).

<sup>867</sup> Transcript of R P Spinks, T15684:45-T15685:2 (Day 152).

<sup>868</sup> Transcript of T J O'Brien, T15833:1-11 (Day 153).

regularly, or...he may have lost his zeal for serving Jehovah. The elders as well as other concerned members of the congregation will continue rendering appropriate spiritual assistance to an inactive brother. (Rom. 15:1; 1 Thess. 5:14; Heb. 12:12) However, the person who disassociates himself by repudiating the faith and deliberately abandoning Jehovah's worship is viewed in the same way as one who is disfellowshipped. A brief announcement is made to inform the congregation, stating: "[Name of person] is no longer one of Jehovah's Witnesses".<sup>869</sup>

[emphasis added.]

- 504 Jehovah's Witnesses are counselled against associating, fraternising or conversing with a person who has been disfellowshipped or who has disassociated.<sup>870</sup> This practice is known as shunning.<sup>871</sup>
- 505 Even family members are instructed not to associate with a disfellowshipped or disassociated relative, unless the association is unavoidable such as if they share a house with the person.<sup>872</sup>
- 506 Violation by a Jehovah's Witness of the decree against associating with a disfellowshipped or disassociated person may itself, in certain circumstances, be a disfellowshipping offence.<sup>873</sup>
- 507 Mr Jackson gave evidence that a person who no longer wants to be known as a Jehovah's Witness has the 'total freedom' of taking the action of disassociating.<sup>874</sup> He told the Royal Commission that '[i]f they don't want to apply to officially be removed as one of Jehovah's Witnesses, they can tell anyone they want that they are no longer a Jehovah's Witness'.<sup>875</sup>
- 508 Mr O'Brien said that an inactive Jehovah's Witness is not prohibited from free association with other Jehovah's Witnesses.<sup>876</sup>
- 509 Mr Jackson told the Royal Commission that disassociation as described in the *Organized to do Jehovah's Will* handbook simply gives a person 'the right to officially have an announcement made'.<sup>877</sup> He reiterated his earlier evidence that if they decide not to

<sup>869</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0092 (Tab 109);  
See also Exhibit 29-0003, WAT.0003.001.0001 at 0117 (Tab 120).

<sup>870</sup> Exhibit 29-0027, EXH.029.027.0001 at 0006;  
Exhibit 29-0003, WAT.0003.001.0001 at 0117 (Tab 120);  
Transcript of T J O'Brien, T15848:30-T15849:16 (Day 153).

<sup>871</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [18], [21], [66].

<sup>872</sup> Exhibit 29-0027, EXH.029.027.0001 at 0006;  
Exhibit 29-0003, WAT.0003.001.0001 at 0117 (Tab 120);  
Transcript of T J O'Brien, T15849:27-41 (Day 153);  
Transcript of G W Jackson, T15980:13-22 (Day 155).

<sup>873</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0117 (Tab 120).

<sup>874</sup> Transcript of G W Jackson, T15975:18-22 (Day 155).

<sup>875</sup> Transcript of G W Jackson, T15975:22-25 (Day 155).

<sup>876</sup> Transcript of T J O'Brien, T15846:2-6 (Day 153).

<sup>877</sup> Transcript of G W Jackson, T15976:1-21 (Day 155).

exercise the right to an announcement of disassociation, then they won't automatically be disassociated.<sup>878</sup>

- 510 Mr Jackson ultimately agreed that if a person 'definitely' no longer wants to be subject to the Jehovah's Witness organisation's discipline and rules, then they must actively leave the organisation by disassociating.<sup>879</sup> A person who merely becomes inactive, or 'fades', is still regarded to be a Jehovah's Witness by the organisation and is therefore still subject to its rules and disciplinary procedures. Such a person is therefore still susceptible to being disfellowshipped for some or other 'offence' under the rules of the organisation.
- 511 It is submitted that Mr Jackson's oral evidence is inconsistent with the position regarding disassociation published to Jehovah's Witnesses internationally in the form of the *Organized to do Jehovah's Will* handbook. It is further submitted that the true position in relation to a person who no longer wants to be known as a Jehovah's Witness and who no longer wishes to be subject to the organisation's rules and regulations, is that as recorded in the *Organized to do Jehovah's Will* handbook.

### Freedom of choice

- 512 Mr O'Brien agreed that Jehovah's Witnesses tend to know and associate closely with one another.<sup>880</sup> He told the Royal Commission that there is a strong sense of community within the organisation in Australia, members refer to each other as 'brother' and 'sister' and congregation members spend a lot of time together each week.<sup>881</sup> Mr O'Brien accepted that for a Jehovah's Witness, his or her social network is generally comprised of other Jehovah's Witnesses.<sup>882</sup>
- 513 Mr Jackson told the Royal Commission that the Jehovah's Witness organisation recognises an individual's freedom to make religious choices.<sup>883</sup>
- 514 It was put to Mr O'Brien that as a Jehovah's Witness, a survivor of child sexual abuse may be faced with the impossible choice of staying in an organisation which is protective of their abuser, or of leaving the organisation and consequently losing their entire family and social network.<sup>884</sup> He told the Royal Commission that the decision to disassociate is a personal one and that a survivor of child sexual abuse could instead choose to become inactive and therefore retain their 'spiritual and familial association'.<sup>885</sup>
- 515 Mr O'Brien said in evidence, that in circumstances where the survivor wished to disassociate as a consequence of the intensity of her feelings from her experience, she would understand the implications of disassociation.<sup>886</sup> Mr O'Brien disagreed that 'it is

<sup>878</sup> Transcript of G W Jackson, T15976:15-21 (Day 155).

<sup>879</sup> Transcript of G W Jackson, T15981:19-23 (Day 155).

<sup>880</sup> Transcript of T J O'Brien, T15844:23-31 (Day 153).

<sup>881</sup> Transcript of T J O'Brien, T15844:23-39 (Day 153).

<sup>882</sup> Transcript of T J O'Brien, T15845:16-18 (Day 153).

<sup>883</sup> Transcript of G W Jackson, T15974:45-47 (Day 155).

<sup>884</sup> Transcript of T J O'Brien, T15851:22-31 (Day 153).

<sup>885</sup> Transcript of T J O'Brien, T15852:28-31 (Day 153).

<sup>886</sup> Transcript of T J O'Brien, T15851:33-37 (Day 153).



incredibly hard for someone to leave [the Jehovah's Witness organisation] because of the huge pain, suffering, cruelty that she must face if she does leave'.<sup>887</sup>

- 516 Ultimately, Mr O'Brien told the Royal Commission that he could 'only be guided by what the Scriptures say'.<sup>888</sup>
- 517 Mr Jackson did not accept that putting people in the position of having to choose between their faith and their family and social network was contrary to that freedom of religious choice.<sup>889</sup> It was Mr Jackson's evidence that people are not forced to remain within the organisation.<sup>890</sup>
- 518 Mr Jackson agreed that in the case of a person baptized at a young age who wants to leave the Jehovah's Witness organisation, that person is faced with a stark choice, one consequence of which is that the person must leave everyone they know behind them.<sup>891</sup>
- 519 Mr Jackson accepted that the decision to disassociate and leave the Jehovah's Witnesses was a 'difficult' one that can be 'personally devastating because [a person] can lose their whole social network and their families'.<sup>892</sup>
- 520 However, both Mr Jackson and Mr O'Brien disagreed that the practice of shunning makes the Jehovah's Witness a 'captive organisation'.<sup>893</sup>
- 521 It is submitted that the Jehovah's Witness organisation's policy of requiring its adherents to actively shun those who leave the organisation makes it a 'captive organisation' whose rules regarding association with those who have chosen to leave the organisation impact the capacity of a survivor of child sexual abuse within the organisation to exercise their right to freedom of religion.

### **Scriptural basis for the practice of shunning**

- 522 Mr Jackson told the Royal Commission that the Scriptural basis for shunning can be found in the passage starting at 1 Corinthians 5:1.<sup>894</sup> However, this passage deals explicitly with circumstances of sexual immorality existing in the congregation and Paul says that the man who committed the deed must be handed over to Satan 'so that the spirit may be saved in the day of the Lord' (verse 5). Paul also says that the congregation must 'stop keeping company with sexually immoral people' (verse 9).
- 523 The passage would therefore appear to provide some Scriptural basis to the practice of shunning those who have been found guilty of some or other gross sexual sin (within

<sup>887</sup> Transcript of T J O'Brien, T15852:19-22 (Day 153).

<sup>888</sup> Transcript of T J O'Brien, T15851:44-T15852:3 (Day 153).

<sup>889</sup> Transcript of G W Jackson, T15982:6-13 (Day 155).

<sup>890</sup> Transcript of G W Jackson, T15982:25-26(Day 155).

<sup>891</sup> Transcript of G W Jackson, T15983:8-13(Day 155).

<sup>892</sup> Transcript of G W Jackson, T15981:38-T15982:4 (Day 155).

<sup>893</sup> Transcript of G W Jackson, T15983:31-32(Day 155);

Transcript of T J O'Brien, T15852:15-22 (Day 153).

<sup>894</sup> Transcript of G W Jackson, T15983:35-44 (Day 155).

the rules of the organisation), but provides no basis at all for the practice of shunning those who merely seek to exercise their right to leave the organisation.

- 524 The Jehovah's Witness organisation's practice of shunning those who leave the organisation is also in conflict with Mr Jackson's evidence that Jehovah God is a compassionate God<sup>895</sup> and that Jehovah God recognises the worth and dignity of all human beings.<sup>896</sup>

#### **Available findings on shunning**

F69 Members of the Jehovah's Witness organisation who no longer want to be subject to the organisation's rules and discipline have no alternative than to leave the organisation which requires that they disassociate from it.

F70 The Jehovah's Witness organisation's policy of requiring its adherents to actively shun those who leave the organisation:

- a) makes it extremely difficult for someone to leave the organisation
- b) is cruel on those who leave and on their friends and family who remain behind
- c) is particularly cruel on those who have suffered child sexual abuse in the organisation and who wish to leave because they feel that their complaints about it have not been adequately dealt with
- d) is not apparently justified by the Scriptures which are cited in support of it
- e) is adopted and enforced in order to prevent people from leaving the organisation and thereby to maintain its membership, and
- f) is in conflict with the organisation's professed support for freedom of religious choice and the belief that Jehovah God is a compassionate God who recognises the worth and dignity of all human beings.

<sup>895</sup> Transcript of G W Jackson, T15974:30-31 (Day 155).

<sup>896</sup> Transcript of G W Jackson, T15974:33-35 (Day 155).

## Part 10 Dr Monica Applewhite

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525 At the request of the Jehovah’s Witness organisation, the Royal Commission heard evidence from Dr Monica Applewhite who was engaged by the Jehovah’s Witness organisation to provide an expert report on the response of the organisation to allegations of child sexual abuse.

### 10.1 Dr Applewhite’s qualifications

526 Dr Applewhite holds a Bachelor of Science in Social Work from Texas Christian University and a Master of Science in Social Work and a PhD in Clinical Social Work from the University of Texas at Arlington.<sup>897</sup> Dr Applewhite’s PhD is not specifically relevant to child sexual abuse.<sup>898</sup>

#### Published work

527 In oral evidence, Dr Applewhite told the Royal Commission that she has not authored any peer-reviewed articles or publications.<sup>899</sup>

528 The Royal Commission heard that Dr Applewhite has, over the course of her career, consulted with numerous organisations to identify and analyse the best practices of organisations in relation to preventing and responding to incidents of abuse.<sup>900</sup> Dr Applewhite told the Commission that she had never published the results of this analysis as the research methodology involved in the analysis was not up to the rigours of empirical research.<sup>901</sup>

### 10.2 Dr Applewhite’s experience

529 In her report, Dr Applewhite told the Royal Commission that she has ‘extensive experience working directly with sexual offenders who have perpetrated abuse in organisations, as well as 22 years of conducting root cause analysis of such cases for the purpose of determining the methods used by sexual offenders to access children within churches, schools and other organisations’.<sup>902</sup>

530 Dr Applewhite accepted that, since 2007, her work has primarily involved running educational programmes for independent and private schools in relation to the prevention of child sexual abuse and current standards of best practice.<sup>903</sup> Dr

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<sup>897</sup> Exhibit 29-0013, Annexure 2, STAT.0606.001.0017;  
Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [2].

<sup>898</sup> Transcript of ML Applewhite, T15434:32-39 (Day 150).

<sup>899</sup> Transcript of ML Applewhite, T15434: 43-47 (Day 150).

<sup>900</sup> Transcript of ML Applewhite, T15437: 35-T15438:21 (Day 150).

<sup>901</sup> Transcript of ML Applewhite, T15438:31-46 (Day 150).

<sup>902</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [2].

<sup>903</sup> Exhibit 29-0013, Annexure 2, STAT.0606.001.0017;  
Transcript of ML Applewhite, T15442: 38-42 (Day 150).

Applewhite also accepted that her work in Australia has, for the most part, involved conducting educational programmes for Catholic education organisations.<sup>904</sup>

### **Previous experience as an expert witness for the Jehovah's Witness organisation**

531 Dr Applewhite has previously been engaged by the Jehovah's Witness organisation to provide expert evidence in four separate civil liability cases – three in the United States and one in the United Kingdom.<sup>905</sup> Dr Applewhite told the Royal Commission that each of the civil cases related to claims for damages arising out of allegations of child sexual abuse and that, in each case, the Jehovah's Witness organisation was cited as a defendant.<sup>906</sup> Dr Applewhite told the Royal Commission that, in those cases, she had not been hired to give evidence critical of the organisation and could not recall ever having given evidence that was critical of the organisation.<sup>907</sup>

### **10.3 Dr Applewhite's expert report**

532 Dr Applewhite agreed that her report constituted a documentary review of the Jehovah's Witness organisation's policies and procedures and that her report did not consider the practical implementation of those policies or procedures.<sup>908</sup>

533 Dr Applewhite's report was based on her review of documents provided to her by Watchtower Australia, publications that are available on the Jehovah's Witness organisation website (which date from 2000), and the witness statements of Mr O'Brien and Mr Toole.<sup>909</sup>

534 In preparing her report Dr Applewhite did not consider the statements of the survivor witnesses.<sup>910</sup> Dr Applewhite also said that she had not considered any independent studies or research about the Jehovah's Witness organisation.<sup>911</sup>

### **10.4 Dr Applewhite's written opinions**

535 Dr Applewhite expressed three opinions in her report.

536 First, in paragraph 36 of her report, Dr Applewhite stated that:

In my opinion, the current messages to those who have experienced abuse and the guidelines that have been provided to elders in congregations of Jehovah's Witnesses are consistent with, and in some respects better than, the current practices of religious organizations throughout the world.<sup>912</sup>

<sup>904</sup> Transcript of ML Applewhite, T15446: 39-42 (Day 150);

Transcript of ML Applewhite, T15444:10-T15447:9 (Day 150).

<sup>905</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [4].

<sup>906</sup> Transcript of M L Applewhite, T15452:21-47 (Day 150).

<sup>907</sup> Transcript of M L Applewhite, T15453:20-38 (Day 150).

<sup>908</sup> Transcript of M L Applewhite, T15462:37-T15463: 5 (Day 150).

<sup>909</sup> Transcript of M L Applewhite, T15460:6-T15461:29 (Day 150).

<sup>910</sup> Transcript of M L Applewhite, T15461:31-33 (Day 150).

<sup>911</sup> Transcript of M L Applewhite, T15461:35-37 (Day 150).

<sup>912</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [36].

537 Secondly, in paragraph 45 of her report, Dr Applewhite stated that:

In my opinion, Jehovah's Witnesses were well in advance of other religious organizations in providing educational materials to parents and families. The quality of the materials they provided during the 1980's [sic] and 1990's [sic] exceeded the standards of care for the time and continue to be more substantial than what many religious organizations offer parents and guardians today.<sup>913</sup>

538 Thirdly, in paragraph 46 of her report, Dr Applewhite stated that:

In my own experience, I have not found examples in Australia of religious organizations that have provided parents, guardians, and the general public with the quality or consistency of information about prevention and response to sexual abuse or about how to support for [sic] those who have been abused that Jehovah's Witnesses have provided in their publications.<sup>914</sup>

539 Dr Applewhite acknowledged that her report did not identify the basis on which she had formed her opinions.<sup>915</sup> She accepted that her report failed to identify the 'current standards' of other religious organisations,<sup>916</sup> or to which 'religious organisations' she had had reference in writing her report.<sup>917</sup> Dr Applewhite told the Royal Commission that her understanding of material provided to parents and families about sexual development in children by other faith-based organisations was 'anecdotal'.<sup>918</sup>

540 Dr Applewhite accepted that it would be difficult for the Royal Commission to accept the opinions expressed in paragraphs 36, 45, and 46 of her report, because her report does not identify the basis on which the opinions were formed.<sup>919</sup>

541 At the request of senior counsel for Watchtower Australia, the Royal Commission granted Dr Applewhite permission to submit a supplementary report setting out the reasons for the opinions in her expert report.<sup>920</sup>

542 On 16 August 2015, Dr Applewhite wrote to the legal representative of Watchtower Australia and advised that she was unable to prepare a supplementary statement due to other commitments. She conveyed in her letter her belief that 'between the research that has already been undertaken by the Commission and the evidence provided by others who testified after [her], the questions [Watchtower Australia has] presented to [her] have been or shortly will be answered'.<sup>921</sup>

<sup>913</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [45].

<sup>914</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [46].

<sup>915</sup> Transcript of ML Applewhite, T15459:20-T15460:4 and T15463:35-44 (Day 150).

<sup>916</sup> Transcript of ML Applewhite, T15504:22-32 (Day 150).

<sup>917</sup> Transcript of ML Applewhite, T15504:22-T15505:14 (Day 150).

<sup>918</sup> Transcript of ML Applewhite, T15459:13-23 (Day 150).

<sup>919</sup> Transcript of ML Applewhite, T15463:35-47 (Day 150);

Transcript of ML Applewhite, T15459:20-46 (Day 150).

<sup>920</sup> Transcript of ML Applewhite, T15520:1-15521:3 (Day 150).

<sup>921</sup> Letter from Dr Monica Applewhite to Mr Bray, 16 August 2015, received by the Royal Commission on 25 August 2015.

## 10.5 Dr Applewhite's errors on factual issues

543 In her report, Dr Applewhite addressed several factual matters in relation to which she was asked questions in oral evidence.

### **Factual issue: elders as 'fellow workers'**

544 In her report, Dr Applewhite told the Royal Commission that:

Jehovah's Witnesses teach that elders should avoid taking a superior position with reference to other congregation members. Elders are viewed as fellow workers by their fellow elders and by other congregation members.<sup>922</sup>

545 Dr Applewhite told the Royal Commission that her understanding of how congregation members view elders is based solely on materials and literature published by the Jehovah's Witness organisation and not on any empirical study of how the elders are actually viewed by members.<sup>923</sup>

546 Dr Applewhite accepted, as evidenced in the organisation's own documents, that Jehovah's Witnesses consider that elders are appointed by the Holy Spirit;<sup>924</sup> that elders have a leadership role within the congregation;<sup>925</sup> that congregation members entrust their spiritual life to the elders as shepherds of the flock;<sup>926</sup> and that elders are responsible for investigating reports of wrongdoing within the congregation, establishing judicial committees, making a determination as to wrongdoing and imposing sanctions on wrongdoers.<sup>927</sup> Despite the documentary evidence in relation to the role of elders, Dr Applewhite did not accept that elders are viewed as anything other than fellow workers by congregation members.<sup>928</sup> Dr Applewhite told the Royal Commission that the literature of the Jehovah's Witness organisation does not set elders apart as 'distinctive or in some ways [sic] superior' to other congregation members.<sup>929</sup>

547 It is submitted that, contrary to the evidence of Dr Applewhite, the literature and materials published by the Jehovah's Witness organisation sets elders apart from the rest of the congregation, and that it would be incorrect to conclude that elders are viewed as 'fellow workers' by ordinary congregation members. It is further submitted that in fact elders enjoy positions of great responsibility, power and influence and are probably regarded in that way by ordinary congregation members. Certainly, the experiences of both BCB and BCG support the view that elders are held up as having authority and power and certainly not as being 'fellow workers'.<sup>930</sup>

<sup>922</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [10].

<sup>923</sup> Transcript of M L Applewhite, T15465:34-T15466:12 (Day 150).

<sup>924</sup> Transcript of M L Applewhite, T15467:42-45 (Day 150).

<sup>925</sup> Transcript of M L Applewhite, T15468:16-20 (Day 150).

<sup>926</sup> Transcript of M L Applewhite, T15468:16-43 (Day 150).

<sup>927</sup> Transcript of M L Applewhite, T15469:8-35 (Day 150).

<sup>928</sup> Transcript of ML Applewhite, T15470:3-T15471:31 (Day 150).

<sup>929</sup> Transcript of M L Applewhite, T15471:15-41 (Day 150).

<sup>930</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [14], [15], [79];

### **Factual issue: role of ministerial servants in providing pastoral care**

548 In her report, Dr Applewhite told the Royal Commission that:

Ministerial servants are members of the congregation who provide non-pastoral practical assistance and service to the elders and the congregation. Ministerial servants are not authorized to provide spiritual guidance, counselling or any other pastoral services to members of the congregation.<sup>931</sup>

549 However, documents in evidence suggest otherwise. Specifically, *Organised to Do Jehovah's Will* provides for circumstances where a ministerial servant might 'care for' a congregation book study group until such time as an elder is available to take over.<sup>932</sup> *Shepherd the Flock* also provides for circumstances where a ministerial servant will accompany an elder in visiting members of the congregation to provide spiritual guidance and counsel, particularly where a ministerial servant might be training to become an elder.<sup>933</sup>

550 Dr Applewhite did not accept the proposition that *Organised to Do Jehovah's Will* authorises ministerial servants to undertake pastoral care in certain circumstances,<sup>934</sup> but agreed that *Shepherd the Flock* does not exclude a ministerial servant from participating in pastoral care with an elder.<sup>935</sup> Nonetheless, Dr Applewhite ultimately did not accept that the evidence given in her report was incorrect.<sup>936</sup>

551 It is submitted that, contrary to Dr Applewhite's evidence, the literature and materials published by the Jehovah's Witness organisation envisage circumstances in which a ministerial servant might be authorised to provide pastoral care to members of the congregation.

### **Factual issue: role of elders and ministerial servants in relation to children**

552 In her report, Dr Applewhite told the Royal Commission that:

None of the responsibilities of a ministerial servant or elder allow or require that he be alone with children or otherwise separate from his or her family.<sup>937</sup>

553 From at least December 1998 the Jehovah's Witness organisation has instructed all bodies of elders that:

Those who are appointed to privileges of service, such as elders and ministerial servants, are put in a position of trust. One who is extended

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Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [9], [10], [13], and [77].

<sup>931</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [20].

<sup>932</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0029 (Tab 109).

<sup>933</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0024-25 [23] (Tab 120); see also Exhibit 29-0003, WAT.0013.001.0001 at 0044 (Tab 109).

<sup>934</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0043 (Tab 109); Transcript of ML Applewhite, T15475:27-T15476:28 (Day 150).

<sup>935</sup> Transcript of ML Applewhite, T15478:13-15 (Day 150).

<sup>936</sup> Transcript of ML Applewhite, T15478:17-23 (Day 150).

<sup>937</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [21].

privileges in the congregation is judged by others as being worthy of trust. This includes being more liberal in leaving children in their care and oversight.<sup>938</sup>

- 554 Dr Applewhite told the Royal Commission that the above direction was meant as ‘a warning to let elders know that families might be more trusting of a person and allow their children to be alone with someone who was a ministerial servant or an elder’, and that it was her understanding that elders and ministerial servants were not meant to meet alone with women or children.<sup>939</sup> Dr Applewhite was unable to provide any reference in the Jehovah’s Witness organisation’s policies for this understanding and did not otherwise identify the source of her understanding.<sup>940</sup>
- 555 While there is a documented prohibition on an elder meeting alone with a woman who is a victim of abuse for fear that she might ‘develop improper feelings’ towards him,<sup>941</sup> there is no such documented prohibition, at least in evidence, against an elder or ministerial servant being alone with a child. Senior Counsel for Watchtower Australia undertook to locate the relevant reference and provide it to the Royal Commission.<sup>942</sup> As at the date of these submissions, no such reference has been provided.
- 556 It is accordingly submitted that, contrary to Dr Applewhite’s evidence, there is no specific prohibition on elders and ministerial servants meeting alone with children.

**Factual issue: the two-witness rule**

- 557 Dr Applewhite agreed that child sexual abuse most often occurs in private, and that as a result, a survivor would have ‘real difficulties’ establishing that child sexual abuse had occurred according to a standard of proof that required two witnesses to the abuse.<sup>943</sup> Dr Applewhite further agreed that elders are not able to take any action where there is only one witness and the accused denies the allegation.<sup>944</sup> She acknowledged that in such circumstances, the effect of the application of the two-witness rule is that an alleged perpetrator remains, with his rights intact, in the congregation and able to interact with the survivor.<sup>945</sup> She agreed that that result is ‘not a very good place to end up’.<sup>946</sup>
- 558 Dr Applewhite also accepted that the role of the two-witness rule in preventing allegations of child sexual abuse from being established has the potential to further traumatise survivors of child sexual abuse and to place the survivor’s psychological well-being at a ‘by no means ... ideal place’.<sup>947</sup>

<sup>938</sup> Exhibit 29-0003, WAT.0002.001.0001 at 0001 (Tab 97).

<sup>939</sup> Transcript of M L Applewhite, T15479:13-24 (Day 150).

<sup>940</sup> Transcript of M L Applewhite, T15479:26-29 (Day 150).

<sup>941</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0057 [28] (Tab 120).

<sup>942</sup> Transcript of M L Applewhite, T15479:26-34 (Day 150).

<sup>943</sup> Transcript of M L Applewhite, T15495:2-T15496:29 (Day 150).

<sup>944</sup> Transcript of M L Applewhite, T15516:35-T15517:9 (Day 150).

<sup>945</sup> Transcript of M L Applewhite, T15516:35-T15517:6 (Day 150).

<sup>946</sup> Transcript of M L Applewhite, T15517:8-9 (Day 150).

<sup>947</sup> Transcript of M L Applewhite, T15503:7-28 (Day 150).



### **Factual issue: accused facing accuser and absence of support person**

- 559 Dr Applewhite told the Royal Commission that it was the current practice of the Jehovah's Witness organisation to allow a survivor to write a letter rather than requiring her to present her allegation directly and in person to elders and the accused in a judicial committee hearing.<sup>948</sup>
- 560 Dr Applewhite said that her understanding of the current practice was based on the letter of 1 October 2012 to all bodies of elders and on the witness statement of Mr Toole.<sup>949</sup> She agreed that the direction in *Shepherd the Flock* was that a survivor would have to present her evidence before a three-man judicial committee and the accused, but she told the Royal Commission that it was her understanding that the direction had been modified by the letter of 1 October 2012 to the effect that testimony in person was not necessary.<sup>950</sup> It was put to Dr Applewhite, and she agreed, that the letter of 1 October 2012 did not in fact modify the direction in *Shepherd the Flock* in the way that she had understood.<sup>951</sup>
- 561 Dr Applewhite accepted that the Jehovah's Witness organisation's documented policies require a survivor to give their testimony before a judicial committee in the presence of the accused, unless the survivor lives 'a great distance away or for some reason [is] not able to be physically present'.<sup>952</sup>
- 562 In relation to the direction in *Shepherd the Flock* that 'observers should not be present for moral support', Dr Applewhite agreed that such a direction excludes a survivor from having someone with her during a judicial committee hearing to provide moral support.<sup>953</sup>
- 563 Dr Applewhite ultimately said that 'if it turns out that the practice that they have today does not allow someone to write a letter and they have to confront their offender and they have to sit in the room with no support it is not going to meet the standard of care'.<sup>954</sup> It submitted that Dr Applewhite's evidence that such a requirement of a survivor would not meet the standard of care, should be accepted.

### **Factual issue: reporting to authorities**

- 564 In her report, Dr Applewhite told the Royal Commission that:

Child sexual abuse is regarded as a crime by Jehovah's Witnesses. Elders are instructed to report crimes according to the law and never to discourage anyone from reporting abuse to law enforcement.<sup>955</sup>

<sup>948</sup> Transcript of M L Applewhite, T15485:34-41, T15493:20-21 (Day 150).

<sup>949</sup> Transcript of M L Applewhite, T15489:19-21 (Day 150).

<sup>950</sup> Transcript of M L Applewhite, T15488:34-T15489:9, T15489:25-35 (Day 150).

<sup>951</sup> Transcript of M L Applewhite, T15491:21-T15492:28, (Day 150).

<sup>952</sup> Transcript of ML Applewhite, T15493:26-47 (Day 150).

<sup>953</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0091 [3] (Tab 120);  
Transcript of M L Applewhite, T15491:2-19 (Day 150).

<sup>954</sup> Transcript of M L Applewhite, T15494:2-15 (Day 150).

<sup>955</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [26].

- 565 Dr Applewhite agreed that she did not mean to imply in her report that elders are instructed to report crimes generally, but that it is the case that elders are instructed to report to authorities only after the Branch Office has advised if a mandatory reporting obligation applies in the particular case.<sup>956</sup>
- 566 Dr Applewhite later expressed her view that a mandatory reporting requirement should be introduced so that elders would not have the option to not report allegations of child sexual abuse to police.<sup>957</sup>
- 567 Dr Applewhite also told the Royal Commission that in her opinion, criminal sanctions are necessary in respect of perpetrators of child sexual abuse so that there are ‘clear consequences’ that will ‘act as a deterrent’.<sup>958</sup>

## 10.6 Submissions in relation to the opinions proffered in Dr Applewhite’s report

- 568 It is submitted that the Royal Commission cannot accept the opinions expressed by Dr Applewhite in paragraphs 36, 45 or 46 of her report, because:
- a) those opinions are not supported by the reasons set out in her report, and
  - b) the facts and assumptions upon which Dr Applewhite’s opinions are based are not identified in her report or in her oral evidence.

### Available findings on Dr Applewhite’s expert opinions

F71 The opinions expressed by Dr Applewhite in paragraphs 36, 45 and 46 of her report are rejected because they are not substantiated by identifiable facts and assumptions or by reasons.

F72 Dr Applewhite’s report contains a number of factual errors with regard to her documenting of the relevant practices and procedures of the Jehovah’s Witnesses.

F73 Dr Applewhite’s report is therefore rejected.

## 10.7 Dr Applewhite’s oral evidence: Finkelhor’s Model

- 569 In her report, Dr Applewhite referenced articles in *Awake!*, which in turn referred to research conducted by Dr David Finkelhor,<sup>959</sup> who, Dr Applewhite agreed, is a ‘credible’ and ‘leading researcher and academic writer in the field’ of prevention of child sexual

<sup>956</sup> Transcript of M L Applewhite, T15482:16-43 (Day 150).

<sup>957</sup> Transcript of M L Applewhite, T15495:43-T15496:-9 (Day 150).

<sup>958</sup> Transcript of M L Applewhite, T15513:42-T15514:1 (Day 150).

<sup>959</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [43(a)].

abuse.<sup>960</sup> Dr Applewhite explained that by including such references she had wanted to illustrate that, ‘solid researchers [...] are cited in the articles’.<sup>961</sup>

- 570 Dr Applewhite was shown a report published by the Australian Institute for Family Studies in June 2015 entitled ‘Conceptualising the prevention of child sexual abuse’ (the **AIFS Report**).<sup>962</sup> The AIFS Report identifies Dr Finkelhor’s Four Preconditions Model (**Finkelhor’s Model**), which was first published in 1984 and which has been used to understand the behaviour of child sexual abuse offenders.<sup>963</sup>
- 571 Dr Applewhite was familiar with Finkelhor’s Model.<sup>964</sup> Dr Applewhite agreed that the following social/cultural factors that support three of the four preconditions for an individual to engage in child sexual abuse identified in Finkelhor’s Model, exist within the Jehovah’s Witness organisation. They are:
- a) repressive norms about masturbation and extra marital sex<sup>965</sup>
  - b) weak criminal sanctions (in circumstances where mandatory reporting obligations do not apply and the Jehovah’s Witnesses do not report to authorities)<sup>966</sup>
  - c) ideology of patriarchal prerogatives for fathers, at least in the sense of it being a patriarchal organisation<sup>967</sup>
  - d) barriers to women’s equality,<sup>968</sup> and
  - e) strong ideology of family sanctity.<sup>969</sup>
- 572 In respect of Finkelhor’s fourth precondition<sup>970</sup> and its relevant social/cultural factors, Dr Applewhite said that she ‘is not sure about’ whether the Jehovah’s Witness organisation or community can be characterised as exhibiting ‘social powerlessness of children’.<sup>971</sup>
- 573 Dr Applewhite said that she would have to look at the matter more carefully before accepting that the identified social/cultural factors ‘raised some flashing lights’ or came together in a ‘perfect storm’ with regard to the risk of child sexual abuse occurring in the Jehovah’s Witness organisation.<sup>972</sup>

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<sup>960</sup> Transcript of M L Applewhite, T15511:8-10 (Day 150); Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [43(a)].

<sup>961</sup> Transcript of ML Applewhite, T15511:16-17 (Day 150).

<sup>962</sup> Exhibit 29-0015, WEB.0061.001.0001.

<sup>963</sup> Exhibit 29-0015, WEB.0061.001.0001 at 0041.

<sup>964</sup> Transcript of ML Applewhite, T15512:1-6 (Day 150).

<sup>965</sup> Transcript of ML Applewhite, T15513:18-30 (Day 150).

<sup>966</sup> Transcript of ML Applewhite, T15513:32-T15514:1 (Day 150).

<sup>967</sup> Transcript of ML Applewhite, T15515:3-5 (Day 150).

<sup>968</sup> Transcript of ML Applewhite, T15515:9-11 (Day 150).

<sup>969</sup> Transcript of ML Applewhite, T15515:34-40 (Day 150).

<sup>970</sup> Exhibit 29-0015, WEB.0061.001.0001 at 0042.

<sup>971</sup> Transcript of ML Applewhite, T-15515:47-T15516:8 (Day 150).

<sup>972</sup> Transcript of ML Applewhite, T15516:16-21 (Day 150).

## 10.8 Dr Applewhite's oral evidence: Standards of Best Practice

- 574 Dr Applewhite accepted a number of components to current standards of best practice in relation to raising and responding to allegations of child sexual abuse within religious organisations. She accepted that religious organisations should have:
- a) a process for reporting allegations of child sexual abuse which is survivor focussed and designed to ensure that the child or adult survivor feels able to come forward and be comfortable in reporting the allegation<sup>973</sup>
  - b) a process for reporting allegations of child sexual abuse that does not require a survivor to confront the alleged perpetrator of their abuse or be in the same room as the alleged perpetrator without support<sup>974</sup>
  - c) a system for preventing perpetrators of child sexual abuse from being put back in a position of trust with children<sup>975</sup>
  - d) an ability to take child-safe action in order to remove children from imminent danger, or a relationship with other authorities that have that ability,<sup>976</sup> and
  - e) strong and cooperative relationships with child protection authorities and with criminal justice authorities.<sup>977</sup>
- 575 Dr Applewhite accepted, and it is submitted, that the Jehovah's Witness organisation's current policies and procedures for raising and responding to child sexual abuse do not meet all the current standards of best practice.<sup>978</sup> She also accepted that 'there are better ways' for handling complaints than having a survivor tell her story to two and then three men without moral support with the accused being present,<sup>979</sup> and that the two-witness rule is 'problematic'.<sup>980</sup>

### Available findings on Dr Applewhite's oral evidence

- F74 Dr Applewhite accepted the following components to current standards of best practice in relation to raising and responding to allegations of child sexual abuse within religious organisations, namely that religious organisations should have:
- a) a process for reporting allegations of child sexual abuse which is survivor focussed and designed to ensure that the child or adult survivor feels able to come forward and be comfortable in reporting the allegation
  - b) a process for reporting allegations of child sexual abuse that does not require a survivor to confront the alleged perpetrator of their abuse or be in the same room as the alleged perpetrator without support
  - c) a system for preventing perpetrators of child sexual abuse from being put back in a position of trust with children

<sup>973</sup> Transcript of ML Applewhite, T15448:35-T15449:10 (Day 150).

<sup>974</sup> Transcript of ML Applewhite, T15494:2-15 (Day 150).

<sup>975</sup> Transcript of ML Applewhite, T15452:8-19 (Day 150).

<sup>976</sup> Transcript of ML Applewhite, T15450:14-18 (Day 150).

<sup>977</sup> Transcript of ML Applewhite, T15451:38-46 (Day 150).

<sup>978</sup> Transcript of ML Applewhite, T15500:21-44 (Day 150).

<sup>979</sup> Transcript of ML Applewhite, T15501:36-41 (Day 150).

<sup>980</sup> Transcript of ML Applewhite, T15503:10 (Day 150).

- d) an ability to take child-safe action in order to remove children from imminent danger, or a relationship with other authorities that have that ability, and
- e) strong and cooperative relationships with child protection authorities and with criminal justice authorities.

F75 The opinion expressed by Dr Applewhite in oral evidence that requiring a survivor of child sexual abuse to present her testimony before elders and her abuser would not meet the relevant standard is accepted.

F76 The opinion expressed by Dr Applewhite that requiring a survivor of child sexual abuse to present her allegation and testimony to three men without the presence of a support person would not meet the relevant standard is accepted.

F77 The Jehovah's Witness organisation's current policies and procedures for raising and responding to complaints or allegations of child sexual abuse do not meet all current standards of best practice.

## Part 11 Summary of available findings

### Available findings on the Jehovah's Witnesses relationship with secular authorities

F1 The Jehovah's Witness organisation presents its members with conflicting and ambiguous teachings regarding their relationship with secular authorities, thereby fostering a distrust of such authorities.

### Available findings on historical child sexual abuse data

F2 Since 1950, the Jehovah's Witness organisation in Australia has received allegations of child sexual abuse against 1,006 of its members relating to at least 1,800 victims, and has in that period not reported a single allegation to the police or other authorities, even though 579 of those against whom an allegation was made confessed to having committed child sexual abuse.

F3 The Jehovah's Witness organisation in Australia receives approximately three to four reports of allegations of child sexual abuse each month.

### Available findings on BCB's first disclosure

F4 The elders bringing the man whom BCB accused of abusing her to her home was unjustified and traumatising for BCB and should not have occurred.

F5 Although the elders may have been following the documented procedure at the time and they may have believed that Scriptural principle required that the accuser face the accused with her allegations, it was distressing to and unsupportive of BCB to require that of her.

F6 It was distressing for BCB to be required by the elders to tell of what had happened to her to a group of men, including the man whom she accused of abusing her, and it was not likely to, nor did it, result in BCB disclosing the full extent of her abuse.

F7 It was inconsistent with the elders' professed sympathy for BCB for them not to have offered her the opportunity of the support and involvement of women in the process of investigating her allegations of abuse.

F8 The elders did not explain to BCB the purpose of their investigation and the meetings with her such as to ensure that she had an understanding of that purpose, which left her confused and disempowered.

F9 The application of the two-witness rule meant that there was insufficient evidence for the elders to act against BCB's abuser even though they believed her, which left her feeling disbelieved and unsupported, and it left the abuser in the congregation where he may have been a risk to other children.

F10 Mr Horley telling BCB that she should not discuss her abuse with anyone left her feeling silenced and unsupported.

F11 BCB was not told by the elders that she could, let alone should, report her abuse to the authorities.

F12 In circumstances where both investigating elders agreed that there was substance to BCB's allegations, they should have taken steps against Bill Neill, at least by imposing some restrictions on his activities involving children and thereby addressing the potential risk that he posed to other children.

F13 It was traumatic for BCB and inappropriate of Mr Horley for him to have required BCB to attend Bible study at Bill Neill's home when he knew that BCB accused Bill Neill of abusing her.

F14 The recommendation of the elders to the Branch Office that Bill Neill be reinstated as an elder 'once this has died down' and their expressed concern 'that there may also be worldly people who also know' demonstrates that they were more concerned about the reputation of Bill Neill and the congregation than about the risk that he posed to children.

**Available findings on BCB's second disclosure**

F15 It was wrong of Joe Bello, and contrary to the Jehovah's Witness organisation's own direction in that regard, to discourage BCB from reporting to the Royal Commission by asking whether she 'really wants to drag Jehovah's name through the mud'.

F16 The elders in BCB's present congregation should have supported BCB in her reporting to the Royal Commission if that is what she wanted to do.

**Available findings on the investigation and judicial committee processes following BCG's disclosure**

F17 The elders did not explain to BCG the purpose of their investigation and their meetings with BCG such as to ensure that she had an understanding of that purpose, which left her confused and disempowered.

F18 It was traumatising for BCG to be required by the elders to tell what had happened to her to a group of men, including the man whom she accused of sexually abusing her, and it was not likely to, nor did it, result in BCG disclosing the full extent her abuse.

F19 It would have been supportive of the elders to offer BCG the opportunity of the support and involvement of other women in the process of investigating her allegations of abuse.

F20 During their judicial committee investigation or proceedings the elders received evidence that BCH had abused BCG's elder sister and her two younger sisters, but they took no action in relation to that evidence.

F21 The evidence presented to the judicial committee of BCH having abused his other daughters satisfied the Jehovah's Witness organisation's own rules with regard to sufficiency of evidence to establish that BCH had abused BCG, but the elders wrongly ignored that evidence and accordingly failed to uphold BCG's complaint against BCH.

F22 In the course of the judicial committee process, and before the elders reached a conclusion on BCH's guilt in relation to his extra-marital conduct, BCH confessed to having abused BCG.

F23 The elders inexplicably and wrongly ignored BCH's confession to having abused BCG and thereby, within the precepts of the Jehovah's Witness organisation's own rules and procedures, failed to uphold BCG's complaint against BCH.

F24 BCG was not told by the elders that she could, let alone should, report her abuse to the authorities.

F25 The appeal committee's requirement that BCG give evidence of her sexual abuse by her father to a group of seven men including her named abuser was unjustified and traumatising to BCG and should never have happened.

F26 The failure by the elders to report BCH's sexual abuse of BCG to the police had the result that BCH remained at large in the community and a risk to children, and reflects that the elders were not concerned with child safety but rather with keeping their organisation 'clean'.

F27 The judicial committee's failure to uphold BCG's complaint of abuse by BCH conveyed to BCG that the organisation tolerated child sexual abuse within its ranks.

F28 The advice given by the elders to BCG that she not speak about her abuse to anyone had the effect of silencing her.

F29 The elders' treatment of BCG was unsympathetic and unsupportive and left her feeling worthless and helpless.

#### **Available findings on the reinstatement of BCH**

F30 BCH was reinstated as a Jehovah's Witness little more than three years after he had been disfellowshipped for, amongst other things, five or six counts of sexual abuse of his daughter.

F31 The decision to reinstate BCH took no account of the risk that BCH posed to children, paid little regard to the fact that he had been disfellowshipped because of child sexual abuse, and was focussed principally on his extra-marital relationship.

F32 The decision to reinstate BCH took no account of BCH's failure to apologise to BCG, a factor relevant to consideration of sincere repentance, or of what BCG might have had to say about BCH being reinstated.

F33 The decision to reinstate BCH was disrespectful and unsupportive of BCG.

F34 The Branch Office's response to BCG on 26 February 1996 caused BCG to feel angry, upset and let down, and did not convey support and concern to BCG on the part of the Jehovah's Witness organisation.

#### **Available findings on the impact of the judicial committee process on criminal proceedings against BCH**

F35 The judicial committee and appeal committee processes that preceded BCG reporting her abuse by her father to the police complicated the criminal proceedings because of the numbers of people involved in those processes and the telling and retelling of the experience.

#### **Available findings on the risk management and second disfellowshipping of BCH**

F36 When BCH was reinstated no restrictions were placed on him which were relevant to his risk to children despite his established history of child sexual abuse.

F37 BCH was disfellowshipped a second time for lying in relation to child sexual abuse rather than for child sexual abuse itself.

F38 The reasons canvassed and then given for the second disfellowshipping of BCH show that those from the Jehovah's Witness organisation who were involved were more concerned about a charge of lying than they were about BCH's sexual abuse of his daughters.

#### **Available findings on the authority of the Governing Body**

F39 Mr Spinks' evidence that the Australia Branch has full authority to produce documents, seminars, letters to elders and letters to publishers without the approval or agreement of the Governing Body is rejected.

F40 The Governing Body retains authority in respect of all publications in the name of the Jehovah's Witness organisation and any view or perspective contrary to that of the Governing Body is not tolerated.



### **Available findings on the investigation process**

- F41 There are no circumstances in which the survivor of a sexual assault should have to make her allegation in the presence of the person whom she accuses of having assaulted her, and, contrary to the present position, the documents, manuals and instructions produced by the Jehovah's Witness organisation should make this clear.
- F42 The requirement that two or more eyewitnesses to the same incident are required in the absence of a confession from the accused, the testimony of two or three witnesses to separate incidents of the same kind of wrongdoing, or strong circumstantial evidence testified to by at least two witnesses (i.e. the two witness rule):
- a) means that in respect of child sexual abuse which almost invariably occurs in private, very often no finding of guilt will be made in respect of a guilty accused
  - b) causes victims of child sexual abuse to feel unheard and unsupported when it results in allegations of child sexual abuse not being upheld
  - c) is a danger to children in the Jehovah's Witness organisation because its consequence is that very often nothing is done about an abuser in the organisation
  - d) does not seem to be applied by the Jehovah's Witness organisation in the case of an accusation of adultery, which suggests that adultery is taken more seriously by the organisation than child sexual abuse, and
  - e) needs to be revisited by the Jehovah's Witness organisation with a view to abandoning it or at least reformulating it to ensure that safe decisions as to someone being guilty of child sexual abuse can be made more easily.
- F43 The requirement that only elders (i.e. men) can participate in the making of decisions in the investigation process on whether or not someone has committed child sexual abuse:
- a) is a fundamental flaw in that process which weakens the decisions by excluding women, and
  - b) needs to be revisited by the Jehovah's Witness organisation to ensure a meaningful role for women.

### **Available findings on the judicial committee process**

- F44 Under the current documented judicial committee process, if the evidence of the complainant is to be taken into account then she must give evidence in person unless she lives a great distance away or for some other reason is not able to be physically present.
- F45 The stated willingness of the Jehovah's Witness organisation in Australia to have the evidence of a complainant of child sexual abuse give evidence remotely or by way of a written statement should be formalised and documented so that those running judicial committee processes and those affected by them are properly advised of the position.
- F46 Under the current documented judicial committee process, a complainant of child sexual abuse is prohibited from having someone present with her in the judicial committee process to offer support.
- F47 The stated willingness of the Jehovah's Witness organisation in Australia to allow a complainant of child sexual abuse to be accompanied by a support person of her choosing should be formalised and documented so that those running judicial committee processes and those affected by them are properly advised of the position.
- F48 The current documented process for responding to allegations of child sexual abuse within the Jehovah's Witness organisation is focussed largely on the rights and comfort of the accused, with little regard to the requirements of a victim of abuse.

**Available findings on the management of risk**

F49 The failure of the Jehovah's Witness organisation to take into account the risk of re-offending when considering whether an offender is repentant, and consequently in deciding whether to merely reprove rather than to disfellowship, or whether to re-admit someone who has previously been disfellowshipped, does not adequately take account of considerations of child safety and should be revisited.

**Available findings on sanctions – reproof**

F50 Since it is the policy or practice of the Jehovah's Witness organisation not to report allegations of child sexual abuse to the police (other than if required by law to do so), if a known abuser is found to be repentant and for that reason merely reprovved rather than disfellowshipped he remains in the congregation and a risk to children in the congregation.

F51 The system of not announcing the reasons for reproof means that members of the congregation are not warned about the risk that such a wrongdoer poses to children in the congregation.

F52 The sanction of reproof therefore does nothing to protect children in the congregation and in the broader community.

**Available findings on sanctions – disfellowshipping**

F53 Since it is the policy or practice of the Jehovah's Witness organisation not to report allegations of child sexual abuse to the police (other than if required by law to do so), if a known abuser is disfellowshipped he remains in the community and a risk to children in the community.

F54 The sanction of disfellowshipping does nothing to protect children in the community.

**Available findings on reporting**

F55 Prior to this case study, the Jehovah's Witness organisation in Australia did not advise congregational elders of their obligations to report the commission of criminal offences to the police under s 316 of the *Crimes Act 1900* (NSW).

F56 This report is referred to the Law Society of New South Wales in relation to the conduct of Mr Toole in having failed to advise congregational elders of their obligations to report their knowledge of the commission of certain criminal offences to the police.

**Available findings on the Jehovah's Witness organisation's policy on reporting**

F57 It is the policy and practice of the Jehovah's Witness organisation in Australia to not report allegations of child sexual abuse to the police or other authorities unless required by law to do so.

F58 The basis for this policy is said to be respect for the 'right' of the victim to herself decide whether to make a complaint to the authorities.

F59 That basis has no justification where the victim is still a minor at the time that the abuse comes to the attention of the organisation, or where there are others who may still be at risk at the hands of the alleged abuser.

F60 Since the organisation cannot remove an alleged abuser from the family or take other positive steps to safeguard children in the family from continuing risk, the organisation should have a policy to report all allegations of child sexual abuse to the authorities unless an

adult victim specifically requests that a report not be made and there is no appreciable risk of children being abused.

#### **Available findings on the impact of the Jehovah's Witness organisation's processes on criminal processes**

F61 The internal processes of the Jehovah's Witness organisation for handling allegations of child sexual abuse cause significant delay in a complaint coming, if ever, before authorities.

F62 Admissions made by an accused during the investigative and/or judicial committee process administered by the Jehovah's Witness organisation may not be admissible in criminal proceedings because of the circumstances in which they are made, including that incentives such as reduction in penalty are offered if an admission is made.

F63 The number of people to whom a survivor of child sexual abuse is required to divulge the detail of her complaint exacerbates the trauma already suffered by a survivor of such abuse.

F64 There is significant risk of contamination of a survivor's evidence as a result of the number of times and circumstances in which a survivor is required to divulge the detail of her complaint before her abuse is, if ever, reported to the authorities.

#### **Available findings on Mr Jackson's stated empathy for survivors**

F65 Mr Jackson's failure to have read or be familiar with the testimony of the survivor witnesses yet to have read or otherwise familiarised himself with the testimony of Jehovah's Witness witnesses belies his stated empathy for the survivors and his stated recognition of the importance of their perspectives.

#### **Available findings on the system of prevention of child sexual abuse – WWCC**

F66 The documented practice of the Jehovah's Witness organisation of not reporting child sexual abuse to the authorities undermines the efficacy of the working with children check system, a system to which the organisation says it subscribes and with which it says it complies.

#### **Available findings on the system of prevention of child sexual abuse – risk of reoffending**

F67 The practices and procedures of the Jehovah's Witness organisation for the prevention of child sexual abuse, and in particular for the management of the risk of an abuser reoffending, do not take account of the actual risk of an offender reoffending and accordingly place children in the organisation at significant risk of sexual abuse.

#### **Available findings on the accessibility of procedures and policies**

F68 The Jehovah's Witness organisation's documented procedures for reporting on and responding to allegations of child sexual abuse are deficient in that they are not documented in such a way as to be easily accessible in one document and available to all interested or affected parties and some matters that are stated to be the policies or practices of the organisation are not recorded at all.

#### **Available findings on shunning**

F69 Members of the Jehovah's Witness organisation who no longer want to be subject to the organisation's rules and discipline have no alternative than to leave the organisation which requires that they disassociate from it.

F70 The Jehovah's Witness organisation's policy of requiring its adherents to actively shun those who leave the organisation:

- a) makes it extremely difficult for someone to leave the organisation
- b) is cruel on those who leave and on their friends and family who remain behind
- c) is particularly cruel on those who have suffered child sexual abuse in the organisation and who wish to leave because they feel that their complaints about it have not been adequately dealt with
- d) is not apparently justified by the Scriptures which are cited in support of it
- e) is adopted and enforced in order to prevent people from leaving the organisation and thereby to maintain its membership, and
- f) is in conflict with the organisation's professed support for freedom of religious choice and the belief that Jehovah God is a compassionate God who recognises the worth and dignity of all human beings.

#### **Available findings on Dr Applewhite's expert opinions**

F71 The opinions expressed by Dr Applewhite in paragraphs 36, 45 and 46 of her report are rejected because they are not substantiated by identifiable facts and assumptions or by reasons.

F72 Dr Applewhite's report contains a number of factual errors with regard to her documenting of the relevant practices and procedures of the Jehovah's Witnesses.

F73 Dr Applewhite's report is therefore rejected.

#### **Available findings on Dr Applewhite's oral evidence**

F74 Dr Applewhite accepted the following components to current standards of best practice in relation to raising and responding to allegations of child sexual abuse within religious organisations, namely that religious organisations should have:

- a) a process for reporting allegations of child sexual abuse which is survivor focussed and designed to ensure that the child or adult survivor feels able to come forward and be comfortable in reporting the allegation
- b) a process for reporting allegations of child sexual abuse that does not require a survivor to confront the alleged perpetrator of their abuse or be in the same room as the alleged perpetrator without support
- c) a system for preventing perpetrators of child sexual abuse from being put back in a position of trust with children
- d) an ability to take child-safe action in order to remove children from imminent danger, or a relationship with other authorities that have that ability, and
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F75 The opinion expressed by Dr Applewhite in oral evidence that requiring a survivor of child sexual abuse to present her testimony before elders and her abuser would not meet the relevant standard is accepted.

F76 The opinion expressed by Dr Applewhite that requiring a survivor of child sexual abuse to present her allegation and testimony to three men without the presence of a support person would not meet the relevant standard is accepted.

F77 The Jehovah's Witness organisation's current policies and procedures for raising and responding to complaints or allegations of child sexual abuse do not meet all current standards of best practice.

**Angus Stewart SC**

25 September 2015