



**Royal Commission**  
into Institutional Responses  
to Child Sexual Abuse

# REPORT OF CASE STUDY NO. 40

The response of the Australian  
Defence Force to allegations  
of child sexual abuse

AUGUST 2017

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# Report of Case Study No. 40

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The response of the Australian Defence Force  
to allegations of child sexual abuse

August 2017

## CHAIR

The Hon. Justice Peter McClellan AM

## COMMISSIONERS

Mr Robert Fitzgerald AM  
Professor Helen Milroy



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# Preface

## The Royal Commission

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

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

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

## Public hearings

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

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

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

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

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

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

[www.childabuseroyalcommission.gov.au](http://www.childabuseroyalcommission.gov.au)

Public hearings are streamed live over the internet.

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

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

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

## Private sessions

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

A private session is conducted by one or two Commissioners and is an opportunity for a person to tell their story of abuse in a protected and supportive environment. As at 26 May 2017, the Royal Commission has held 6,905 private sessions and more than 1,475 people were waiting to attend one. Many accounts from these sessions will be recounted in later Royal Commission reports in a de-identified form.

## Research program

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

## This case study

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In Case Study 40, the Royal Commission into Institutional Responses to Child Sexual Abuse examined the response of the Australian Defence Force (ADF) to allegations of child sexual abuse at the following institutions operated by the ADF: HMAS Leeuwin, The Army Apprentice School Balcombe and the ADF Cadets.

The public hearing was held in Sydney from Tuesday 21 to Thursday 30 June 2016 and recommenced for a further day of hearing on Friday 26 August 2016.

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

- a. the experiences of survivors of child sexual abuse of the following institutions operated by the ADF:
  - i. HMAS Leeuwin in the period 1960 to 1980
  - ii. The Army Apprentice School, Balcombe, in the period 1970 to 1980
  - iii. Australian Defence Force Cadets in the period 2000 to present
- b. the systems, policies, practices and procedures of the ADF and the ADF Cadets to prevent child sexual abuse, and raising and responding to concerns and complaints about child sexual abuse, in the above listed institutions
- c. any related matters.

# Executive Summary

In Case Study 40 the Royal Commission into Institutional Responses to Child Sexual Abuse examined the responses of the Commonwealth Department of Defence (Defence) and the Australian Defence Force (ADF) to allegations of child sexual abuse arising within:

- HMAS Leeuwin (Leeuwin) between 1960 and 1980
- The Army Apprentice School, Balcombe (Balcombe), between 1970 and 1980
- Australian Defence Force Cadets (ADF Cadets) between 2000 and the present.

The case study also examined the approach taken by the Department of Veterans' Affairs (DVA) and Defence in response to claims of compensation that survivors of child sexual abuse at Leeuwin and Balcombe brought.

## The Australian Defence Force

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Part 1 of the report outlines the military organisational structure of the ADF. The ADF is commanded by the Minister of Defence together with the Secretary of Defence and the Chief of the ADF. The current minimum age for recruitment into the ADF is 17 (by contrast, Leeuwin and Balcombe received recruits from the age of 15). Children are able to join the ADF Cadets when they turn 13.

## HMAS Leeuwin

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In Part 2 we consider the response of Defence – in particular, the Navy – to child sexual abuse at Leeuwin, a Navy shore base in Fremantle, Western Australia. Between 1960 and 1984 (when it closed to junior recruits) Leeuwin functioned as a training establishment for junior Navy recruits. In that period Leeuwin accommodated and trained some 13,000 boys aged 15 or 16. Today, Leeuwin continues to be used as a Defence base, known as Leeuwin Barracks.

There were four quarterly intakes of junior recruits per year, resulting in a population of approximately 800 junior recruits accommodated in blocks according to their division. Each block contained approximately 200 junior recruits. The recruit training program at Leeuwin lasted 12 months and included academic classes, physical training and courses in seamanship.

CJA, Mr Graeme Frazer, CJT, Mr Glen Greaves and CJB gave evidence about their experiences of sexual and physical abuse at Leeuwin. When junior recruits arrived at Leeuwin, the senior recruits created an environment that made junior recruits feel intimidated. There was an unofficial hierarchy based on when a recruit started at Leeuwin – the most senior intake were known as 'top shits' and had the power to control other recruits.

All survivor witnesses gave evidence that, as the ‘new grubs’ at Leeuwin between 1967 and 1971, when they were 15 or 16 years old, they were sexually and physically abused by more senior recruits. Two survivors gave evidence that they were also sexually abused by staff members.

The survivor witnesses gave evidence of being subjected to serious and degrading forms of sexual abuse, including fondling of genitals, masturbation, oral sex and anal penetration by a penis or other object. These incidents of sexual abuse occurred in the context of violent physical assaults and sometimes resulted in serious physical injuries. Further, they gave evidence of the existence of ‘bastardisation’ practices such as ‘blackballing’ or ‘nuggeting’ – a practice that involved a junior recruit being held down by other recruits while boot polish, toothpaste or another substance was forcibly smeared on his genitals or anal area, sometimes with a hard brush.

The nature and extent of abuse at Leeuwin was the subject of an inquiry by his Honour Trevor Rapke QC in 1971. Judge Rapke found that Leeuwin had been ‘the scene for unorganised and repetitive acts of bullying, violence, degradation and petty crime during most of the years of its existence’. He found that these repetitive acts of bullying and physical violence had caused ‘deplorable’ physical and mental damage.

Senior staff were provided with the Rapke report, and we are satisfied that it led to changes that probably reduced incidents of physical and sexual abuse after 1972.

In 2012 the Commonwealth of Australia established the Defence Abuse Response Taskforce (DART). DART published a report on Leeuwin based on the personal accounts of former junior recruits.

Based on the evidence that survivors and Defence officials gave during the hearing and having regard to the work of previous inquiries – the Rapke report and the DART report – we are satisfied that physical and sexual abuse of child recruits was widespread at Leeuwin from the 1960s to 1972. We find that Leeuwin’s institutional environment was such that abuse was allowed to occur. We accept that ‘bastardisation’ practices, including blackballing, or nuggeting, existed at Leeuwin.

We are satisfied that a number of junior recruits who experienced child sexual abuse at Leeuwin did not report to anyone at the time for fear of retribution, being labelled a ‘dobber’, being humiliated and shamed or being discharged, or because they did not believe any action would be taken.

Further, we find that some junior recruits who did report sexual or physical abuse to staff members were not believed, were ‘dishonourably discharged’ or threatened with ‘dishonourable discharge’, were left feeling like no action had been taken or were told that abuse was a ‘rite of passage’.

During the hearing we heard evidence from Defence officials who were part of Leeuwin’s system of management at the time of the abuse. We are satisfied that senior staff members knew of and tolerated rites of initiation within an unofficial hierarchy among junior recruits. That hierarchy perpetuated a culture in which senior recruits abused recruits who were junior to them.

We conclude that, during the 1960s to 1972, the system of management at Leeuwin was ineffective in preventing and responding to child sexual abuse; thus, the Navy failed in its duty of care to junior recruits, who were children. From 1972 to 1982, we are satisfied that the system of management improved in the wake of the Rapke report, although incidents of child sexual abuse continued to occur in smaller numbers.

The impacts of the abuse have been lifelong and severe. They include physical injury, mental illness, suicide attempts, alcohol abuse and broken relationships.

## The Army Apprentice School, Balcombe

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Part 3 of the report examines Balcombe, an Australian Army base located on the Mornington Peninsula in Victoria. Between 1948 and 1982 it operated as an Army training establishment, providing for trade training and general education for tradesmen and tradeswomen who enlisted for service in the Australian Army. Approximately 5,000 apprentices, who could commence training between the ages of 15 and 19, graduated between 1948 and 1982.

Mr David Sparreboom, CJC, Mr Daryl James, CJV and CJU gave evidence about their experiences of sexual and physical abuse at Balcombe between 1970 and 1978 and the ongoing impact the abuse has had on their lives. The abuse was severe and included fondling of genitals, forced masturbation and anal penetration with an object, such as a broomstick. The abuse was perpetrated by senior apprentices and, in some cases, also by staff members.

When junior apprentices arrived at Balcombe, the senior apprentices created an environment that was intimidating to junior apprentices. Senior apprentices were placed in positions of power such that junior apprentices saw them as ‘gods’ and learned quickly to do whatever the senior apprentices said.

The unofficial rank hierarchy at Balcombe created an environment that allowed senior apprentices to command and control junior apprentices. We are satisfied that such a hierarchy existed and that it was known to and tolerated by staff, who did not take any steps to prevent it. Because of this unofficial hierarchy, which went unchecked, apprentices were subjected to ‘bastardisation’ and other physical abuse, as described by witnesses before the Royal Commission – for example, being made to ‘run the gauntlet’ by other apprentices, during which they were punched in the stomach, karate chopped on the back of the neck and kicked. The hierarchy created an environment that facilitated and contributed to the sexual abuse.

This failure to adequately address harmful bullying conduct and the culture of intimidation by older apprentices and staff represent a failure in the duty of care of the Army to provide a safe environment for junior apprentices at Balcombe.

Further, in view of evidence of the system of supervision at Balcombe that we consider in this report, we find that the supervision of apprentices at night was inadequate: there were insufficient numbers of night duty staff to supervise apprentices, and it was often left to senior apprentices, who were the primary perpetrators of abuse, to supervise junior apprentices at night.

We considered evidence of a military structure of reporting complaints up the chain of command, and we are satisfied that this system did not facilitate reporting: it required junior apprentices to report to senior apprentices, who were complicit in the abuse; access to staff was limited; and the system placed reliance on the apprentices being aware of the rules and procedures, which were communicated to them orally and were not available to them in writing.

CJU told us that he reported abuse by three senior apprentices to a Balcombe staff member. He said that he was constantly bullied after this report, further sexually abused by senior apprentices and also abused by a Captain off site.

CJU's report to the staff member was an exception. We are satisfied that victims generally did not report abuse for fear of retribution and punishment by both senior apprentices and staff. Apprentices also thought they would be discharged; thought they would be labelled a 'dobber' and be humiliated; did not know to whom they could report; or believed that no action would be taken.

The Royal Commission heard evidence from Mr Alan McDonald, Commanding Officer of Balcombe from December 1972 to January 1976. He said that he could not recall any allegations or complaints of child sexual abuse being made to him but accepted that, as the Commanding Officer, he had responsibility for the apprentices at Balcombe and that he exercised this responsibility through his subordinate officers. He accepted that the system of management at Balcombe failed to protect some of the apprentices from sexual abuse and instead allowed it to occur.

Staff members at Balcombe had a duty of care to protect apprentices from sexual abuse. We conclude that during the 1970s and 1980s the system of management in place at Balcombe was ineffective in preventing and responding to child sexual abuse. A failure in the management allowed sexual abuse to occur.

The impacts of the abuse have been lifelong and severe. They include physical injury, mental illness, stress and physical health problems, suicide attempts and broken relationships.

## Recent responses to claims of child sexual abuse at Leeuwin and Balcombe

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In Part 4 of the report we consider the more recent response of the Commonwealth to survivors of Leeuwin and Balcombe seeking compensation.

A number of survivor witnesses told us about their experience in making claims against the Commonwealth of Australia, through the DVA and Defence, in relation to the sexual abuse they experienced as children at Leeuwin or Balcombe.

Under the *Safety Rehabilitation and Compensation Act 1988* (Cth) (SRCA), claimants can seek compensation from the DVA for injuries, diseases or deaths linked to relevant peacetime ADF service. Under the *Veterans' Entitlement Act 1986* (Cth) (VEA), claimants can receive a lifetime disability pension and other compensation such as free healthcare.

Survivors gave evidence as to the difficulties they encountered in meeting the DVA's evidentiary requirements.

At the time of the hearing, assessors within DVA relied on a Liability Handbook that we received into evidence. The handbook required assessors to reject a claim that was not supported by any independently corroborative evidence. A statutory declaration of the claimant would not be regarded as sufficient.

We find that this approach is incorrect and, when applied, may have the effect of leading a claims assessor into error. The legislation does not require corroborative evidence. Rather, it requires the decision-maker to be satisfied, on the balance of probabilities, that the legislative tests for the payment of compensation are met. Those tests may be met in the absence of corroborative evidence. We conclude that the handbook imposed evidentiary requirements in conflict with the SRCA and operated harshly against survivors of child sexual abuse.

Following the hearing, Defence submitted that the DVA has since put into effect a new policy for determining claims for child abuse under the VEA and the SRCA in which a statutory declaration may be sufficient evidence.

In relation to civil claims for compensation, on 4 May 2016 the Commonwealth Attorney-General issued a direction that limitation defences were not to be pleaded in time-barred child abuse claims.

We heard evidence of difficulties arising for civil complainants as a result of offsetting provisions which allow DVA to recover payments or costs. It is important that the DVA provides offset figures to claimants and their legal representatives where the offsetting provisions might be triggered by a claim being settled or upheld.

Mr Greaves, a survivor of Leeuwin, gave evidence in relation to his common law claim. He is in receipt of a Totally and Permanently Incapacitated Pension (TPI Pension) and Gold Card (for lifetime healthcare). At a mediation with Defence, Mr Greaves received an apology but was told that any monetary compensation would trigger the 'clawback' provisions, which meant he would lose his TPI Pension. Mr Greaves decided not to proceed with any compensation payment. He signed a deed of release stating that he would take no further action against Defence. We find there was no justification for the deed, which left Mr Greaves with fewer rights than when he entered the mediation.

## The Australian Defence Force Cadets

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Parts 5 to 9 of this report relate to child sexual abuse within the ADF Cadets. We examine the experiences of a number of survivors and also report on our examination of relevant policies and procedures applicable to ADF Cadets.

The ADF Cadets is a community-based youth development organisation administered by Defence in partnership with the community. It conducts service-related training and activity programs for children in a military-style environment and aims to foster an interest in ADF careers. Since at least 1941, cadet programs in Australia have been operated by the Navy, Army or Air Force. As at June 2015, there were 25,886 active ADF Cadet members in 544 ADF Cadet units around Australia.

Children are eligible to join the ADF Cadets from the age of 13, and they 'age out' at the age of 20. ADF Cadets typically attend weekly meetings with their ADF Cadet units. At those meetings they dress in uniform and participate in military-based activities. They also attend overnight and week-long camps at ADF bases.

The public hearing focused on responses of the Australian Air Force Cadets (AAFC) to allegations of child sexual abuse. We considered evidence of extensive policies and procedures in place within the ADF Cadets and the AAFC and concluded that they are unnecessarily duplicative. As a result, they are not likely to be user friendly or effective in ensuring that AAFC staff are properly informed of the AAFC's expectations in relation to the protection of cadets. Defence accepts the criticism and submits that since the hearing there has been policy reform.

We heard evidence concerning several cases of alleged child sexual abuse, summarised below.

### Cadet Sergeant Tibble

The public hearing examined the experience of Cadet Sergeant Eleanore Tibble (CSGT Tibble). Ms Susan Campbell, CSGT Tibble's mother, gave evidence concerning her daughter's experience. We accept her evidence as set out in the report.

In 2000 CGST Tibble was a cadet within the Tasmanian squadron of the AAFC. In August 2000 CSGT Tibble told Ms Campbell that Mr Harper, an adult AAFC leader, had given her a silver necklace and told her that he loved her. Ms Campbell formed the view that Mr Harper's intentions were improper. She made it known to him that any relationship with her daughter was inappropriate and out of the question.

On 15 August 2000 Mr Harper provided a written letter of resignation to Flying Officer Glen Kowalik, to whom Mr Harper reported. The letter stated that he had 'committed a cardinal sin', 'totally [sic] failed in my obligations as an instructor' and 'surcummed [sic] to the attention of a female cadet and become personaly [sic] involved with her'. The resignation letter did not identify the female cadet involved.

Mr Kowalik met with his Commanding Officer, Wing Commander Carroll James. Mr James instructed Mr Kowalik to identify and suspend the cadet. Mr James took advice from Wing Commander Dale Watson, then Regional Liaison Officer, who also considered that the cadet should be discharged for breach of policy.

On 29 August 2000 Mr James heard a rumour that the female cadet whom Mr Harper referred to in his written resignation was CSGT Tibble. Mr James did not provide this information to Mr Kowalik. On 5 October 2000 Mr Kowalik informed Mr James that he believed CSGT Tibble was the female cadet involved with Mr Harper. CSGT Tibble was interviewed by Mr Kowalik and a female AAFC officer whose role was to record the conversation and act as the 'responsible adult female'. Ms Campbell was not informed of the interview. The contemporaneous notes record that CGST Tibble stated 'there was no justification for what she had done' and that the worst possible scenario for her was that she would be thrown out of the AAFC.

We find that the meeting was improper and caused considerable distress to CGST Tibble, who considered that she bore responsibility for the relationship.

On instructions from his Commanding Officer, Mr James directed that CGST Tibble be informed that she was to submit a notice of resignation within four days or be discharged from the AAFC. Mr James gave evidence that it did not occur to him at the time to ask CSGT Tibble to come in and discuss the issue face to face.

On 30 October 2000 Mr Kowalik's deputy called CSGT Tibble and told her that she had the choice of either submitting a notice of resignation or being dishonourably discharged. CSGT Tibble was told to return her kit and that she was not to parade with her unit on 2 November 2000. Ms Campbell said that after the call CSGT Tibble was distraught. She understood CSGT Tibble was told that she had brought dishonour to her flight unit and that her resignation was the 'only honourable option' available to her.

We are satisfied that CGST Tibble was denied natural justice in this process, when she should not have been the subject of disciplinary proceedings in any event. The attitude that the AAFC adopted in relation to CSGT Tibble, a child, assumed that she was in part to be blamed for her relationship with Mr Harper, an AAFC leader. Mr Harper was an adult, and the responsibility fell upon him to ensure that no inappropriate relationship developed with CGST Tibble. It must always be the case, particularly in an organisation with an hierarchical command, that a child will be vulnerable to the inappropriate advances of an adult. At no time should blame be placed on a cadet when an adult instructor or officer engages in a relationship with the cadet.

On 10 November 2000 senior management determined that the relationship was not sexual and that a discharge could no longer be supported. Mr James was directed to reinstate CGST Tibble.

There was no justification for management within the AAFC to place any responsibility or blame on CGST Tibble in this matter and for any administrative action to be taken against her. Management's response turned on whether or not the relationship was 'sexual'. We wish to make clear that it was and is not important to understand the precise nature of the relationship. Mr Harper's resignation letter contained admissions that he had 'committed a cardinal sin', 'totaly [sic] failed in my obligations as an instructor' and 'surcumbed [sic] to the attention of a female cadet and become personally [sic] involved with her'. Whatever was known about the physical status of the relationship, any disciplinary action, forced resignation or discharge of CSGT Tibble was wrong in light of Mr Harper's disclosures. She was the child victim of the advances of an older instructor.

Despite the direction to do so, Mr James did not in fact reinstate CSGT Tibble. On 27 November 2000 Ms Campbell drove CSGT Tibble to the bus stop and 'kissed her goodbye and told her that [she] loved her' before she went to work. When she returned home later that evening, she found CSGT Tibble hanging in the woodshed of their home. CSGT Tibble had died by suicide. Ms Campbell said she could not believe that, for over two weeks, 'somebody sat on' the order to reinstate her daughter and, in that time, her daughter died by suicide.

Mr James accepted during the hearing that he should have immediately told CGST Tibble that she would not be discharged. We are satisfied that Mr James was concerned to maintain disciplinary action against CGST Tibble, which caused delay in implementing the command to reinstate her.

We also conclude that, when considering the discharge of CSGT Tibble, the AAFC was more concerned with the 'efficiency' of the flight unit and setting an example to other cadets than it was with the protection of cadets from adult instructors in positions of authority.

Ms Campbell gave evidence of the impact CSGT Tibble's death has had on her and her family. She said:

To say that [CSGT Tibble]'s death has had ongoing effects upon me and my family is an understatement. Not a day goes by that I don't think about my daughter and the abject waste of her life.

Ms Campbell told the Royal Commission that the AAFC officers had the power to tell CSGT Tibble that there was no case to answer. She said that, instead, CSGT Tibble was ‘humiliated and denigrated’ and probably died thinking that she was ‘saving her family the shame of a dishonourable discharge’.

In section 7.1 we set out the findings of other inquiries, including an internal RAAF investigation led by Group Captain Stunden, concerning the treatment of CGST Tibble.

## CJD

We heard evidence from CJD, who, at the age of 13, applied to become a cadet at Training Ship (TS) Tobruk. In the time available for the hearing, the Royal Commission was unable to hear evidence from those the subject of allegations in CJD’s evidence. Accordingly, they were given pseudonyms.

CJD gave evidence that in 2001, when she was 15, CJK started grooming her, although she did not know it at the time. CJK was a cadet instructor in his fifties. CJD said that CJK flirted with her, asked her to sit on his lap, touched her breasts or buttocks, grabbed her vagina and encouraged her to kiss him on the cheek and eventually the mouth. CJD felt ‘conflicted’: no one ever complained about CJK’s behaviour, so she felt it must have been appropriate and she complied with his requests.

In 2004, at the age of 19, CJD ‘aged out’ of ADF Cadets. In 2008, at the age of 23, she was ‘depressed and completely non-functional’ and ended the relationship with CJK. After this, CJD met with the then Commanding Officer of TS Tobruk, CJN, and a cadet instructor who was at TS Tobruk when she joined in 2001. CJD disclosed her sexual relationship with CJK, informing them that it had developed when she was a cadet.

CJD said, ‘I’m opening a can of worms, aren’t I?’, to which CJN replied, ‘Yes, you are, but we won’t say anything because CJL is related to CJK’. CJL was the Commanding Officer at the time CJD joined TS Tobruk.

CJD gave evidence that, as a result of the abuse, she suffered from depression and anxiety and wanted to end her life. She described her struggle with repairing her relationship with her family and feeling like she ‘let everyone down’.

## Mr Aaron Symonds

In 1996, when he was 13 years old, Mr Aaron Symonds joined the AAFC in Cleveland, Queensland.

While on a RAAF base for an AAFC activity at age 16, Mr Symonds said that Mr Todd Oakley, a civilian staff instructor aged in his mid-twenties, offered him a cigarette and then massaged his back

and fondled his earlobe and neck area. Mr Symonds said that later that year he was sexually abused by Mr Oakley on two occasions.

Mr Symonds did not report the sexual abuse at the time because he wanted a career in the ADF and did not want to risk the AAFC finding out and discharging him. In 2001 Mr Symonds left the AAFC and subsequently joined the Australian Regular Army, where he served until 2007.

When Mr Symonds was about 30 years old, he contacted the AAFC to become an instructor but withdrew his interest after discovering that Mr Oakley held a position of authority within the AAFC. The following year, in April 2014, Mr Symonds disclosed his allegations of sexual abuse to Mr Michael Brett, Commanding Officer.

The AAFC commissioned an investigation, suspended Mr Oakley and referred the matter to the Queensland Police Service. Upon confirmation that the matter was under police investigation, the AAFC ceased its investigation. Mr Oakley's suspension remained in place.

The police did not proceed to charge Mr Oakley and informed the AAFC of this decision on 27 August 2015. On the basis that Mr Oakley had not been charged, his employment as an AAFC instructor was reinstated. The AAFC did not continue its internal investigation of the allegations against Mr Oakley after the police decided to cease their investigations.

Defence acknowledged that the AAFC should not have relied solely upon the outcome of the police investigations and should have undertaken further follow-up actions within the AAFC. We accept those concessions. In relying on the outcome of the police investigation and failing to complete its internal investigation, the AAFC reinstated Mr Oakley without proper investigation of the allegations against him, which exposed cadets to a risk of sexual abuse.

In this particular instance, we conclude that the AAFC failed in its obligations to maintain a child safe organisation. It can never be appropriate to rely on the criminal justice system, particularly when it requires proof beyond reasonable doubt. It is the institution itself that has the obligation to ensure the safety of children who are involved in it.

Mr Symonds gave evidence of the impact of the sexual abuse on his mental health, military career and employment prospects. He said that he became suicidal after reporting the sexual abuse to the AAFC.

## The matter of Christopher Adams

The public hearing examined the response of the AAFC to complaints of sexual relationships between an adult instructor, Christopher Adams, and two female cadets, CJG and CJE, between 2012 and 2013.

In 2009, when they were 13 years old, both CJG and CJE joined the AAFC. They met Adams while attending AAFC courses during 2011, when they were both 15. Adams was about 20 years old at the time. He was a RAAF firefighter who attended AAFC courses as an adult ranked staff instructor.

At an AAFC course in September 2012, Adams made sexual advances to CJG and CJE and remained in regular contact afterwards, when his exchanges became more sexual in nature. At a further course in January 2013, Adams sexually assaulted both CJG and CJE, who were both then aged 17.

We heard evidence that Adams's behaviour came to the attention of at least one adult instructor, who observed him sending sexually explicit text messages to CJE. We are satisfied that the AAFC was aware of concerns regarding Adams's behaviour that were sufficient to raise a reasonable suspicion that he was engaging in inappropriate behaviour of a sexual nature with cadets.

The AAFC did not respond to those concerns, and this allowed Adams to continue to engage in inappropriate behaviour and eventually to commit sexual offences against CJE and CJG.

Sometime after the January 2013 course, CJE told her ex-boyfriend, CJQ, that she had had sex with Adams. On 22 May 2013 CJQ reported Adams's sexual contact with CJE to his Commanding Officer.

The AAFC instigated an Initial Assessment Review (IAR). Ms Sharon O'Donnell was appointed to conduct the IAR. She did not have experience in dealing with an allegation of an inappropriate relationship between an adult instructor and a cadet or any experience in conducting an IAR. Ms O'Donnell made telephone calls to CJE and CJG based on a script that was the subject of evidence in the hearing.

After their initial telephone calls with Ms O'Donnell, CJG was 'petrified and started crying. It felt like the end of the world as I felt like I was going to lose cadets after dedicating five years of my life to it', and CJE felt like her 'world had crumbled'. CJE was 'ashamed and embarrassed. [She] was worried that [her] reputation in the AAFC had been ruined'.

We consider that the manner in which the AAFC conducted the IAR was deficient in several respects. The seriousness of the allegations required the appointment of an experienced investigator, yet the IAR was conducted by a person with no experience or training in conducting an IAR or in dealing with an allegation of an inappropriate relationship between a cadet and an instructor.

The approaches to the teenage victims required care. We find that the IAR was conducted in an insensitive manner. The process adopted for the investigation, as suggested in the script, implied that the victims of abuse were themselves the subject of allegations.

The IAR recommended that a full inquiry be conducted and that Adams be suspended, both of which occurred.

In Australia, there are legislative provisions that make it an offence for a person in a supervisory role to have sexual intercourse or intimacy with a person under their 'special care' who is aged between 16 and 18 years. In June 2013 the AAFC received legal advice indicating that, while it was not clear whether CJE was under the 'special care' of Adams for the purposes of the *Crimes Act 1900* (NSW), there was sufficient information to refer the matter to the police.

The matter was referred to police and the AAFC inquiry was suspended. In December 2015 Adams pleaded guilty to five charges, three of which related to sexual intercourse with CJE and CJG while they were under his care. He was sentenced to two years imprisonment with a 14-month non-parole period. CJG recalled that at the sentencing hearing Adams said that he knew his conduct breached AAFC policy, but he thought the age of consent was 16 and he did not know his actions were criminal.

CJG said that her relationship with her family has been destroyed because the way the AAFC handled its investigation led her parents to believe that the situation was her fault and not serious. She said she has struggled to form meaningful relationships because she does not trust people and that sometimes she wished that she could go to sleep and not wake up.

CJE said that the way the AAFC handled the investigation broke her trust in the AAFC. She gave evidence that as a result of the abuse she had been diagnosed with depression, her self-confidence has declined and she feels that she has been labelled a victim.

## Policies of the ADF Cadets since 2000

The Royal Commission was provided with policy guides and training manuals of the ADF Cadets that deal with sexual offences and the age of consent. A 2008 Behaviour Policy and a 2015 Behaviour Instruction define 'sexual offence' as an 'action that is explicitly sexual in nature', which may be carried out with or without the consent of the complainant. Both documents state that the 'law' regards complainants 'under 14 years old' as being too young to consent.

Mr Terrence Delahunty, Director General Cadets – Air Force between February 2014 and the present, accepted that this was an egregious error and that it was 'terrible' that the error had been there for that long and had not been corrected.

None of the policy guides and training manuals mention the special care provisions.

We find that since at least 2000 the policy guides and training manuals of the ADF Cadets and the AAFC regarding the legal age of consent and the effect of special care provisions were incorrect, incomplete and misleading. The documents did not address the variances in the legal age of consent across the different jurisdictions in Australia and failed to take into account special care provisions at

all. The deficiencies in the documents increased the risk of child sexual abuse and had the potential for serious consequences for those who relied on them in good faith.

In its submissions to the Royal Commission, Defence acknowledged the 'shortcomings' of the ADF Cadets and AAFC policies and training manuals and submitted that Defence has been reviewing and amending its policies and training manuals.

Further, Defence submits that it has undertaken to reform the ADF Cadets, including to adopt a 'One Cadet' organisational model.

Defence acknowledges that the evidence before the Royal Commission has identified that, at particular points in time and at particular locations, Defence has failed to meet best practice in ensuring a child safe organisation. Defence says that, in light of the reforms referred to above, ADF Cadets now has an appropriate organisational structure which provides the foundations for a safe environment for children participating in ADF Cadets.

# 1 The Australian Defence Force

In Case Study 40 the Royal Commission examined the institutional response of the Australian Defence Force (ADF) to child sexual abuse. As part of its examination, the Royal Commission heard evidence from survivors and institutional witnesses in relation to child sexual abuse at the following institutions that the ADF operated:

- HMAS Leeuwin (Leeuwin) between 1960 and 1980
- the Army Apprentice School, Balcombe (Balcombe), between 1970 and 1980
- Australian Defence Force Cadets (ADF Cadets) between 2000 and the present time.

The Royal Commission also considered the approach that the Commonwealth Department of Veterans' Affairs (DVA) and the Commonwealth Department of Defence (Defence) took to claims for compensation that survivors made for the sexual abuse they experienced as children during service.

## 1.1 Organisational structure

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The ADF is the military organisation responsible for the defence of Australia. It is constituted under the *Defence Act 1903* (Cth).<sup>1</sup> The mission of the ADF is to defend Australia and its national interests. In fulfilling this mission, the ADF serves the Australian Government of the day and is accountable to the Australian Parliament for efficiently and effectively carrying out the government's defence policy.<sup>2</sup>

The ADF consists of three arms or 'services':

- the Royal Australian Navy (Navy)
- the Australian Army (Army)
- the Royal Australian Air Force (Air Force).

There are a number of 'tri-service' units, spanning each of the three services, including the Australian Defence Force Academy (ADFA) and the ADF Cadets.

As at 2016, Defence's workforce comprised approximately:

- 58,000 permanent members of the ADF
- 19,500 paid and active Reservists
- 17,900 full-time Australian Public Service (APS) employees.<sup>3</sup>

## Command of the Australian Defence Force

### Minister of Defence

Under section 8 of the Defence Act, the Minister of Defence is entrusted with ‘the general control and administration of the [ADF]’.<sup>4</sup>

### Chief of the ADF and Secretary of Defence

The Chief of the ADF and the Secretary of Defence are jointly responsible for the administration of the ADF. In carrying out their functions, they must comply with any directions of the Minister.<sup>5</sup>

The Chief of the ADF has operational command responsibility for the ADF and is also the principal military adviser to the Minister of Defence.<sup>6</sup>

### Vice Chief of the ADF

The Vice Chief of the ADF is responsible for assisting the Chief of the ADF in the command and administration of the ADF.<sup>7</sup> The Vice Chief of the ADF has two principal roles:

- as the military deputy to the Chief of the ADF
- managing Defence’s capital investment program and providing a range of joint services to the ADF such as ‘joint logistics’, ‘joint health’ and ‘joint education’.<sup>8</sup>

Relevantly, the Vice Chief of the ADF is responsible for:

- developing and implementing common overarching policies relating to the ADF Cadets
- directing the respective Chiefs of the Navy, Army and Air Force (Service Chiefs) to administer their respective service cadet organisations in accordance with those policies.<sup>9</sup>

## 1.2 Children in the Australian Defence Force

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The minimum age for enlistment into the ADF has varied over time. The Royal Commission heard that the training programs at Leeuwin and Balcombe were open to children from as young as 15 years old.<sup>10</sup>

The current minimum age for recruitment into the ADF is 17.<sup>11</sup> However, children are eligible to apply for a career in the Navy, Army or Air Force when they are 16 years and six months old.<sup>12</sup>

The ADF actively encourages children to start thinking about a career in the ADF from the age of 10. Children are able to join the ADF Cadets when they turn 13.<sup>13</sup>

## 2 HMAS Leeuwin

The public hearing examined the experiences of five survivor witnesses who were junior recruits at Leeuwin between approximately 1967 and 1971: CJA, Mr Graeme Frazer, CJT, Mr Glen Greaves and CJB. Those witnesses described the sexual and physical abuse perpetrated on them by other recruits and staff members at Leeuwin. The evidence of their abuse is set out at section 2.2.

The Royal Commission also heard evidence from four institutional witnesses regarding the response to allegations of child sexual abuse at Leeuwin:

- Mr Geoffrey Curran was a Divisional Officer at Leeuwin between 1965 and 1966 and again between 1970 and 1972. Both Mr Greaves and CJT identified Mr Curran as their divisional officer when they were at Leeuwin.<sup>14</sup>
- Mr Peter Sinclair was Executive Officer at Leeuwin from 1972 to 1974. He was responsible for the day-to-day running of Leeuwin during that period.<sup>15</sup> Mr Sinclair was appointed to 'shake it up' following the findings of the *Report of an investigation into allegations of initiation practices, physical violence and bullying at HMAS Leeuwin and on board HMAS Sydney* (Rapke report) in 1971 (discussed in section 2.4). He gave evidence of various changes he introduced to try to address the shortcomings identified in the Rapke report.
- Mr Laurence Watson was the secretary to the Commanding Officer at Leeuwin between 1971 and 1973.<sup>16</sup>
- Mr Peter Ball was the chaplain at Leeuwin from 1967 to 1969. CJA identified Mr Ball as someone to whom he disclosed physical and sexual abuse at the time.<sup>17</sup>

### 2.1 Institutional overview

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Leeuwin was a Navy shore base located in Fremantle, Western Australia. It functioned as a training establishment for junior recruits entering the Navy from 1960 to 1984.<sup>18</sup> Over that period, it accommodated and trained approximately 13,000 boys aged between 15 and 16 years at their time of entry into the Navy.<sup>19</sup>

The recruitment of boys through the junior recruit entry scheme was suspended in 1984, and Leeuwin was decommissioned as a naval base in November 1986. Today, it continues to be used as a Defence base. It is known as Leeuwin Barracks.<sup>20</sup>

### Organisational structure and operation

#### Command structure

The command structure at Leeuwin was based on that of a regular Navy ship. It comprised:<sup>21</sup>

- the Commanding Officer, who was an officer with the rank of Commodore or Captain<sup>22</sup>
- the Executive Officer, who was second in command and was responsible for the day-to-day running of the establishment.<sup>23</sup> The Executive Officer was responsible for overseeing junior recruit training as well as leading the naval staff at Leeuwin<sup>24</sup>
- the heads of department, who were responsible for supply and secretariat, education, training, healthcare and engineering.<sup>25</sup>

## The divisional system

When junior recruits arrived at Leeuwin, they were organised into divisions.<sup>26</sup> Each division contained at least 100 and, in some cases, more than 200 junior recruits.<sup>27</sup> Junior recruits attended classes and naval training with members of their division.<sup>28</sup>

The Royal Commission heard that the welfare and discipline of junior recruits was primarily dealt with within 'the envelope' of the divisional system.<sup>29</sup>

Each division typically comprised the following staff members (Divisional Staff):

- The Divisional Officer, who had an overseeing role, was the most senior member of the Divisional Staff and had overall responsibility for the welfare and progress of the junior recruits in their divisions.<sup>30</sup>
- The Chief Petty Officer, who was second in charge of the division, oversaw all activities within the division in preparation for the overseeing role of the Divisional Officer.<sup>31</sup>
- The Leading Seaman was responsible for maintaining records for each junior recruit, including academic and incident reports, and communications received.<sup>32</sup>
- The Able Seaman was responsible for ensuring that junior recruits adhered to their daily routine.<sup>33</sup>

## Junior recruit ranking

### Junior recruits

Junior recruits typically entered Leeuwin when they were 15 years and six months of age and graduated from Leeuwin when they were 16 years and six months of age.<sup>34</sup>

Upon entering Leeuwin, junior recruits were ranked as 'Junior Recruit Second Class'. After six months of their training, they progressed to 'Junior Recruit First Class'.<sup>35</sup>

There were four quarterly intakes of junior recruits per year, commencing in January, April, July and October.<sup>36</sup>

The number of junior recruits in each intake varied, but a population of approximately 800 junior recruits was maintained between the years 1960 to 1978.<sup>37</sup> At times, the population of junior recruits at Leeuwin rose to as many as 1,000.<sup>38</sup>

### Leading junior recruits

Junior recruits could be selected as Acting Leading Junior Recruits in their first six months at Leeuwin. They could progress to Leading Junior Recruit in their second six months at Leeuwin.<sup>39</sup> There were two Leading Junior Recruits in each division.<sup>40</sup>

Acting Leading Junior Recruits and Leading Junior Recruits were responsible for:

- supervising junior recruits in the accommodation blocks
- making sure that the accommodation blocks were kept tidy
- ensuring that lights were out at the designated time and that noise was kept to a minimum.<sup>41</sup>

In order to carry out these duties, Acting Junior Recruits and Leading Junior Recruits were given authority to give direct orders to other junior recruits.<sup>42</sup>

In return for the performance of these duties, Leading Junior Recruits received additional pay and were allowed certain privileges, such as going to the head of the queue at meal times and receiving additional leave entitlements.<sup>43</sup>

The Royal Commission heard evidence that, after lights out at night, staff relied on Leading Junior Recruits to supervise junior recruits.<sup>44</sup>

### Junior recruit training program

The junior recruit training program at Leeuwin lasted 12 months and included academic classes, physical training and courses in seamanship.<sup>45</sup> The primary purpose of the training program was to prepare junior recruits for life and work in the Navy.<sup>46</sup>

From January 1970, junior recruits could request an 'optional discharge' from the Navy after three months of their training.<sup>47</sup> Junior recruits had to make a request for discharge to their Divisional Officer and then meet with the Executive Officer for questioning.<sup>48</sup>

At the completion of the 12-month program at Leeuwin, junior recruits who showed potential could be selected for further officer training.<sup>49</sup> Those who were not selected were typically posted directly from Leeuwin to operational ships in the Navy, where they started with the rank of Ordinary Seaman.<sup>50</sup>

## Accommodation

Junior recruits were accommodated in shared accommodation blocks according to their division.<sup>51</sup> Each block contained approximately 200 junior recruits.<sup>52</sup>

The accommodation blocks consisted of three-storey brick buildings,<sup>53</sup> which were always unlocked.<sup>54</sup>

Each storey of the accommodation blocks contained a number of small rooms, or 'dongas', on either side of a long passageway.<sup>55</sup> Each room could sleep four junior recruits and was furnished with steel bunks and built-in lockers.<sup>56</sup> There were no doors between the rooms and the passageway.

There were showers and toilets at one end of each floor of the accommodation blocks.<sup>57</sup>

A divisional office for Divisional Staff was located on the ground floor of each of the accommodation blocks.<sup>58</sup> An office for the Divisional Officer was located on the second floor of each block.<sup>59</sup>

The Divisional Staff had separate accommodation, so they rarely slept in the accommodation blocks with the junior recruits.<sup>60</sup> Instead, a Divisional Staff member conducted duty watch in the accommodation blocks at night on a rostered basis.<sup>61</sup> The junior recruit accommodation blocks were out of bounds to all Leeuwin staff members unless they were on duty.<sup>62</sup>

## Complaints handling at Leeuwin

The general policies and procedures for the administration and organisation of Leeuwin were outlined in:

- the Queen's Regulations and Admiralty Instructions, as varied by the Regulations and Instructions for the Royal Australian Navy ABR 5016 (RAN Regulations and Instructions)<sup>63</sup>
- General Navy Orders<sup>64</sup>
- the HMAS Leeuwin Ship's Standing Orders (Leeuwin's Standing Orders).<sup>65</sup>

The general complaint procedure, as it applied in 1970, provided that any person in the Navy could bring a complaint relating to his welfare, conditions of service, injustice or ill-treatment without risk of penalty.<sup>66</sup>

The procedure provided that, in the first instance, complaints were required to be brought to the Divisional Officer.<sup>67</sup> If the complaint was not one which the Divisional Officer could deal with himself, the Divisional Officer was required to bring the complaint to the attention of the Executive Officer and subsequently, if necessary, to the Commanding Officer.<sup>68</sup>

All Divisional Staff also had a positive responsibility to keep themselves ‘informed of any cause of complaint or dissatisfaction among the men’ in the division so that those issues could be brought to the attention of the Divisional Officer and investigated.<sup>69</sup> This obligation applied equally to the Divisional Officer himself.<sup>70</sup>

The Divisional Officer also had a positive duty to ‘keep in close touch’ with the junior recruits in his division<sup>71</sup> to ensure that junior recruits understood the correct procedures for making a complaint;<sup>72</sup> and to give care and attention to all complaints made and investigate them as soon as possible.<sup>73</sup>

Vice Admiral Raymond Griggs, the current Vice Chief of the ADF, gave evidence that, as a part of their initial training, all junior recruits were given lectures on naval discipline, general service behaviour and their rights with respect to redress of grievances and complaints.<sup>74</sup>

Junior recruits were provided with a Leeuwin Junior Recruit’s Handbook, which set out various rules and regulations regarding the life of junior recruits at Leeuwin. Notably, the handbook provided that junior recruits were to report any complaint to their Divisional Officer.<sup>75</sup> The handbook also provided that junior recruits could make ‘requests’ to see the Divisional Officer, Training Officer, Executive Officer or the Captain for any reason.

## 2.2 The experiences of former recruits

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CJA, Mr Frazer, CJT, Mr Greaves and CJB gave evidence about their experiences while at Leeuwin between 1967 and 1971, including their experiences of sexual and physical abuse. They each told the Royal Commission about the impact the abuse has had on their lives.

### The institutional environment

The survivor witnesses gave evidence that, when they arrived at Leeuwin, the senior recruits created an environment that made them feel intimidated.

CJA recalled being greeted by senior recruits slamming their fists into their palms and shouting threats about money and cigarettes.<sup>76</sup>

CJT said that, when he arrived at Leeuwin, the senior recruits gathered outside and shouted ‘look, fresh blood’, ‘the girls have arrived’ and ‘that one’s mine’. He said it made him feel intimidated.<sup>77</sup>

The Royal Commission heard that there was an unofficial hierarchy among recruits at Leeuwin based on when they started. Junior recruits in their first three months were referred to as 'new grubs'. The more senior intake to 'new grubs' were known as 'grubs'. The more senior intake to 'grubs' were known as 'shits', and the most senior intake were known as 'top shits'.<sup>78</sup>

CJT told the Royal Commission that, within this hierarchy, the 'top shits' had the power to order and control the other recruits and that any recruit who questioned the 'top shits' became a target.<sup>79</sup>

CJB said that the 'top shits' had the run of the place, while the 'new grubs' were at the lowest of the hierarchy and exposed to the most abuse from other recruits.<sup>80</sup>

## Sexual abuse

All survivor witnesses gave evidence that, as the 'new grubs' at Leeuwin between 1967 and 1971, when they were 15 or 16 years old, they were sexually and physically abused by more senior recruits. Two survivors gave evidence that they were also sexually abused by staff members.

The survivor witnesses gave evidence of being subjected to serious and degrading forms of sexual abuse, including fondling of genitals, masturbation, oral sex and anal penetration by a penis or other object. They gave evidence that these incidents of sexual abuse occurred in the context of violent physical assaults and sometimes resulted in serious physical injuries.

## CJA

CJA entered Leeuwin as a junior recruit in 1967, when he was 16 years old.<sup>81</sup>

CJA told the Royal Commission that at Leeuwin he was subjected to 'homosexual games' played by other recruits. During those games he was forced to perform oral sex on other junior recruits or masturbate them.<sup>82</sup> He said that on multiple occasions he was dragged out of bed by older recruits and forced to perform oral sex on them. On some of these occasions, he was raped or forced to have anal sex with other junior recruits, who were under the instruction of older recruits or a staff member.<sup>83</sup>

CJA gave evidence that he was a victim of 'midnight raids' during which he was woken up in his bed by punches from senior recruits. He said that he was sometimes beaten on the genitals or had his penis rubbed until he had an erection. He said that staff sometimes participated.<sup>84</sup>

CJA gave evidence that he ran away from Leeuwin to stop the abuse from occurring. He said that he was eventually returned to Leeuwin and held in a lockup cell for a number of weeks. He said that during this time he was sexually and physically abused on multiple occasions by the Navy police. The abuse included oral sex, masturbation and anal rape.<sup>85</sup>

## Mr Graeme Frazer

Mr Frazer entered Leeuwin as a junior recruit in 1967, when he was 16 years old.<sup>86</sup>

Mr Frazer told the Royal Commission that on two occasions he was held down by senior recruits and recruits from his own class, stripped naked and had boot polish forcibly applied to his genitals – a practice known as ‘nuggeting’.<sup>87</sup>

## CJT

CJT entered Leeuwin in 1971, when he was 15 years old.<sup>88</sup>

CJT gave evidence that he witnessed a recruit sexually proposition two other junior recruits. He reported the incident, and he was placed on open arrest and threatened with dishonourable discharge.<sup>89</sup>

CJT said that, shortly after this incident, he was violently sexually and physically abused by a group of recruits in the showers after refusing to perform oral sex on one of the recruits. CJT said that he was kicked and punched in the face, was pinned naked on the ground and had shoe polish applied to his penis and scrotum. He said he did not see any staff in the block before or during the abuse.<sup>90</sup>

## Mr Glen Greaves

Mr Greaves entered Leeuwin as a junior recruit in 1971, when he was 15 years old.<sup>91</sup>

Mr Greaves gave evidence that he was sexually abused in the toilet blocks and in the showers on three occasions during his first six months at Leeuwin. He said that, on the first occasion, he was dragged from his bed to the toilet block by four ‘top shits’, where he was anally penetrated with a broomstick and forced to lick the urinal. Mr Greaves recalled that the divisional office was empty at the time of the abuse. He said that, on two further occasions, he was sexually abused with a wooden broomstick in the showers by the same ‘top shits’.<sup>92</sup>

Mr Greaves told the Royal Commission that, on one occasion, he and a Leading Seaman witnessed a junior recruit running out of the toilet with blood running down his legs. Mr Greaves said he felt that the Leading Seaman deliberately chose not to notice what he had seen.<sup>93</sup>

## CJB

CJB entered Leeuwin as a junior recruit in 1971, when he was 15 years old.<sup>94</sup>

CJB told the Royal Commission that within the first three weeks of arriving at Leeuwin he was sexually abused by a Divisional Officer, Chief Petty Officer Cross. CJB said that Chief Petty Officer Cross forced him to perform oral sex on him and then called him a 'dirty little piece of shit'.<sup>95</sup>

## 'Bastardisation' practices

The survivor witnesses gave evidence that, shortly after commencing at Leeuwin, they experienced practices of 'bastardisation', including:

- 'blackballing' or 'nuggeting' – a practice that involved a junior recruit being held down by other recruits while boot polish, toothpaste or another substance was forcibly smeared on his genitals or anal area, sometimes with a hard brush
- being 'filled in' – being physically assaulted or bashed
- 'royal flush' – a practice which involved junior recruits holding the head of another recruit in the toilet bowl and flushing, sometimes after the toilet had been used
- 'running the gauntlet' – a practice which involved junior recruits arranging themselves into two lines facing each other, usually along a corridor or staircase, while holding heavy items. Other junior recruits were forced to run through the centre of the lines while the junior recruits standing in the lines beat them with the heavy items
- 'scrubbing' – a practice in which junior recruits were forcibly scrubbed with hard-bristled brooms or scrubbing brushes and abrasive cleaning products
- 'gotcha' – a practice which involved the grabbing or pinching of a junior recruit's genitals and saying 'gotcha'.

Mr Frazer and CJT described being 'nuggeted' or 'scrubbed' by other recruits.<sup>96</sup> CJT told the Royal Commission that on one occasion a group of recruits applied shoe polish to his penis and scrotum and started scrubbing them with a brush. Mr Frazer gave evidence that the practice of 'nuggeting' was not uncommon at Leeuwin.<sup>97</sup>

Some survivor witnesses gave evidence that they were made to 'run the gauntlet' by other recruits.<sup>98</sup> CJA described being made to 'run the gauntlet' on two occasions. He said that he also witnessed other junior recruits being forced to do the same. CJA said that the 'new grubs' were rounded up, stripped naked and forced to run through long corridors while older recruits hit them with pillows filled with bottles, old cans and football boots.<sup>99</sup>

Mr Greaves told the Royal Commission that he was a victim of the 'royal flush'.<sup>100</sup> He said that, a month after he was first sexually abused, the 'top shits' forced his head into a toilet filled with faeces and his mail.<sup>101</sup>

## Other forms of physical abuse

All survivor witnesses gave evidence of being physically abused by more senior recruits.<sup>102</sup>

CJA described being physically abused by senior recruits in the shower blocks.<sup>103</sup> He said that, on some occasions, he was hauled out of bed and thrown into cold showers. On other occasions, he was taken outside and beaten on the back with a large lump of wood by both older recruits and base staff. He said that after some of these attacks he was forced to carry junior recruits on his back while bent over or in the 'duck walk' position.<sup>104</sup>

Mr Frazer said that his physical abuse occurred in his dormitory after the evening meal within weeks of arriving at Leeuwin. He said that the 'top shits' forced the junior recruits to fight them and each other.<sup>105</sup>

CJT said that in his second week at Leeuwin he was 'king hit' and knocked unconscious by two 'top shits'. He said that he was also physically abused in the showers during his sexual abuse by the group of recruits. He recalled being kicked and punched in the face.<sup>106</sup> CJT told the Royal Commission that staff saw physical abuse occurring at Leeuwin, although they never intervened.<sup>107</sup>

Mr Greaves gave evidence that he was physically abused by the 'top shits' within a week of arriving at Leeuwin, and the physical abuse became a regular occurrence. He said that the abuse occurred at meal times in the dining hall.<sup>108</sup>

CJB said that, within his first month at Leeuwin, he was knocked out by another recruit. He said that, within his first three months, he had also suffered a broken nose and had four teeth knocked out as a result of physical assaults by the 'top shits'.<sup>109</sup>

## The impact of the abuse

Many of the survivor witnesses have experienced mental health problems, including anxiety, depression and nightmares.<sup>110</sup> CJB and Mr Greaves have been diagnosed with post-traumatic stress disorder (PTSD) as a result of the abuse they experienced at Leeuwin.<sup>111</sup>

Mr Greaves also reported having attempted or contemplated suicide.<sup>112</sup> He told the Royal Commission that in 2011 he attempted suicide, although he was stopped by his son.<sup>113</sup>

Mr Frazer told the Royal Commission that he had so little regard for his life that he changed his name, as he 'did not want to be the person [he] had been for so many years'.<sup>114</sup> He said he has also had difficulty finding and maintaining employment.<sup>115</sup>

Some survivor witnesses gave evidence that they suffered from alcohol abuse.<sup>116</sup> CJT told the Royal Commission that he first started drinking heavily at Leeuwin. At the time of the public hearing, he remained an alcoholic.<sup>117</sup>

CJA, Mr Greaves and Mr Frazer told the Royal Commission that the abuse had caused or exacerbated physical health problems.<sup>118</sup>

Many of the survivors gave evidence of the impact of the abuse on their relationships.<sup>119</sup> Some survivors attributed the breakdown of their marriages to the toll the abuse had taken.<sup>120</sup> Others spoke of the problems they had in relationships with their children.<sup>121</sup> CJA gave evidence that he distrusts men and is unable to form normal male relationships.<sup>122</sup>

## 2.3 Reporting of child sexual abuse at Leeuwin

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### Disclosures of child sexual abuse

Some survivor witnesses gave evidence that they disclosed the sexual abuse they experienced to staff members at Leeuwin. For these survivors, the immediate response to their disclosures of abuse was actual or threatened discharge, no action at all, or staff not believing the report.

#### Actual or threatened dishonourable discharge

CJA said that he initially attempted to report his abuse to staff members, but he said that no action was taken. He said that, as a result, he decided to run away from Leeuwin. He believed that, if he ran away for long enough, he would be considered a deserter and would receive a court martial, where he could expose the abuse that was occurring. He told the Royal Commission that he surrendered himself and was returned to Leeuwin.<sup>123</sup>

CJA gave evidence that before the court martial he disclosed the abuse to Lieutenant Commander John Johnson, as he trusted him to expose the conditions at Leeuwin. CJA said that in front of the court martial Lieutenant Commander Johnson described him as a 'trouble maker' and did not discuss the abuse. As a result, CJA was 'dishonourably discharged'.<sup>124</sup>

CJT said that, after he had witnessed a recruit sexually proposition two other junior recruits, he reported the incident. He said that after he reported he was placed on open arrest and was required to appear before Commodore Ramsey, who accused him of lying and threatened to dishonourably discharge him. He said this prevented him from reporting any further incidents.<sup>125</sup>

## No action taken by staff

CJA said that when he disclosed the physical and sexual abuse to Mr Ball, a Navy chaplain at Leeuwin, and sought advice, he was told that ‘it might be better not to do anything. If it ever got out that you had “ratted” on your predators, your life might be in danger’. He said that at the time he hoped Chaplain Ball would bring the complaint to the attention of the base commander but, to his knowledge, no action was taken.<sup>126</sup>

Mr Frazer said that he made two formal reports to his Divisional Officer, Frank McCarthy, about the harsh treatment he was receiving from the senior recruits. He said that Divisional Officer McCarthy responded by saying that the treatment was a ‘rite of passage to the real navy’ and that he would ‘get through it’. He gave evidence that after this discussion he knew nothing would be done.<sup>127</sup>

## Victims not believed

CJT said that Commodore Ramsey accused him of lying about sexual propositions he had witnessed between recruits.<sup>128</sup>

CJB said that when he reported the sexual abuse he experienced to Lieutenant Commander Johnson, he was told not to be such a ‘fuckin’ baby’ and not to go ‘making things up just because you can’t handle it’.<sup>129</sup>

## Reasons for not reporting child sexual abuse

Many survivor witnesses told the Royal Commission that they did not report the sexual abuse at the time it occurred for one or more of the following reasons.

### Fear of retribution and being labelled a ‘dobber’

Some survivor witnesses gave evidence that a fear of retribution from other recruits and being labelled a ‘dobber’ prevented them from reporting the sexual and physical abuse they experienced.<sup>130</sup>

Mr Frazer said that he never reported any of the injuries he sustained because he understood that ‘[y]ou just didn’t “dob”’.<sup>131</sup>

Mr Greaves told the Royal Commission that after he was sexually abused the ‘top shits’ told him that, if he reported the abuse to anyone, they would come back for him.<sup>132</sup>

## Fear of punishment by staff

CJB said that, after he was sexually abused by Chief Petty Officer Cross, he was told that, if he disclosed the abuse to anyone, he would not 'see the following morning'. He said that he attempted to report the abuse the next day but was threatened by Chief Petty Officer Cross.<sup>133</sup>

CJT said that his previous experience in reporting incidents of abuse, which resulted in a threat of dishonourable discharge, 'instilled a lifelong distrust of authority, and from that point on, [he] did not again willingly report any incident to staff for fear of similar repercussions'.<sup>134</sup>

In some cases, such as that of CJA set out above, the response to disclosure was punishment and further physical and sexual violence.

## Belief that no action would be taken

Mr Greaves told the Royal Commission that he attempted to report the sexual abuse to a Leading Seaman but was told 'if you've come here to fucking whinge, piss off now and harden up'. He said that, as a result, he made no further attempts to report his sexual abuse while at Leeuwin.<sup>135</sup>

CJB said that he did not attempt to report any further physical or sexual abuse while at Leeuwin because, after he was not believed by Lieutenant Commander Johnson, he felt that no one was going to listen to him.<sup>136</sup>

## Other reasons for non-disclosure

Mr Greaves and CJA said that a deterrent to reporting was the shame associated with the abuse.<sup>137</sup>

Mr Watson, a former secretary to the Commanding Officer at Leeuwin between 1971 and 1973, said that the military environment at Leeuwin was one that did not support 'complaining up'. He said:

Although the process and procedures were in place, I would not be surprised if a 16 year old junior recruit was too scared to complain up. Often, even adult staff were apprehensive about doing so. This is not because of any repercussions that might occur, but simply I think, because the process was a bit daunting to junior individuals in a hierarchical system.<sup>138</sup>

The Royal Commission was not provided with any documents setting out policies or procedures specifically for handling complaints of child sexual abuse. Vice Admiral Griggs confirmed in evidence that no such policies or procedures existed at the time and that complaints of child sexual abuse were required to be made under the general complaint procedure that applied within the Navy at the time, referred to in section 2.1 above.<sup>139</sup>

## Conclusion

We are satisfied that some junior recruits who did report sexual or physical abuse to staff members were not believed, were ‘dishonourably discharged’ or threatened with ‘dishonourable discharge’, were left feeling like no action had been taken or were told that abuse was a ‘rite of passage’.

A number of junior recruits who experienced child sexual abuse at Leeuwin did not report to anyone at the time because:

- they feared retribution from other recruits and being labelled ‘dobbers’
- they feared being discharged from the Navy
- they did not think any action would be taken, and/or
- they were humiliated and ashamed of the abuse.

## 2.4 Previous inquiries into abuse at Leeuwin

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### The Rapke report

The nature and extent of abuse at Leeuwin was the subject of an inquiry in 1971.

Following a highly publicised physical assault on Mr Shane Connolly, a junior recruit at Leeuwin, the then Minister of State for the Navy commissioned an inquiry into abuse at Leeuwin. The Royal Commission heard that, before the inquiry was instigated and in response to the Connolly incident, Defence took steps to address the levels of supervision at Leeuwin.<sup>140</sup>

The inquiry was undertaken by his Honour Trevor Rapke QC, a Judge of the Victorian County Court and honorary Judge Advocate of the Navy.<sup>141</sup> The inquiry was required to consider whether there was evidence of ‘the existence of any form of initiation or similar practices’ at Leeuwin involving ‘organised physical violence, degrading or bullying behaviour’ and, more broadly, whether there was a ‘pattern of undue physical violence or bullying among junior recruits’.<sup>142</sup>

In conducting his inquiry, Judge Rapke held private interviews with 467 witnesses, including junior recruits, ex-junior recruits, Leeuwin officers and training staff, and civilian witnesses. Judge Rapke also considered written memoranda and examined the medical records evidencing traumatic injuries treated at the sick bay at Leeuwin and at hospitals ashore.<sup>143</sup>

The findings of Judge Rapke’s inquiry into the nature and extent of abuse at Leeuwin were delivered to the Minister in two parts on 6 May 1971 and 3 July 1971. Collectively, these documents are referred to as the Rapke report.

Judge Rapke found that Leeuwin had been ‘the scene for unorganised and repetitive acts of bullying, violence, degradation and petty crime during most of the years of its existence’.<sup>144</sup> He found that these repetitive acts of bullying and physical violence had caused ‘deplorable’ physical and mental damage and had a ‘pernicious’ effect on a ‘young sailor at an early and impressionable time in his naval career’.<sup>145</sup>

Judge Rapke noted his surprise that many experienced staff members at Leeuwin believed that ‘bullying should not be stamped out entirely but merely controlled so that it did not go too far’.<sup>146</sup>

Judge Rapke found a culture of not ‘dobbing’ or reporting offences existed at Leeuwin and that senior recruits encouraged and enforced this culture.<sup>147</sup> He noted that this culture of not ‘dobbing’ or reporting offences caused recruits either not to report or to untruthfully explain the cause of physical injuries that they suffered:

The intimidation by bullies was so powerful that the most disillusioned, the most upset, most saddened and angered victims regarded themselves as bound to preserve a wall of stubborn silence as to the cause of their misery and the identity of their assailants.<sup>148</sup>

Judge Rapke found that bullying was accepted as ‘a way of behaviour on entry’ into Leeuwin and that this ‘bullying tradition’ was passed down between intakes of recruits: those who were victims of abuse when they first entered Leeuwin sometimes abused other junior recruits when they became senior recruits.<sup>149</sup>

Judge Rapke observed that the number of junior recruits who were choosing to leave the Navy before completing their training was ‘greater than normal’ and attributed this ‘drop-out rate’ to the prevalence of bullying at Leeuwin.<sup>150</sup>

Judge Rapke also noted with regret that a recommendation in Part 1 of his report, that the supervision of junior recruits be improved, did not appear to have been actioned by the time of publication of Part 2 of his report:

My own observations over a necessarily limited night programme of visits failed to make me aware of any supervision approaching the desirable, either at the officer or the sailor level ... My observations detected a 200-Block of 3 stories in which [the level of supervision] consisted of one 20 year old Able Seaman supervisor who had himself been a junior recruit two or three years earlier. This young man ... had no interest in his duties ... and had a lot to tell me of how he tried to do a job and of the failure he encountered at every level in attempting to prevent bullying ... At 20 years of age this supervisor was frustrated, without ideas other than the fixed one that it does not pay to be an idealist or a stirrer or a constructive disciplinarian.<sup>151</sup>

Despite these findings, Judge Rapke ultimately concluded that bullying and violence were not institutionalised, systemic or even particularly widespread at Leeuwin and that the officers who staffed the establishment were by and large upstanding men who carried out their duty of care with diligence.<sup>152</sup>

A number of survivors who gave evidence in this case study said that, in their view, the Rapke report was a 'cover up'<sup>153</sup> and '[swept] what was happening at Leeuwin under the carpet'.<sup>154</sup>

In its 2014 report on abuse at Leeuwin, the Defence Abuse Response Taskforce (DART) considered the findings of the Rapke inquiry. We discuss DART's report and findings in further detail below. DART concluded that the Rapke report minimised the extent and severity of abuse that junior recruits experienced at Leeuwin, noting that:

the positive tone and findings of the Rapke Report are not supported by Judge Rapke's research as reflected in the inquiry transcripts and other supplementary documents; nor are they supported by certain parts of the Rapke Report itself ... [a] detailed consideration of the Rapke Inquiry documents along with the personal accounts contained in more than 200 complaints of abuse, have led [DART] to conclude that abuse at HMAS Leeuwin was far more serious and more widespread than is reflected in the Rapke Report.<sup>155</sup>

Defence accepts that the conclusions of DART are correct: the Rapke report minimised the extent and severity of abuse by junior recruits at Leeuwin at the time. Abuse at Leeuwin was far more serious and more widespread than is reflected in the Rapke report. The findings that Judge Rapke made on what was occurring at Leeuwin do not support his conclusions that bullying and violence were not institutionalised or systemic or even widespread.<sup>156</sup>

Even taking into account these criticisms of the Rapke report, after the Rapke report was provided to the Minister in 1971, Defence was on notice that:

- unacceptable behaviour, including bullying, physical violence and degradation, existed amongst junior recruits at Leeuwin
- some staff at Leeuwin tolerated this unacceptable behaviour
- incidents of bullying and physical violence were not reported, including to Judge Rapke, and therefore they were likely to be more widespread
- the supervision of junior recruits at Leeuwin was inadequate.

## Defence response to the Rapke report at the time

Staff at Leeuwin were not generally provided with a copy of the Rapke report, and its findings were not brought to their attention at the time.<sup>157</sup> Mr Watson, the secretary to the Commanding Officer at Leeuwin between 1971 and 1973, said that he was provided a copy of the Rapke report.<sup>158</sup> Thus, while the report was not distributed generally, it was made available to the new Commanding Officer and the Executive Officer, who were to implement reforms.

The Royal Commission heard evidence that the publication of the Rapke report led to the introduction of a number of changes at Leeuwin.

First, Leeuwin orders and documents were changed to specifically state that violence and bullying were offences and to require that such offences be reported.<sup>159</sup>

Second, efforts were made to increase supervision of junior recruits in the accommodation blocks.<sup>160</sup> The success of these efforts is discussed further below.

Third, a new Commanding Officer and Executive Officer (namely, Commodore PH Doyle and then Commander (now Rear Admiral) Sinclair) were appointed and tasked with addressing the shortcomings that the Rapke report had identified.<sup>161</sup>

CJB told us that, when he returned to Leeuwin in January 1972, 'life was completely different. The Divisional Officers were much nicer and life for the nine months at Leeuwin was much better than my first three months'.<sup>162</sup>

On the basis of complaints data presented in the DART report on abuse at Leeuwin, it is likely that there was a reduction in incidents of physical and sexual abuse after the changes that were put in place after the Rapke report. Defence submits, and we accept, that it can reasonably be inferred from the reduction in complaints after 1972 that Defence's response to the Rapke report was successful in reducing incidents. Between 1972 and 1982, abuse continued to occur at Leeuwin, albeit there was a substantially reduced number of incidents.<sup>163</sup>

## The Defence Abuse Response Taskforce

In 2012, the Commonwealth of Australia established DART as part of its response to the findings and recommendations of an independent review conducted in 2011. The independent review examined allegations of sexual and other abuse within the ADF, including historical abuse.<sup>164</sup>

DART was established to assess and respond to individual cases of alleged abuse within the ADF. DART assessed cases on a standard of 'plausibility' – that is, an appearance of reasonableness.<sup>165</sup> This standard of proof is lower than the civil standard – that is, the balance of probabilities.<sup>166</sup>

Seven survivor witnesses gave evidence that they participated in the DART process.<sup>167</sup>

If an allegation was found to be plausible, the complainant was eligible to be considered for one or any combination of outcomes provided by DART,<sup>168</sup> including:

- referral for free counselling
- reparation payment of up to \$50,000
- participation in the Defence Abuse Restorative Engagement Program, which gave complainants the opportunity to have their personal story of abuse heard, acknowledged and responded to by a senior Defence representative
- referral of appropriate matters to the civilian police for possible investigation and prosecution
- referral to the Chief of the ADF for administrative and/or disciplinary sanction or management action.<sup>169</sup>

Generally, DART found that a significant proportion of complaints were assessed as containing plausible cases of mismanagement of abuse by the ADF.<sup>170</sup>

## The DART report on abuse at Leeuwin

In 2014, DART published a report on abuse at Leeuwin based on the personal accounts of former junior recruits.<sup>171</sup> DART's report showed that abuse of junior recruits at Leeuwin in the 1960s and 1970s was widespread.<sup>172</sup>

DART found that:

- many junior recruits did not report abuse at the time for a number of reasons, including the culture at Leeuwin not supporting the reporting of abuse, the stigma and shame of being abused, fear of possible discharge, threats of further abuse and mistrust of staff<sup>173</sup>
- where junior recruits reported the abuse, only a small number of those were managed appropriately by Defence. The majority of reports were either not acted on or staff dissuaded junior recruits from continuing with a complaint. In some cases, junior recruits were not believed or were punished for reporting<sup>174</sup>
- staff at Leeuwin knew or ought to have known that the abuse was occurring,<sup>175</sup> and Defence failed to take appropriate action to prevent, stop or respond to the abuse.<sup>176</sup>

## 2.5 Responses to child sexual abuse at Leeuwin at the time

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### Awareness of child sexual abuse at Leeuwin

#### Direct knowledge of abuse

The Royal Commission heard from officers who held positions of authority at Leeuwin during the time of the abuse.

Mr Sinclair, an Executive Officer at Leeuwin between 1972 and 1974, gave evidence that he was aware of ‘very occasional reports [from Divisional Officers] of fighting and disorder’ within the junior recruit ranks<sup>177</sup> but had no knowledge of any incidents of sexual abuse. He said that he would have been surprised and disappointed if sexual abuse did occur.<sup>178</sup> He said that if any such incidents had come to his attention at the time he would have reacted ‘swiftly and firmly’.<sup>179</sup> He gave evidence that he went to ‘huge lengths’ to establish a rapport with the junior recruits, as he ‘wanted them to feel that they could speak to [him]’,<sup>180</sup> and to instil a duty to report within the junior recruits.<sup>181</sup>

Mr Curran, a former Divisional Officer from 1965 to 1966 and 1970 to 1972, gave evidence that he was rarely directly involved in any complaint or investigation of physical or sexual abuse while he was at Leeuwin.<sup>182</sup> He said that, if the types of abuse that the survivors described in the public hearing were reported to him at the time, he would have formally investigated the incidents and reported them to his Commanding Officer.<sup>183</sup>

Mr Curran told the Royal Commission that he was aware that there was a strong culture of not dobbing among the junior recruits.<sup>184</sup> He agreed that a very junior recruit who was abused would be very reluctant to ‘dob’ on the abuser.<sup>185</sup> He said that the ‘non-dobbing’ culture was part of the Australian culture at the time.<sup>186</sup>

Mr Greaves gave evidence that Mr Curran was directly involved in responding to an incident of bullying in which Mr Greaves’s head was pushed into a toilet containing his mail and human faeces. Mr Greaves said that he was called into Mr Curran’s office and told that he would be charged with blocking the toilet.<sup>187</sup>

Mr Curran could not recall the incident but said he could not believe that he would have said that he would charge Mr Greaves.<sup>188</sup> Mr Curran did not believe that Mr Greaves’s mail being found in the toilet was an example of an incident of some significance or indicative of bullying or abuse in the accommodation blocks.<sup>189</sup> Instead, Mr Curran told the Royal Commission that he considered such an incident might be indicative of a ‘frivolous disagreement’ between recruits in the accommodation blocks.<sup>190</sup>

We accept that Mr Curran cannot recall the incident. However, on the basis of Mr Greaves's detailed recollection of what was, for him, a memorable and distressing matter, we are satisfied that the incident occurred. We accept that Mr Greaves believed that Mr Curran might charge him for blocking the toilet.

Incidents such as the one that Mr Greaves described were not 'frivolous' and should have been treated as examples of serious misconduct and an indication that bullying was occurring in the accommodation blocks.

Mr Ball was a chaplain at Leeuwin from 1967 to 1969. He gave evidence that each night his chapel was a 'place of refuge' for some 100 junior recruits seeking to escape the 'bullying in the blocks'.<sup>191</sup>

Despite his evidence of the chapel as 'refuge', Mr Ball said he had no memory of any complaint of abuse having been brought to him and that he never probed junior recruits about such incidents.<sup>192</sup> Mr Ball was not aware of any specific incidents of bastardisation or 'rites of initiation' at the time.<sup>193</sup>

CJA gave evidence that he disclosed to Mr Ball the physical and sexual abuse that he suffered while at Leeuwin. He said that Mr Ball told him that he should not 'rat' on his abusers, as it may put his life in danger. CJA felt that Mr Ball was himself 'scared'.<sup>194</sup> Mr Ball could not recall this conversation.<sup>195</sup> Mr Ball said that, if such a complaint had been made to him, he would have passed the complaint to CJA's Divisional Officer.<sup>196</sup>

CJA's evidence was not challenged. We accept that CJA made the disclosure to Mr Ball, which Mr Ball is unable to recall. Based on the available evidence, including that of Mr Ball, we are unable to assess what if any action was taken as a result of the disclosure.

Mr Watson, who was a secretary to the Commanding Officer at Leeuwin between 1971 and 1973, gave evidence that the only time he interacted with junior recruits was when their behaviour brought them to the formal attention of the Commodore for summary trial.<sup>197</sup> Mr Watson said this generally meant that a serious disciplinary matter was being heard.<sup>198</sup>

In his written statement, Mr Watson stated that he recalls that one such disciplinary matter involved the rape of a junior recruit by other junior recruits in the accommodation blocks at night.<sup>199</sup> Mr Watson told the Royal Commission that the state police were notified of the incident and that ultimately the perpetrator was discharged from the Navy.<sup>200</sup>

Mr Watson told the Royal Commission that he was aware of a disciplinary matter involving an incident of 'scrubbing' and another of 'running the gauntlet'. Mr Watson gave evidence that 'one or two of the Divisional Staff may have been involved and were punished accordingly'.<sup>201</sup>

## Indirect knowledge

The Royal Commission heard evidence that staff members were indirectly aware that incidents of sexual abuse and physical abuse were occurring at Leeuwin while they were posted there.

Mr Curran and Mr Watson each gave evidence that they were aware of expressions such as ‘blackballing’, ‘nuggeting’, ‘the royal flush’, ‘scrubbing’ and being ‘filled in’ while they were at Leeuwin.<sup>202</sup>

Mr Curran stated that he was aware of one incident of ‘nuggeting’ that occurred in another division in 1971. He could not recall the outcome but stated that he was sure that it was reported.<sup>203</sup>

During the public hearing, Mr Curran said that he was aware ‘through talk’ that practices such as ‘nuggeting’ did occur at Leeuwin but maintained that such practices were ‘infrequent’.<sup>204</sup> Mr Curran conceded that incidents of ‘nuggeting’ may not have been infrequent but that he only heard about such incidents infrequently.<sup>205</sup>

Mr Curran acknowledged that by today’s standards the practice of ‘nuggeting’ is a form of bullying. He accepted that at the time he considered that ‘nuggeting’ was acceptable behaviour between recruits and an example of ‘boys being boys’.<sup>206</sup> He said that, if a report had been made to him at the time, he would not have considered it as something that required him to take any further action.<sup>207</sup> However, Mr Curran was referencing a personal experience of ‘nuggeting’ that ‘happened in a matter of moments and that was it’. He accepted that the descriptions given by witnesses to the Royal Commission were of behaviour that was ‘inhuman’ and not to be tolerated.<sup>208</sup>

Subsequently, Mr Curran gave evidence that, if he had received a formal report of ‘nuggeting’ at the time, he would have treated it as serious and investigated it.<sup>209</sup>

Mr Curran was interviewed by Judge Rapke during his inquiry. During that interview Mr Curran confirmed that senior recruits were standing over junior recruits, who were in danger of being ‘forcibly dealt with, brutally’ if they did not comply with the requests of senior recruits.<sup>210</sup>

## Acceptance of nature and extent of abuse in the Rapke report and DART report

Part 2 of the Rapke report was provided to the Minister on 3 July 1971. Mr Curran was not posted out of Leeuwin until April 1972. Mr Curran gave evidence that the findings of the Rapke report were not brought to his attention, or to the attention of other staff, while he was at Leeuwin.<sup>211</sup>

When it was put to Mr Curran that Judge Rapke had found that Leeuwin had been the scene of repetitive acts of bullying, violence, degradation and petty crime during most of the years of its existence, Mr Curran said that he was certainly not aware of abuse occurring to that extent when

he was at Leeuwin.<sup>212</sup> Further, Judge Rapke's finding of a 'bullying tradition' at Leeuwin, which was passed from senior recruits to junior recruits who, in turn, went on to abuse other junior recruits when they became seniors, was not Mr Curran's 'recollection'.<sup>213</sup>

Mr Curran accepted that, in circumstances where Judge Rapke was able to find significant evidence of appalling practices, Mr Curran's lack of awareness of the extent of abuse while he was a manager at Leeuwin suggests a significant management failure in the organisation as a whole.<sup>214</sup>

Mr Curran had not read the DART report on abuse at Leeuwin, but he accepted the conclusions of DART with respect to the nature and extent of abuse occurring at Leeuwin.<sup>215</sup> He also accepted that the report is consistent with the evidence that the survivor witnesses gave at the public hearing.<sup>216</sup>

The failure of management within Leeuwin, including Mr Curran as Divisional Officer, to detect and respond to the abuse prior to Judge Rapke's investigation was a failure in the Navy's responsibility to the boys under its care.

Mr Sinclair gave evidence that he read the Rapke report shortly after he arrived at Leeuwin and that he accepted 'everything' in the report.<sup>217</sup> He understood that the shortcomings identified in the Rapke report included a lack of supervision, inappropriate application of discipline, mismanagement within the divisions, and a tradition of bullying that existed within the junior recruit ranks.<sup>218</sup>

Mr Sinclair gave evidence that he took steps to respond to shortcomings identified in the Rapke report, including by:

- increasing the overall level of supervision of junior recruits at night, including increasing random rounds of accommodation blocks<sup>219</sup>
- establishing a social club for junior recruits and reinstating the Junior Recruits' Welfare Committee<sup>220</sup>
- interacting directly with junior recruits and informing them of his expectations about discipline and complaint avenues.<sup>221</sup>

Mr Sinclair told the Royal Commission that Commodore Doyle told him that he (Commodore Doyle) had been appointed Leeuwin to 'shake it up'. Mr Sinclair gave evidence that he aimed to raise morale, 'lessen the opportunity for disciplinary problems' and increase the 'training effectiveness of the establishment'.<sup>222</sup> Mr Sinclair gave evidence he considered that he was successful in achieving that aim. He explained:

When I say 'succeeded', you can't just turn the switch on and off in a place as complicated as Leeuwin. When you introduce reforms and new practices, it will take some time for those to take effect, but I was satisfied that the steps I had taken were going to achieve that aim.<sup>223</sup>

It was put to Mr Sinclair that, based on the evidence of sexual abuse recorded in the report,<sup>224</sup> incidents of abuse continued to occur at Leeuwin while Mr Sinclair was posted there.<sup>225</sup> Mr Sinclair responded that he was appalled that abuse occurred while he was there, and he was surprised and disappointed that the checks and balances that were put in place appeared not to have prevented incidents of abuse from occurring.<sup>226</sup>

Staff members at Leeuwin had a duty of care to protect junior recruits from sexual abuse. We conclude that, during the 1960s to 1972, the system of management was ineffective in preventing and responding to child sexual abuse; thus, the Navy failed in its duty of care to junior recruits, who were children. From 1972 to 1982, we are satisfied that the system of management improved in the wake of the Rapke report, although incidents of child sexual abuse continued to occur in smaller numbers.

## Awareness of the unofficial hierarchy at Leeuwin

Staff at Leeuwin were aware of the unofficial hierarchy that existed between junior recruits at Leeuwin.<sup>227</sup>

Mr Curran and Mr Sinclair both gave evidence that:

- they were aware that junior recruits commonly used the terms ‘new grubs’, ‘grubs’, ‘shits’ and ‘top shits’ to refer to each other<sup>228</sup>
- while they discouraged the use of those terms by staff members, they did nothing to prevent the use of the terms by the junior recruits.<sup>229</sup>

Neither Mr Curran nor Mr Sinclair accepted that the terms ‘new grubs’, ‘grubs’, ‘shits’ and ‘top shits’ were demeaning terms or that they were used with the intention of demeaning new recruits.<sup>230</sup> Mr Curran told the Royal Commission that use of the terms needed to be understood in the context of ‘boys being boys’.<sup>231</sup>

Staff members’ tolerance of this unofficial hierarchy among recruits, with the use of derogative terms to delineate the levels of the hierarchy, contributed to an environment in which the abuse of a more junior recruit by more senior recruits could occur.

## Awareness of dropout rates at HMAS Leeuwin

The Royal Commission heard evidence that from January 1970 junior recruits could request an optional discharge from Leeuwin. Thereafter, a significant percentage of junior recruits chose to leave Leeuwin with an optional discharge.<sup>232</sup> The Rapke report found that the number of junior recruits who chose to leave Leeuwin after three months was ‘greater than normal’.<sup>233</sup>

In preparation for the public hearing, Defence prepared a summary of all recorded instances of discharge of junior recruits who were at Leeuwin between January 1960 and December 1984.<sup>234</sup>

The summary records that:

- of the 12,675 junior recruits at Leeuwin between 1960 to 1984, 1,543 junior recruits, or approximately 12 per cent, were discharged
- before the introduction of the optional discharge in January 1970, the average discharge rate at Leeuwin was approximately 8.5 per cent
- approximately 40 per cent of the 1,169 junior recruits who were discharged after the introduction of the optional discharge in 1970 are recorded as having received an optional discharge.

CJB and CJT each gave evidence that a significant number of junior recruits in their intakes chose to take an optional discharge within their first six months at Leeuwin.<sup>235</sup>

During the public hearing, Mr Curran accepted that there was a high dropout rate at Leeuwin when he was there. He agreed that this suggested that junior recruits were not ‘enjoying themselves’ at Leeuwin.<sup>236</sup> Mr Curran said that junior recruits often cited ‘homesickness’ as the reason they were seeking an optional discharge.<sup>237</sup> He accepted that junior recruits might have told staff members that they were ‘homesick’ because they were too embarrassed, ashamed or troubled to disclose that the real reason they wanted to leave Leeuwin was to escape abuse.<sup>238</sup>

## The existence of rites of initiation at Leeuwin

The Royal Commission heard evidence that various forms of ‘rites of initiation’ have existed within the Navy since at least 1948.<sup>239</sup>

Mr Sinclair gave evidence that, when he joined the Navy in 1948, he was subjected to a very formal, official, ritualised initiation ceremony.<sup>240</sup> He said that the initiation was ‘a very uncomfortable, not terribly exciting experience’<sup>241</sup> but that at the end of it he had a ‘sense of pride’.<sup>242</sup> Mr Sinclair gave evidence that initiation itself is not a nasty word<sup>243</sup> and suggested that ‘initiation itself is not – it is not, by itself, a bad thing’.<sup>244</sup>

Mr Curran also gave evidence that, when he entered the Navy in 1956, he was aware that rites of initiation, including nuggeting, occurred. However, he was never personally ‘given this rite’ and he did not participate in giving the ‘rite’.<sup>245</sup> Mr Curran said that, when he was the age of the recruits, he would have regarded nuggeting to be an acceptable ‘rite of initiation’.<sup>246</sup>

In 1971, Judge Rapke suggested to Mr Curran that a tradition existed at Leeuwin where the senior recruits made the new recruits remember that they were only new boys and to wait their turn.<sup>247</sup> Mr Curran told Judge Rapke that this was part of a ‘rite of initiation’ that existed at Leeuwin.<sup>248</sup>

During the public hearing, both Mr Curran and Mr Sinclair gave evidence that ‘rites of initiation’ were not an established part of the culture at Leeuwin.<sup>249</sup>

Mr Sinclair gave evidence that the types of behaviours that the survivors described were not condoned at Leeuwin when he was there and were ‘totally and utterly unacceptable’.<sup>250</sup>

Mr Curran also said that, according to his understanding of the expression, ‘rites of initiation’ did not extend to the types of abuse that the survivor witnesses described.<sup>251</sup>

Mr Sinclair gave evidence that, although initiation ceremonies of any type were not condoned at Leeuwin when he was there,<sup>252</sup> he was aware that some forms of ‘minor pranks’ did probably occur occasionally.<sup>253</sup> He agreed that, when a process of initiation such as the one that he endured involves inflicting, at the very least, physical pain upon a new recruit, it is not hard to see how things could get out of control and potentially create a platform for young recruits to engage in the type of behaviour engaged in at Leeuwin.<sup>254</sup>

## Supervision of junior recruits at Leeuwin

CJA, Mr Frazer and Mr Greaves gave evidence that many of the incidents of child sexual abuse they experienced occurred at night after ‘lights out’, when staff were not in the accommodation blocks.<sup>255</sup>

Mr Curran gave evidence that a divisional staff member was always on duty in the accommodation blocks at night to supervise the junior recruits.<sup>256</sup> He said that a duty officer was typically responsible for supervising around 200 junior recruits<sup>257</sup> and that staff relied on Leading Junior Recruits to supervise junior recruits at night after lights out.<sup>258</sup>

In his statement for the Royal Commission, Vice Admiral Griggs told the Royal Commission that a ‘high level of supervision’ was provided at Leeuwin ‘during and out of working hours’.<sup>259</sup>

Both the Rapke report and the DART report found that supervision at Leeuwin was ‘inadequate’ and created an environment in which abuse could occur.<sup>260</sup> We agree.

Mr Curran told the Royal Commission that, following the physical assault on Mr Connolly in 1971, supervision was ‘increased’ at Leeuwin.<sup>261</sup>

When asked to specify what he meant by ‘increased supervision’, Mr Curran gave evidence that he ‘reiterated the need for close supervision’ in the blocks and went through the existing supervision procedures and routines with his staff.<sup>262</sup>

Mr Curran also said that a bed was erected in the divisional office so that Divisional Staff could sleep in the divisional office at night time during the duty watch.<sup>263</sup>

Mr Sinclair gave evidence that on his arrival at Leeuwin in 1972 he understood, both from reading the Rapke report and from his own observations, that supervision of junior recruits needed to be 'reinforced'.<sup>264</sup> Mr Sinclair could not recall the precise details of the changes that he made other than that the presence of duty staff in the blocks was increased so that at least one Divisional Staff member was present in each of the blocks through the night.<sup>265</sup>

It was put to Mr Sinclair that the inadequate level of supervision at Leeuwin is reflected in the incidents of abuse recorded in the DART report on abuse at Leeuwin, which continued to occur, albeit in reduced levels, until at least 1982.<sup>266</sup> Mr Sinclair said that he suspected that lack of supervision at Leeuwin was one of the factors in the level of abuse recorded in the DART report.<sup>267</sup>

## 2.6 Conclusions

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Based on the evidence that survivors and Defence officials gave during the hearing and having regard to the work of previous inquiries – the Rapke report and the DART report – we are satisfied that physical and sexual abuse of child recruits was widespread at Leeuwin from the 1960s to 1972. Following the Rapke report and the implementation of measures by management in response to it from 1972, it is evident that the abuse lessened considerably. Leeuwin was closed to new recruits in 1984.

At least until 1972, Leeuwin's institutional environment was such that abuse was allowed to occur. We accept that 'bastardisation' practices, including blackballing, or nuggeting, existed at Leeuwin and that senior staff members knew of and tolerated rites of initiation within an unofficial hierarchy among junior recruits. That hierarchy perpetuated a culture in which senior recruits abused recruits who were junior to them.

The impacts of the abuse have been lifelong and severe. They include serious physical injury (some of which caused long-term disability) and mental illness, suicide attempts, alcohol abuse and broken relationships.

The environment at Leeuwin did not encourage reports of abuse at the time. Recruits felt humiliated and ashamed of the abuse. They feared retribution for being a 'dobber' and believed that no action would be taken if they reported. Despite this general lack of reporting, we are satisfied that some victims did report abuse to management and that management was at the least aware of bullying practices that should have been treated as serious misconduct.

We find that the system of management in place until 1972 was ineffective in preventing and responding to child sexual abuse and therefore the Navy failed in its duty of care to junior recruits.

## 3 The Army Apprentice School, Balcombe

The Royal Commission heard evidence from five survivors of abuse at Balcombe: Mr David Sparreboom, CJC, Mr Daryl James, CJV and CJU. The survivors described the sexual and physical abuse perpetrated on them by other apprentices and staff members when they were apprentices between approximately 1970 and 1978. Their evidence of the abuse they experienced is set out at section 3.2.

The Royal Commission also heard evidence from Mr Alan McDonald, the Commanding Officer of Balcombe from 1972 to 1976. Mr McDonald gave evidence of the institutional response to allegations of child sexual abuse at the time.

### 3.1 Institutional overview

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#### The Balcombe Barracks

Balcombe was an Australian Army base located at Mount Martha on the Mornington Peninsula in Victoria. Between 1948 and 1982, it operated as an Army training establishment.<sup>268</sup>

Balcombe provided Army trade training and general education for tradesmen and tradeswomen who enlisted for service in the Australian Army.<sup>269</sup>

In 1982, the Apprentice School was moved from Balcombe to Latchford Barracks, Bonegilla, in northern Victoria. The Apprentice School continued to operate until its closure in 1995.<sup>270</sup>

During its period of operation from 1948 to 1995, over 7,500 apprentices graduated from this training institution. Approximately 5,000 apprentices graduated between 1948 and 1982, when the Apprentice School was located at Balcombe.<sup>271</sup>

#### Organisational structure and operation

Balcombe was organised on a battalion structure, led by a Commanding Officer with an Army rank of Lieutenant Colonel.<sup>272</sup> The Commanding Officer was responsible for all aspects of the training of apprentices and the general administration of Balcombe.<sup>273</sup>

The battalion headquarters at Balcombe comprised four or five companies. Each company contained around 50 apprentices. Each company comprised a Commanding Officer and a number of Senior Non-Commissioned Officer staff (the Company Staff).<sup>274</sup> The Company Staff were responsible for the military training of apprentices.<sup>275</sup>

Each company typically contained three platoons, and each platoon had about 30 to 50 apprentices. Platoons were commanded by a Sergeant and supported by a Company Sergeant Major, a Clerk and a Storeman (the Platoon Staff).<sup>276</sup> The Platoon Staff were responsible for administering and fostering the apprentices assigned to their platoon.<sup>277</sup>

There were also a number of other staff members, including:

- Staff Officer Operations for Training Branch, who was responsible for the training of all apprentices
- Staff Officer Personnel for the Personnel Branch, who was responsible for all administration matters
- full-time chaplains
- hospital staff, doctors and a dentist.<sup>278</sup>

The Royal Commission heard evidence that, in addition to the Company Staff and Platoon Staff, senior apprentices with rank – namely, Apprentice Corporals and Apprentice Sergeants (apprentice non-commissioned officers (Apprentice NCOs)) – were given responsibility within a platoon and were responsible for the immediate supervision of the junior apprentices.<sup>279</sup>

## Apprentices

Apprentices could commence their training at Balcombe when they were 15 to 19 years old.<sup>280</sup> Apprentices typically entered Balcombe as part of a yearly intake.<sup>281</sup>

Apprentices who were considered suitable to join Balcombe completed four-year apprenticeships in various technical and clerical trades, including motor mechanics, electricals, metals, radio and music.<sup>282</sup>

Apprentices were required to undertake two years of initial training, followed by two years of practical training.<sup>283</sup> The curriculum consisted of 10 periods a day covering trade skills, military training, fitness, sport, personal development and education.<sup>284</sup>

## Accommodation

Apprentices at Balcombe were accommodated in shared sleeping arrangements.<sup>285</sup>

Some apprentices were accommodated in huts, known as ‘guts huts’. These huts were established in platoon areas. Survivor witnesses described them as being similar to a ‘long shed with a door centrally located at each end’<sup>286</sup> and being like a ‘large open dormitory with rows of about ten to twelve beds down each wall with no partitions’.<sup>287</sup> At one end of the hut there were two

small rooms, known as ‘dongas’, which were reserved for Apprentice NCOs. Each of these rooms contained a single bed and had a door for privacy.<sup>288</sup>

Some apprentices were accommodated in rooms that comprised a number of ‘dongas’. Each of these accommodated two apprentices, and they were connected by a wide verandah.<sup>289</sup>

The Royal Commission heard that staff members were accommodated in separate barracks or off base with their spouses if they were married.<sup>290</sup>

## Complaints handling at Balcombe

The general policies and procedures for the administration and operation of Balcombe were set out in the Manual of Personnel Administration and the unit Standing Orders. The manual directed the process for the reporting and investigation of incidents, including sexual assault. Army units applied the manual policies through the release of unit Standing Orders. Defence was able to locate and provide to the Royal Commission relevant chapters of the manual; however, Balcombe’s Standing Orders could not be located despite searches.<sup>291</sup>

The Royal Commission heard that apprentices were required to report complaints via a ‘military structure’ chain of command.<sup>292</sup> Each apprentice was told that he was able to make complaints in person to his section commander, who in turn could go to the platoon commander and so on up the chain of command until the complaint came to the Commanding Officer.<sup>293</sup>

The Royal Commission heard that certain staff members dealt with certain issues and that, if the staff member did not have the ability to deal with the issue, it would be reported up the chain of command. For example:

- platoon commanders were able to deal with minor issues such as lateness for parades, incorrect dress and not paying due attention<sup>294</sup>
- company commanders were able to deal with less minor, but not serious, issues and could hand out punishments for being away without leave or regularly late for duties<sup>295</sup>
- the Commanding Officer dealt with complaints of a serious nature (such as disobeying orders, fighting and other serious problems), counselled section commanders and could hand out serious punishment, including recommendations for discharge.<sup>296</sup>

The Royal Commission heard that staff recorded in writing all complaints they received and retained them in the individual’s file and in a Duty Log book.<sup>297</sup> The Royal Commission requested the Duty Log books; however, Defence was unable to locate any.<sup>298</sup>

## 3.2 The experiences of former apprentices

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Mr Sparreboom, CJC, Mr James, CJV and CJU gave evidence about their experiences of sexual and physical abuse at Balcombe between 1970 and 1978 and the ongoing impact the abuse has had on their lives.

### The institutional environment

Like the evidence of the survivor witnesses of abuse at Leeuwin, a number of survivor witnesses gave evidence that, when they arrived at Balcombe, the senior apprentices created an environment that made the survivor witnesses feel intimidated.

CJU said that he was subjected to an initiation by the senior apprentices shortly after arriving at Balcombe. He said that the senior apprentices told the junior apprentices that any complaints to staff would cause them 'bad luck'.<sup>299</sup>

Mr James said that on his first day at Balcombe another apprentice called him a 'fucking homo sprog muso', and the apprentice Hut Corporal said he was the 'lowest of the low' and that 'nothing you ever do under my watch will ever be good enough. You're a marked man'.<sup>300</sup>

Junior apprentices were referred to as 'sprogs' – a derogatory term that senior apprentices used to direct and order junior apprentices.<sup>301</sup>

The survivor witnesses told the Royal Commission that senior apprentices were placed in positions of power such that junior apprentices saw them as 'gods'.<sup>302</sup>

The Royal Commission heard that, if junior apprentices did not do what they were told, there were 'consequences'.<sup>303</sup> CJV said that there was a 'well-entrenched hierarchy between the apprentices at Balcombe'. He said that he quickly learned that, as a junior apprentice, he had to do whatever the senior apprentices told him.<sup>304</sup> CJC said that a staff member told him that 'people with rank are to be obeyed without question. Do as you're told when you're told, no questions'.<sup>305</sup>

### Sexual abuse

Mr Sparreboom, CJC, Mr James, CJV and CJU each gave evidence that, when they were in the first year of their apprenticeships, they were sexually abused by senior apprentices at Balcombe.

Mr James and CJU told the Royal Commission that they were also sexually abused by staff members.

The sexual abuse that the survivor witnesses described included fondling of genitals, forced masturbation and anal penetration with an object.

### Mr David Sparreboom

Mr Sparreboom joined Balcombe as an apprentice motor vehicle mechanic in January 1970, when he was around 16 years old.<sup>306</sup>

Mr Sparreboom gave evidence that during his first year at Balcombe he was sexually abused by several other apprentices, who attacked him while he was asleep in his bed. Mr Sparreboom said that the apprentices anally penetrated him with a broomstick. He said that during the abuse other apprentices were woken up but did nothing to assist him.<sup>307</sup>

### CJC

CJC joined Balcombe as an apprentice musician in January 1971 at the age of 16.<sup>308</sup>

CJC told the Royal Commission that he was sexually abused on at least two occasions by a senior apprentice, the Apprentice Corporal, who slept in the 'donga' within the hut in which CJC and the other apprentices slept.<sup>309</sup>

CJC gave evidence that at the end of each incident of abuse the Apprentice Corporal said, 'keep your mouth shut and go to bed'.<sup>310</sup>

### Mr Daryl James

Mr James joined Balcombe as an apprentice musician in 1972, when he was around 15 years old.<sup>311</sup>

Soon after commencing, Mr James was warned by a Regular Army Sergeant about a Balcombe tradition called 'crab night', which he learned was a 'muck up' day for the senior apprentice intake prior to graduation.<sup>312</sup> During this crab night, he was woken up and sexually abused by senior apprentices. He described being forced onto his stomach with a drawn bayonet held over his back and being anally penetrated with a broom handle.<sup>313</sup> He said that he believed other apprentices heard what happened, but no one came to his aid.<sup>314</sup>

Mr James told the Royal Commission that he was sexually abused on several occasions at Balcombe by a civilian laundry assistant, known to him as Bert. On one occasion, Bert appeared to be masturbating under his clothes while he was talking to Mr James.<sup>315</sup> He said on another occasion Bert took him to the back of the laundry and touched Mr James's buttocks and scrotum while he was masturbating.<sup>316</sup>

Mr James described a further occasion where Bert took him off base for driving lessons. On that occasion, Bert exposed and masturbated himself in front of Mr James. Bert then touched Mr James's penis.<sup>317</sup>

## CJV

CJV joined Balcombe as an electrical apprentice in January 1973, when he was 15 years old.<sup>318</sup>

CJV gave evidence that not long after he started at Balcombe he was sexually abused by senior apprentices. On one occasion, he woke up to find two senior apprentices standing at the end of his bed. CJV said that they grabbed his genitals and said 'gotcha', then tipped his bed over, causing him to fall onto the floor.<sup>319</sup>

CJV told the Royal Commission that this abuse continued almost every weeknight for the remainder of his first year at Balcombe.<sup>320</sup> He said:

I grew to hate night times at Balcombe. I would lay awake at night time with my hands over my genitals to protect myself ... I would [lie] there terrified, waiting for [the senior apprentices] to come in. I knew I couldn't do anything to stop them and no one was there to protect me.<sup>321</sup>

## CJU

CJU joined Balcombe as an apprentice musician in 1978 at the age of 15.<sup>322</sup>

CJU told the Royal Commission that one night he was dragged out of bed by a group of senior apprentices as punishment for CJU reporting an earlier incident of physical abuse. The senior apprentices smeared vegemite over his stomach, groin, genitals and legs before they brought a dog to lick the vegemite off him. CJU gave evidence that the senior apprentices then turned him over, so he was kneeling, and pushed the dog against his backside. The senior apprentices told him 'that's what you get for dobbing on us'.<sup>323</sup>

CJU gave evidence that, when he was assigned laundry duty, the civilian laundry assistant Bert allowed him to look at pornographic magazines. CJU said Bert asked him to masturbate with him and go off base with him, which he refused to do.<sup>324</sup>

CJU told the Royal Commission that later that year he was befriended by a Captain at the Everyman's Club.<sup>325</sup> CJU said that on one occasion the Captain drove him to some cliffs near Mount Martha, where he masturbated CJU before asking CJU to do the same to him.<sup>326</sup>

## ‘Bastardisation’ and other forms of physical abuse

The Royal Commission heard evidence that at Balcombe survivor witnesses were also subjected to practices of ‘bastardisation’ and physical abuse similar to those experienced at Leeuwin.

Mr James said that at Balcombe he was made to ‘run the gauntlet’ by other apprentices who repeatedly punched him in the stomach, karate chopped him on the back of the neck and kicked him. He said that on occasion the senior apprentices filled pillowcases with hard objects such as boots and metal irons to hit junior apprentices who ran the gauntlet.<sup>327</sup>

Mr Sparreboom, Mr James and CJC also gave evidence that they were ‘arseholed’ at Balcombe. They said that this practice involved their beds being vertically upended while they were asleep, causing them to fall on the floor with the bed on top of them.<sup>328</sup>

Mr Sparreboom said that the physical abuse occurred mostly on weekday nights, when there was limited supervision. He gave evidence of being physically abused by senior apprentices in the shower blocks.<sup>329</sup>

CJU told the Royal Commission that at Balcombe he was held down by three senior apprentices, who extended his arm while another senior apprentice used his body weight to break it.<sup>330</sup>

CJV said that his physical abuse by senior apprentices included being punched in the chest.<sup>331</sup>

## The impact of abuse

Mr Sparreboom, Mr James, CJV and CJU gave evidence that they have been diagnosed with PTSD as a result of the abuse they experienced at Balcombe.<sup>332</sup> Mr Sparreboom, Mr James and CJU all reported having attempted or contemplated suicide.<sup>333</sup>

Mr James said that he suffered from alcohol abuse.<sup>334</sup> Mr Sparreboom said that the stress he experienced from the abuse caused physical health problems.<sup>335</sup>

A number of survivors also gave evidence of the impact the abuse had on their relationships with family, colleagues and the public.<sup>336</sup> Mr Sparreboom gave evidence of the breakdown of his marriage.<sup>337</sup> Both he and CJU said that they have found it difficult to trust colleagues.<sup>338</sup> CJC attributes his feelings of homophobia to the sexual abuse he experienced at Balcombe.<sup>339</sup>

## 3.3 Reporting of child sexual abuse at Balcombe

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### Disclosures of child sexual abuse

One of the survivor witnesses gave evidence of disclosing abuse while he was an apprentice. CJU said that he reported an incident of abuse perpetrated by three senior apprentices to a Balcombe staff member. He said that he was constantly bullied after this report and believed this was why he was further sexually abused by senior apprentices.<sup>340</sup>

CJU gave evidence that he also reported his abuse by the senior apprentices to a Captain. CJU said that the Captain subsequently took him off base and sexually abused him.<sup>341</sup>

### Reasons for not reporting child sexual abuse

Other than these reports of CJU, all survivor witnesses told the Royal Commission that they did not report sexual abuse they suffered at the time it was occurring for one or more of the following reasons.

#### Fear of retribution and being labelled a 'dobber'

All survivor witnesses from Balcombe gave evidence that they did not report the sexual or physical abuse perpetrated on them because they feared retribution from other apprentices and being labelled a 'dobber'.<sup>342</sup>

Mr Sparreboom said that he did not report abuse because he was afraid that, if other apprentices became aware of a report, things would get worse. He said that fear of complaining and being labelled a 'dobber' made him feel that it was impossible to disclose the abuse.<sup>343</sup>

CJC said that it was a 'virtual death wish' to 'dob' on a senior apprentice. He said that, although it was open for apprentices to discuss problems with staff, reporting was a sure way of getting 'bashed, sexually assaulted or worse'.<sup>344</sup>

Mr James, CJV and CJU each said that they did not report the abuse because they were scared that it would lead to further abuse. Mr James said that he was warned that a 'noisy sprog is a dead sprog'.<sup>345</sup> CJV said that, if he had 'dobbled', he would have been subjected to worse beatings by senior apprentices.<sup>346</sup> CJU said that it was ingrained in him that reporting abuse would make things worse and that he was living in fear of retribution and punishment.<sup>347</sup> As noted above, CJU gave evidence of the response he received to the limited disclosures he made at the time of his abuse.

CJV gave evidence that the chain of command dictated that incidents were first to be reported to the Hut Corporal, who was a senior apprentice. CJV said that this system prevented him from reporting the abuse he suffered given that the Hut Corporal was one of the senior apprentices who abused him.<sup>348</sup>

### Fear of punishment by staff

Mr James said that when he was sexually abused off base by Bert, the civilian laundry assistant, he protested and pleaded. However, he said that Bert 'reminded me that I was now AWOL and could be charged or even dishonourably discharged'. As a result, he said that he did not disclose the sexual abuse perpetrated by Bert. He said:

I felt further compromised. I hated what Bert did ... but he warned me if I stopped or told anyone, he could get me into trouble with regimental staff or the senior apprentices ... I feared the consequences more than I feared Bert ...<sup>349</sup>

CJC gave evidence that the environment of control and discipline at Balcombe made him fear that if he reported he would be punished or not believed, particularly as he did not have any visible injuries.<sup>350</sup>

### Belief that no action would be taken

Mr Sparreboom said that, when he attempted to disclose the sexual abuse to a Balcombe staff member, Captain Wymess, well after the incident had occurred, he was told that 'you are all young fellers and pranks will happen'.<sup>351</sup>

### Other reasons for non-disclosure

There were other reasons survivor witnesses did not disclose the sexual abuse.

CJV said that a deterrent to reporting was the humiliation associated with the abuse.<sup>352</sup>

Mr Sparreboom said that he was never told to whom he could report an incident and that he learned that the 'Army way was to shut up and get on with things'.<sup>353</sup>

## Conclusion

We are satisfied that a number of apprentices who experienced child sexual abuse at Balcombe did not report to anyone at the time because:

- they feared retribution from other apprentices and being labelled ‘dobbers’
- they feared being punished by staff
- they did not believe action would be taken or were told ‘pranks will happen’, and/or
- they were humiliated because of the abuse or did not know to whom they could report.

## 3.4 Previous inquiries into abuse at Balcombe

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### The DART findings on abuse at Balcombe

As part of DART’s 2014 report on abuse in Defence, DART noted that at Balcombe:

- a substantial majority of complaints of sexual abuse occurred during the 1960s and 1970s within Army recruit and employment training establishments<sup>354</sup>
- many junior apprentices reported being physically and/or sexually abused by senior apprentices<sup>355</sup>
- some staff members were reported as having sexually abused the apprentices<sup>356</sup>
- many complainants had no doubt that staff members at Balcombe were aware of the abuse which took place.<sup>357</sup>

## 3.5 Responses to child sexual abuse at Balcombe at the time

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The Royal Commission heard evidence from Mr McDonald in relation to the ADF’s response to allegations of child sexual abuse at Balcombe. Mr McDonald was Commanding Officer of Balcombe from December 1972 to January 1976.

### Awareness of abuse at the time

Mr McDonald gave evidence that during his tenure at Balcombe he could not recall any allegations or complaints of child sexual abuse being made to him.<sup>358</sup> He said that sexual abuse ‘wasn’t known in those days’ and he did not believe that it could happen.<sup>359</sup>

Mr McDonald said that he could only recall one incident of physical abuse at Balcombe, in which five apprentices attacked a junior apprentice. This incident was brought to his attention. He said that he recommended the offending apprentices be discharged from the Army.<sup>360</sup>

Mr McDonald accepted that there may have been other incidents of abuse which were not brought to his attention, but he said that he would have communicated with his staff members to determine whether physical abuse was more widespread. He said, 'if nothing had come forward, there wouldn't be anything to further [act] on'.<sup>361</sup>

Mr McDonald said that staff members made him aware of bullying of junior intakes by senior apprentices.<sup>362</sup> He was aware of practices such as 'the royal flush', 'running the gauntlet' and 'scrubbing'. He said that, if he had been aware of these occurring, he would have taken action against that person, such as discharge or transfer from Balcombe.<sup>363</sup>

Mr McDonald told the Royal Commission that he gave a direction to staff members to ensure that abuse at Balcombe was 'never to occur'. He said that he reminded all levels of command to point out to the apprentices that these practices were not, and would not be, tolerated.<sup>364</sup> He said that the Regular Army Sergeant in each platoon was ultimately responsible for communicating this to the apprentices. He told the Royal Commission that:

[A Regular Army Sergeant had responsibility to] inform them of what they could do, what they shouldn't do, and what Army life was all about. That was their job. They had to know these people, know their background, get to know their background and the way that they acted at Balcombe, and keep them on the right path ... they reported to their company commander, and the company commander, if he couldn't deal with the problem, he passed it on to me.<sup>365</sup>

Mr McDonald was asked to reflect on the evidence of Mr James – specifically, Mr James's experience of sexual abuse during 'crab night'.<sup>366</sup> As discussed above, the Royal Commission heard that Mr James was sexually abused by senior apprentices during crab night and that a Regular Army Sergeant warned the junior apprentices to barricade themselves inside their barracks to protect themselves from harm from senior apprentices.

Mr McDonald gave evidence that, while the Sergeant's direction was not something he had ordered,<sup>367</sup> he would have put in place steps to minimise the risk of harm. He did not give any evidence of the steps he would have taken to reduce this risk.<sup>368</sup>

When asked whether the system should have been that the Sergeant reported the risk to a superior and that action should have been taken at a more senior level, Mr McDonald said, 'I don't know that I could do much more'.<sup>369</sup> He said that he had hoped 'nothing would go the wrong way' during crab night.<sup>370</sup>

Mr McDonald accepted that as the Commanding Officer he had responsibility for the apprentices at Balcombe and that he exercised this responsibility through his subordinate officers.<sup>371</sup> He accepted that the system of management at Balcombe, of which he was in charge during his tenure as Commanding Officer, failed to protect some of the apprentices from sexual abuse and instead allowed it to occur.<sup>372</sup>

## The unofficial rank hierarchy among apprentices

The Royal Commission heard evidence that officers responsible for running Balcombe were aware that there was an unofficial rank hierarchy operating among the apprentices.<sup>373</sup>

Mr McDonald said that he was aware of the unofficial rank hierarchy and the use of the term 'sprog'.<sup>374</sup> He acknowledged that senior apprentices could influence the junior apprentices and engage in conduct that bullied junior apprentices.<sup>375</sup> He did not discourage the operation of the unofficial rank hierarchy at Balcombe.<sup>376</sup>

We are satisfied that staff members were aware of the unofficial rank hierarchy at Balcombe and did not take any steps to prevent it.

We are satisfied that staff members did not take action to respond to or prevent the unofficial rank hierarchy, and this indicated a tolerant attitude to the bullying of juniors by seniors and impeded disclosures by junior apprentices of the sexual abuse they experienced.

## Supervision of apprentices

The Royal Commission heard that staff members did not stay in the barracks with the apprentices at night but instead slept in their own barracks or off base.<sup>377</sup> Senior apprentices were responsible for the immediate supervision of the junior apprentices at night time when staff members were not around.<sup>378</sup>

A number of survivor witnesses gave evidence that they were sexually abused by senior apprentices at night when no staff members were around.<sup>379</sup>

Mr McDonald gave evidence that a 24-hour duty officer was responsible for conducting visits to the barracks at night time.<sup>380</sup> He said that the duty officer was typically responsible for supervising a company of apprentices, which he said was typically spread over 'three huts'.<sup>381</sup>

Mr McDonald told the Royal Commission that 'if the duty [officer] had heard a noise inside the hut after lights out, he would have gone in to see what was happening'.<sup>382</sup> However, he accepted that any action that the duty officer took would ultimately depend on how regularly the duty officer was patrolling the area.<sup>383</sup> Mr McDonald also accepted that, if the duty officer was not on patrol as required, any noise within the hut would not be heard.<sup>384</sup>

In light of the evidence of survivor witnesses that they were sexually abused at night, Mr McDonald accepted that:

- the system of supervision provided by duty officers failed to protect the survivor witnesses from abuse perpetrated by more senior apprentices
- the system of supervision at Balcombe was inadequate.<sup>385</sup>

We are satisfied that the supervision of apprentices at night was inadequate to keep them safe from sexual abuse: there were insufficient numbers of night duty staff to supervise apprentices and it was often left to senior apprentices to supervise junior apprentices at night.

## Complaints handling

Mr McDonald gave evidence that the unit Standing Orders, referred to in section 3.1, governed the way that Balcombe operated.<sup>386</sup> He said that the Standing Orders were available to all staff and that any items in the Standing Orders that related to apprentices were communicated to them on a 'needs' basis.<sup>387</sup> The Standing Orders were not otherwise available or distributed to apprentices.<sup>388</sup>

Mr McDonald said that apprentices were verbally informed of the contents of the Standing Orders through their chain of command<sup>389</sup> and that over time the apprentices 'absorbed' what was required of them by the way that their seniors were dealing with them.<sup>390</sup>

On reflection, Mr McDonald accepted that the system that was in place, which relied on the apprentices being aware of the rules and procedures that were orally communicated to them and which did not give apprentices the policies in writing so that they could consult them in their own time, was a poor system.<sup>391</sup>

Mr McDonald said that any incidents that needed his attention were brought to his notice by staff,<sup>392</sup> but he said that no allegations or complaints of child sexual abuse were made to him.<sup>393</sup>

Mr McDonald said that, in practice, complaints that were received from apprentices were not in writing and were often made to the chaplains and the medical team at Balcombe, who then informed Army staff of the complaint. He said that the complaint would then be dealt with via the 'normal reporting channels'.<sup>394</sup>

The Royal Commission heard that the complaints process, which required apprentices to report complaints through their chain of command, did not facilitate the reporting of child sexual abuse.

CJC gave evidence that staff members were only available for a limited time during school hours. He said that, when staff were there to physically receive reports, it was difficult to report to them in front of other apprentices.<sup>395</sup>

CJV gave evidence that the chain of command required him to report, in the first instance, to the Hut Corporal, who was a senior apprentice. He told the Royal Commission that this system prevented him from reporting the abuse he suffered, because the Hut Corporal was one of the senior apprentices who assaulted him.<sup>396</sup>

We are satisfied that the ‘military structure’ of reporting complaints up the chain of command did not facilitate the reporting of sexual abuse because:

- it required apprentices to report abuse to the Apprentice NCOs at first instance. These were often senior apprentices involved in the abuse
- access to staff was limited, and in some circumstances complaints could only be reported in the presence of other apprentices
- it placed reliance on the apprentices being aware of the rules and procedures, which were communicated to them orally and were not available to them in writing.

## 3.6 Conclusions

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Staff members at Balcombe had a duty of care to protect apprentices from sexual abuse. We are satisfied that, during the 1970s and 1980s, the system of management in place at Balcombe was ineffective in preventing and responding to child sexual abuse. A failure in the management allowed sexual abuse to occur.

The unofficial rank hierarchy at Balcombe created an environment that allowed senior apprentices to command and control junior apprentices. We are satisfied that an unofficial hierarchy existed among apprentices, and this was known to and tolerated by staff. Because of this unofficial hierarchy, which went unchecked, apprentices were subjected to practices of ‘bastardisation’ as described by witnesses before the Royal Commission. The hierarchy created an environment that facilitated and contributed to the abuse.

The impacts of the abuse have been lifelong and severe. They include serious physical injury with long-term disability and mental illness, stress and physical health problems, suicide attempts and broken relationships.

The environment at Balcombe discouraged reports of abuse at the time. Some recruits felt humiliated by the abuse. They feared retribution for being a ‘dobber’ and believed that no action would be taken if they reported. Despite this general lack of reporting, we are satisfied that management was at least aware of bullying practices that should have been treated as serious misconduct.

This failure to adequately address harmful bullying conduct and the culture of intimidation by older apprentices and staff represents a failure in the duty of care by the Army to provide a safe environment for junior apprentices at Balcombe.

## 4 Recent responses to claims of child sexual abuse at Leeuwin and Balcombe

A number of survivor witnesses told the Royal Commission about their more recent experiences in making claims against the Commonwealth of Australia, through the DVA and Defence, in relation to the sexual abuse they experienced as children at Leeuwin or Balcombe.

The following representatives of the DVA and Defence gave evidence:

- Mr Neil Bayles, Assistant Secretary of the Rehabilitation, Case Escalation and Military Rehabilitation Compensation Act Review Branch, DVA
- Mr Michael Lysewycz, Defence Special Counsel, Defence.

In addition, the Royal Commission heard evidence from Mr Adair Donaldson, a solicitor who represents survivors in claims against Defence.

### 4.1 The response of the Department of Veterans' Affairs

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Mr Bayles told the Royal Commission that, under the *Safety Rehabilitation and Compensation Act 1988* (Cth) (SRCA) and *Veterans' Entitlement Act 1986* (Cth) (VEA), former members of Leeuwin and Balcombe can lodge claims for compensation from the DVA.<sup>397</sup>

Under the SRCA, claimants can seek compensation from the DVA for injuries, diseases or deaths linked to most peacetime ADF service between 3 January 1949 and 30 June 2004 (SRCA Claims).<sup>398</sup> The SRCA provides:

- compensation in the form of a lump-sum payment for conditions and for permanent impairment
- non-economic loss compensation
- healthcare for an accepted condition.<sup>399</sup>

Under the VEA, claimants can seek compensation from the DVA in the form of a lifetime disability pension for injury, disease or death relating to specified types of service before 1 July 2004 (VEA Claims).<sup>400</sup> The VEA provides lifetime compensation and healthcare.<sup>401</sup> If the recipient receives a Gold Card, that person will receive lifetime assistance in relation to any ailment that that person may suffer.<sup>402</sup>

#### DVA claims of survivor witnesses

Mr Frazer, Mr James, Mr Sparreboom, Mr Greaves and CJA each made claims for payment of benefits and compensation with the DVA for injuries and conditions they sustained as a result of the sexual abuse they experienced as children at Leeuwin or Balcombe.

Each of the survivor witnesses gave evidence that they encountered difficulties when making claims through the DVA. These difficulties included:

- having to meet a high level of proof by producing contemporaneous or corroborative evidence to support claims
- having to repay benefits or pensions previously awarded for an injury when compensation is awarded for another claim in respect of the same injury ('clawback' or 'offsetting' provisions).

## Difficulties in satisfying the level of proof to support claims

Mr Frazer, Mr James and Mr Sparreboom each gave evidence that their claims with the DVA were rejected because of a lack of contemporaneous or corroborative evidence.

Mr Frazer said that he appealed to the Administrative Appeals Tribunal, which held that it was wrong of the Military Compensation and Rehabilitation Service (MCRS) to reject the claim and that the abuse Mr Frazer suffered at Leeuwin resulted in his injuries.<sup>403</sup>

Both Mr James and Mr Sparreboom said that the DVA also rejected their claims for PTSD and severe depression because of a lack of contemporaneous evidence. In rejecting Mr James's claim, the DVA, through the Military Rehabilitation Compensation Commission (MRCC), wrote to Mr James stating that 'the Commonwealth has been prejudiced as a result of your failure to lodge a notice of injury at the time of the alleged events in 1972 or as soon as practicable after the alleged events'.<sup>404</sup>

In rejecting Mr Sparreboom's claim, the DVA stated that Defence had no records of any reports made by Mr Sparreboom and, as such, the DVA was not satisfied that his injury was service related.<sup>405</sup>

## The DVA's evidentiary requirements

Mr Bayles said that the DVA requires evidence of:

- a diagnosis of the condition claimed
- the incident causing the conditions claimed
- the incident/condition claimed relating to service.<sup>406</sup>

Mr Bayles said that the delegate or claims assessor who determines the claim applies a standard of proof analogous to the civil standard – the balance of probabilities,<sup>407</sup> or 'more likely than not'.<sup>408</sup>

Mr Bayles said that the evidentiary requirements for SRCA Claims and VEA Claims are the same.<sup>409</sup> For SRCA Claims, Mr Bayles referred to a liability handbook that delegates or claims assessors use to determine SRCA Claims and decide whether to ‘accept or refuse responsibility for causing (or contributing to) ... injury or disease’ under the SRCA (SRCA Liability Handbook).<sup>410</sup>

The SRCA Liability Handbook sets out policies on the evidentiary requirements for acceptance of a claim. The policies contain the following statements:

Claims are in fact decided on the basis of all independent evidence available to a Delegate, and not on the basis of conjecture or supposition or only on the basis of unsupported (i.e. unverified) assertions by the claimant.<sup>411</sup>

Applications which founder upon the absence of (or inadequacy of) supporting evidence should be decided in the negative.<sup>412</sup>

Unsupported client assertion is not sufficient evidence ... Even a statutory declaration by the claimant should not be regarded as sufficient to accept liability in the absence of other, independently corroborating evidence.<sup>413</sup>

As Mr Bayles observed during the hearing, such policies are intended to assist claims assessors to apply the legislation, not to override it.<sup>414</sup> He said that ‘there is a need for further corroborative evidence to accept that an incident happened. It is not sufficient just to have a statutory declaration’.<sup>415</sup>

We are satisfied that this approach is incorrect and, when applied, may have the effect of leading a claims assessor into error. The legislation does not require corroborative evidence. Rather, it requires the decision-maker to be satisfied, on the balance of probabilities, that the legislative tests for the payment of compensation are met. Those tests may be met in the absence of corroborative evidence.

Mr Bayles was unable to comment on this.<sup>416</sup> He said that ‘an assertion on its own is not enough’ and that the DVA needs to have corroborative evidence.<sup>417</sup>

As set out at sections 2.3 and 3.3 above, the Royal Commission heard evidence that many survivors of child sexual abuse at Leeuwin and Balcombe did not disclose the abuse for a number of reasons.

Mr Bayles acknowledged that for many claims it has been difficult to obtain evidence other than the statement of the claimant.<sup>418</sup> He accepted that in cases of child sexual abuse there are often no other witnesses to the abuse and, by its very nature, child sexual abuse is something that might only be reported years, even decades, after the abuse occurred.<sup>419</sup>

The DVA acknowledged that it is difficult for claimants to give corroborative evidence to support claims involving incidents of child abuse and agreed that changes to the relevant policies should be made.<sup>420</sup>

At the time of the public hearing, the DVA, through its SRCA Liability Handbook, imposed evidentiary requirements – in particular, that claims be supported by corroborative evidence in all cases – that were in conflict with the SRCA and operated harshly against survivors of child sexual abuse.

## Reforms to the DVA's evidentiary requirements policy

Following the hearing, on 29 September 2016, the DVA put into effect a new policy for determining claims for child abuse under the VEA and the SRCA.<sup>421</sup>

The new policy accepts that a statutory declaration from survivors of child sexual abuse whose abuse occurred before 11 April 2011 may be sufficient evidence that, on the 'balance of probabilities', the abuse occurred.<sup>422</sup>

For survivors of sexual and physical abuse occurring after 11 April 2011, the DVA will accept a statutory declaration if it is supported by corroborative evidence, such as cluster data obtained by DART.<sup>423</sup> Cluster data is statistical information such as location, year of incident, age of individuals and number of incidents in a year. The data assists in determining cluster abuse at certain ADF locations.<sup>424</sup> Claims for abuse occurring after 11 April 2011 are governed by the *Military Rehabilitation Compensation Act 2004* (Cth) and were not examined in this public hearing.

The DVA submits that:

This change is designed to address the fact that children were particularly vulnerable to abuse and incidents were unlikely to be reported, therefore corroborating evidence is unlikely to be available.<sup>425</sup>

The DVA says that it will monitor implementation of this policy over a six- to 12-month period.<sup>426</sup>

Further, the DVA says that it will not claim prejudice under section 53(1) of the SRCA for claims relating to physical and/or sexual abuse and that the new policy will be applied to claims that are pending or held in abeyance. The DVA says that it will attempt to contact those survivors of abuse whose claims were rejected because of the application of the previous policy.<sup>427</sup>

## Repayment of benefits and compensation

The Royal Commission heard evidence about difficulties which might arise when multiple benefits relate to the same claim.

CJA holds a Gold Card to cover medical treatment of all conditions. The Royal Commission received evidence that, if CJA used the Gold Card to pay for treatment of PTSD and then successfully made

a claim for compensation through the DVA for PTSD resulting from the sexual abuse he suffered at Leeuwin, the medical costs would be recoverable and future treatment entitlements would be restricted.<sup>428</sup>

Mr Greaves holds a Gold Card to cover medical treatment and has also been awarded a Totally and Permanently Incapacitated Pension (TPI Pension), estimated to be in the amount of approximately \$54,000 per annum, for PTSD and alcohol dependence.<sup>429</sup> He said that, when he brought a common law claim against Defence, he was informed that if he accepted any compensation for the claim he would be required to repay money he had received from the DVA and would lose his TPI Pension.<sup>430</sup> The circumstances of Mr Greaves's claim are set out in further detail in section 4.2.

Mr Bayles gave evidence that compensation 'offsetting' most commonly refers to the process of reducing one compensation payment in recognition of another compensation payment for the same incapacity.<sup>431</sup> He also said that offsetting can occur where a claimant receives statutory compensation under the VEA or the SRCA but is also awarded common law damages for the same incapacity or death, or injury, disease or death.<sup>432</sup>

Under the VEA, there are a number of offsetting provisions which allow the DVA to recover payments or costs. Mr Bayles described these offsetting provisions as 'self-executing' in that, once it is established that a person is receiving another source of compensation for the same incapacity, there is no discretion to withhold or reduce offsetting against past and future pension entitlements.<sup>433</sup>

Mr Donaldson said that a 'live issue' that claimants face is that it is often impossible for a claimant to make a rational decision about whether to accept a settlement of a claim without clear information as to the quantum of any statutory refund.<sup>434</sup>

Mr Bayles said:

it can sometimes be difficult [to provide estimates] because where multiple conditions are involved, [DVA] have to do what is called a notional assessment and work out how much of the disability pension is attributable to the condition for which damages are being sought.<sup>435</sup>

Mr Bayles accepted that the DVA should be doing what it can to assist claimants by providing estimates and figures before claimants make final decisions on compensation.<sup>436</sup>

It is important that the DVA provides offset figures to claimants and their legal representatives where the offsetting provisions might be triggered by a claim being settled or upheld.

The DVA says that it is currently reviewing its policies and procedures relating to offsetting. As part of this review, it is taking measures to:

- work towards a centralised, coordinated offsetting team to provide consistent advice, information and calculations
- develop a template requesting information from parties seeking offsetting calculations to ensure the DVA has all the information to perform offsetting calculations
- give offsetting advice/education to law firms that are commonly involved in offsetting requests so that there is a clearer understanding of the DVA's requirements and when in the settlement process the DVA should be contacted.<sup>437</sup>

## 4.2 The response of the Department of Defence to civil claims

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The Royal Commission received evidence of civil claims brought against Defence for child sexual and physical abuse suffered at Leeuwin and Balcombe.

Mr Greaves's claim against Defence for the abuse he suffered at Leeuwin was examined during the public hearing, and the Royal Commission heard evidence of his experience in this process. The Royal Commission also heard evidence from Mr Donaldson, who was Mr Greaves's solicitor in his claim against Defence, and Mr Lysewycz, who gave evidence of his specific involvement in the claim brought by Mr Greaves and the general approach taken by Defence in responding to claims. Mr Greaves's claim is set out below.

### The approach of the Department of Defence to historical abuse claims

Mr Donaldson, a solicitor formerly with Shine Lawyers (which acts for survivors), told the Royal Commission that, up to at least 31 March 2014, Defence's response to civil claims for child sexual abuse had been 'inappropriate because they were effectively [forcing] survivors to litigate in order to achieve recognition of their claims'.<sup>438</sup>

Mr Donaldson gave evidence that historical abuse claims were difficult to litigate and were 'high risk' because of the difficulties in overcoming the statute of limitations, which operates to prevent survivors from proceeding with claims due to the passage of time.<sup>439</sup>

Mr Donaldson said that in November 2014 he and a colleague from Shine Lawyers met with senior representatives of Defence Legal, including Mr Lysewycz, and their solicitors to discuss an alternative model – or process change – to resolving claims.<sup>440</sup> Mr Lysewycz said that this process was motivated by the 'overarching aspiration' to avoid 'further harm to survivors'.<sup>441</sup>

The Royal Commission heard that a ‘collaborative framework’ was subsequently established between Shine Lawyers and Defence in an effort to provide an alternative dispute resolution process so that claimants did not have to institute formal legal proceedings.<sup>442</sup>

Mr Donaldson said that through this ‘collaborative arrangement’ Defence agreed not to rely on the statute of limitations,<sup>443</sup> although he said that the ‘collaborative arrangement’ was ‘conducted in a similar manner in which any common law mediation would, and as part of that, one of the considerations that we had to take into account was the fact that there was going to be an issue with respect to time limitations’.<sup>444</sup>

On 4 May 2016, the Commonwealth Attorney-General issued a direction that limitation defences were not to be pleaded in time-barred child abuse claims.<sup>445</sup>

Mr Donaldson said that this was a ‘significant movement’ on the part of Defence which has been ‘well received’.<sup>446</sup> He said that he would ‘expect that with matters that are negotiated in future with [Defence], that we will no longer have to allow a discount in relation to time limitation’.<sup>447</sup>

Mr Lysewycz gave evidence that Defence’s response to claims is a ‘continuing “work in progress” in the sense that [it] strives to adapt collaborative responses that are relevant to a survivor’s claim’. He told the Royal Commission that the scope of the response varies according to each personal circumstance but that there is less scope for adaptation when claims are litigated.<sup>448</sup> He said that:

The overarching aspiration is to do no further harm. That’s a fairly broad concept and that applies irrespective of whether it is a self-represented survivor, a survivor represented by lawyers, a litigated claim or an unlitigated claim.<sup>449</sup>

## Mr Greaves’s common law claim

Mr Greaves gave evidence that in October 2014 he contacted Shine Lawyers regarding the sexual abuse he experienced at Leeuwin. He was informed that he could commence civil action against Defence seeking compensation (Common Law Claim).<sup>450</sup>

At the time, Mr Greaves was receiving a TPI Pension and he had a Gold Card. These were awarded to Mr Greaves for PTSD and alcohol dependence related to his service in Vietnam.<sup>451</sup>

Mr Greaves told the Royal Commission that in July 2015 he was assessed by a psychiatrist, who found that the PTSD he was suffering from was ‘wholly related’ to the sexual abuse at Leeuwin and the alcohol dependence was substantially in relation to the sexual abuse at Leeuwin.<sup>452</sup>

Mr Donaldson said that he identified a number of issues that could affect Mr Greaves’s Common Law Claim. One issue was the limitations defence, which had the potential to defeat the claim.<sup>453</sup>

In addition, and more significantly, Mr Donaldson said that it was problematic that Mr Greaves was already receiving a TPI Pension for PTSD for a separate incident that occurred in Vietnam.<sup>454</sup> He said that his concern was that, if Mr Greaves was to bring the Common Law Claim for personal injuries related to PTSD, he would be required to repay all amounts he had already received and would be prevented from receiving future payments (Clawback).<sup>455</sup>

Mr Donaldson gave evidence that he explained the Clawback to Mr Greaves. Mr Greaves's instructions were that, if Shine Lawyers were able to negotiate a resolution that would not affect his TPI Pension, he wanted to proceed.<sup>456</sup>

## The mediation

On 24 November 2015, Mr Greaves attended a mediation with Defence, during which he received an apology from Captain Neville Teague.<sup>457</sup>

Mr Donaldson said that before the mediation he attempted to obtain the quantum of the Clawback amount from the DVA but that the DVA was not prepared to provide the quantum.<sup>458</sup>

The Royal Commission heard evidence that at the mediation legal representatives of Mr Greaves and Defence considered a number of possible 'discretionary remedies' to circumvent the operation of the Clawback,<sup>459</sup> including an ex-gratia payment,<sup>460</sup> act of grace,<sup>461</sup> and payment under a scheme for Compensation for Detriment Caused by Defective Administration.<sup>462</sup>

Mr Donaldson and Mr Lysewycz gave evidence that the alternatives proposed were not viable and would inevitably trigger the operation of the Clawback and affect Mr Greaves's TPI Pension.<sup>463</sup> Ultimately, no offers were made and no monetary amounts were discussed.<sup>464</sup> Mr Lysewycz said that Defence's legal representatives formed the opinion that even making an offer to Mr Greaves was 'risky' as it could be 'misinterpreted by those who subsequently seek to get a claw-back'.<sup>465</sup>

Mr Greaves told the Royal Commission that at the mediation Defence's legal representatives told him that, if he accepted compensation for the Common Law Claim, he would be required to pay back the money he received from the DVA and would lose his ongoing TPI Pension.<sup>466</sup> As a result, he decided not to pursue the Common Law Claim.<sup>467</sup>

## The deed of release

At the end of the mediation, Mr Greaves signed a deed of release stating that he would take no further action against Defence.<sup>468</sup>

Clause 3 of the deed, entitled 'No admission of liability', states:

The parties acknowledge that the Commonwealth's agreement to enter into this Deed is made without any admission of liability whatsoever on the part of the Commonwealth, its officers, servants or agents.<sup>469</sup>

Mr Lysewycz gave evidence that, for the purposes of dealing with Mr Greaves's Common Law Claim, Defence accepted that it had breached its duty in relation to Mr Greaves.<sup>470</sup>

Clauses 2 and 4 of the deed are interrelated clauses that deal with settlement of the Common Law Claim.

Clause 2.1(a) of the deed, entitled 'Payment of settlement sum', states:

In consideration of the releases and indemnities contained in this Deed of Release ... the parties agree to resolve this Claim without the payment of any settlement sum.<sup>471</sup>

Clause 4 of the deed, entitled 'Release and Bar to Proceedings', states:

- (a) The claimant releases the Commonwealth from all obligations, sums of money, actions, suits, causes of actions, proceedings, claims, accounts, costs and expenses both at law or in equity or arising under any statute which he/she has or had or may have against the Commonwealth arising out of or in any way related, either directly or indirectly, to the facts and circumstances described in the Background or the Proceedings.
- (b) This Deed may be pleaded as a bar to any action commenced or to be commenced by any party against any other party concerning or arising out of or in any way related, directly or indirectly, to the facts and circumstances described in the Background or the Claim.
- (c) The release and bar referred to in (a) and/or (b) above does not prevent the Claimant availing himself of any statutory, executive or other redress scheme designed to address the facts and circumstances of a kind referred to in the Background.<sup>472</sup>

Mr Lysewycz said that the deed – and, in particular, clause 4 – is a 'standard operating procedure' and that the Commonwealth goes into a mediation with a deed ready in the event an outcome is reached.<sup>473</sup> He said that the Commonwealth intended to have the opportunity to rely on the clause<sup>474</sup> and that there 'needs to be finality' from the survivor's point of view and also that, from the perspective of 'public consideration, we have engaged in a process and the matter is finished'.<sup>475</sup>

Mr Lysewycz accepted that the deed signed by Mr Greaves extracted a bar to any further claim against Defence but provided no financial benefit to Mr Greaves.<sup>476</sup> Although there was no financial outcome, he perceived there was an 'intangible benefit', as Mr Greaves received an apology.<sup>477</sup>

Mr Donaldson said that Mr Greaves did not receive any benefit in return for the release, but he received an apology and 'restorative justice'.<sup>478</sup>

Mr Greaves told the Royal Commission that, given the outcome of the mediation, the apology he received felt hollow<sup>479</sup> and he felt like he 'was being abused all over again'.<sup>480</sup>

Mr Lysewycz accepted that when Mr Greaves left the mediation he had less by way of rights than when he entered the mediation. He said that in hindsight there was no justification for the deed because there was no financial benefit to Mr Greaves.<sup>481</sup>

Mr Lysewycz's concession is appropriate. There was no justification for the deed. Defence submits that it should be taken into account that Mr Greaves signed the deed voluntarily on the advice of his own legal team, received a formal apology as a tangible benefit and retained his statutory benefits.<sup>482</sup> These circumstances did not justify the making of a deed releasing the Commonwealth from liability, where the Commonwealth gave nothing in return.

### The payment of Shine Lawyers' costs

The Royal Commission heard evidence that Shine Lawyers were paid \$70,000 as a contribution towards their costs.<sup>483</sup> This was documented in a side letter, which was separate from the deed.<sup>484</sup>

Mr Lysewycz gave evidence that Mr Greaves's Common Law Claim was a 'test case' to see if there was any way of achieving a financial outcome without compromising DVA entitlements. He said that the work that Shine Lawyers undertook had 'broader implications for the cohort of abuse claims under consideration'. He stated that, on this basis, it was only fair that the Commonwealth pay a contribution towards Shine Lawyers' costs.<sup>485</sup>

Mr Donaldson gave evidence that, when it became clear that Mr Greaves was not going to receive any monetary compensation, he could have walked away. He said that he explained to Mr Greaves that he could walk away without signing the deed or he could sign the deed and Shine Lawyers would get paid.<sup>486</sup>

Mr Donaldson stated that Defence's offer to contribute to Shine Lawyers' legal costs was made after he advised Mr Greaves to 'walk away'.<sup>487</sup> He said that Mr Greaves provided instructions that he was happy for Shine Lawyers to be paid.<sup>488</sup>

Mr Greaves told the Royal Commission that, while he recalls Mr Donaldson telling him that it was an option for him to 'walk out', he was not 'advised' to do so.<sup>489</sup> He stated that he was told that, if he did not sign the deed, Shine Lawyers would not get paid.<sup>490</sup>

Mr Lysewycz said that the contribution towards Shine Lawyers' costs was not conditional on Mr Greaves signing the deed and releasing Defence from the Common Law Claim. He said that there was no condition applied to the agreement to pay Shine Lawyers' costs.<sup>491</sup>

## 5 The Australian Defence Force Cadets

### 5.1 Overview of the Australian Defence Force Cadets

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The ADF Cadets is a community-based youth development organisation administered by Defence in partnership with the community.<sup>492</sup> It conducts service-related training and activity programs for children in a military-style environment.<sup>493</sup>

Historically, cadet programs were established to provide training for young people in order to prepare them for service in the Navy, Army or Air Force once they were old enough to enlist.<sup>494</sup>

Since at least 1941, cadet programs in Australia have been operated by the Navy, Army or Air Force.<sup>495</sup> Some schools also operate cadet programs, but these programs are not formally part of the ADF Cadets.<sup>496</sup>

In 2001, the three cadet organisations were renamed to:

- the Australian Navy Cadets (ANC)
- the Australian Army Cadets (AAC)
- the Australian Air Force Cadets (AAFC).<sup>497</sup>

Since 2001, the ANC, AAC and AAFC have been collectively referred to as the 'ADF Cadets'.<sup>498</sup>

Today, the purpose of the ADF Cadets is to:

- develop an individual's capacity to contribute to society
- foster an interest in ADF careers
- develop ongoing support for Defence.<sup>499</sup>

As at June 2015, there were 25,886 active ADF Cadet members in 544 ADF Cadet units around Australia.<sup>500</sup>

### Administration and structure of the ADF Cadets

The arrangements for the administration of the ADF Cadets are set out in:

- the *Defence Act 1903* (Cth)
- the Cadet Forces Regulation 2013 (Cth).<sup>501</sup>

Under these arrangements, Service Chiefs are responsible for the organisation, maintenance, regulation and control of their respective ADF Cadet force and the discipline of its members.<sup>502</sup>

Each ADF Cadet organisation is administered by a Director General under powers delegated by the respective Service Chief. The Director General must be a member of the ADF and is responsible,

under delegated powers, for the organisation, maintenance, regulation and control of his or her cadet organisation and the discipline of personnel.<sup>503</sup>

Each ADF Cadet organisation is divided into 'formations' and 'units'.<sup>504</sup> A formation is referred to as a 'flotilla' in the ANC, a 'brigade' in the AAC and a 'wing' in the AAFC.<sup>505</sup> A unit is referred to as a 'training ship' in the ANC, a 'battalion' or 'unit' in the AAC and a 'squadron' or 'flight' in the AAFC.<sup>506</sup>

## Staff

ADF Cadets staff are referred to as 'officers of cadets' or 'instructors of cadets'.<sup>507</sup> Officers and instructors of cadets are not necessarily members of the ADF, although it is possible for members of the ADF to be appointed as officers or instructors of cadets.<sup>508</sup>

A person is eligible to be appointed as an instructor of cadets when he or she turns 18 years old and as an officer of cadets when he or she turns 19 years old.<sup>509</sup>

The ADF pays officers of cadets and instructors of cadets a Cadet Forces Allowance for attendance at approved ADF Cadet activities.<sup>510</sup> They are also entitled to be paid travelling allowance to attend such activities.<sup>511</sup>

To be appointed as an officer or instructor of cadets, the Service Chief must be satisfied that the applicant is suitable to supervise and control or support the training program for, and the activities of, cadets.<sup>512</sup>

## Cadets

Children are eligible to join the ADF Cadets from the age of 13. Cadets 'age out' of ADF Cadets at the age of 20.<sup>513</sup>

Upon enrolling in the ADF Cadets, children start at the lowest rank of 'cadet'.<sup>514</sup> They can attain higher ranks upon completion of training activities and promotional courses.<sup>515</sup>

The Royal Commission heard that ADF Cadets typically attend weekly meetings with their ADF Cadet units. At those meetings they dress in uniform and participate in military-based activities such as learning about rank structure and military drills.<sup>516</sup>

ADF Cadet units also hold overnight camps and conduct week-long training and promotion camps at ADF bases around Australia.<sup>517</sup>

Cadets are not members of the ADF.<sup>518</sup>

## Recent amendments to the Defence Act

Amendments made to the Defence Act since the public hearing have removed the reference to the Service Chiefs. The Defence Act now provides that the Chief of the ADF has overall responsibility for the direction and administration of the ADF Cadets.<sup>519</sup> The Chief of the ADF is able to direct the Vice Chief of the ADF, a Service Chief or any other member of the ADF to assist with the direction and administration of the ADF Cadets.<sup>520</sup>

Vice Admiral Griggs told the Royal Commission that the amendments to the Defence Act were intended to ensure that the Chief of the ADF has the necessary statutory powers to pursue joint ADF Cadet policies.<sup>521</sup> He stated that it was ‘not anticipated that the changes will have any substantial effect on day to day activities of individual cadet units’.<sup>522</sup>

The significance of the amendments is that, for the first time in the history of the ADF Cadets, overall command responsibility for ADF Cadets is centralised in the Chief of the ADF.

## 5.2 The Australian Air Force Cadets

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During the public hearing, the Royal Commission focused on the response of the AAFC to allegations of child sexual abuse.

The AAFC – or Air Training Corps, as it was initially known – was established during World War II to train young men as aircrew for eventual entry into the Air Force.<sup>523</sup>

Today, the AAFC provides aviation-focused training to children in a military-style environment. It conducts activities for children in flying, field craft, adventure training, service knowledge, navigation and gliding.<sup>524</sup> Vice Admiral Griggs told the Royal Commission that in the AAFC children are encouraged to develop decision-making, leadership and resilience skills and contribute to the operation of their squadrons.<sup>525</sup>

### Structure and administration of the AAFC

The national headquarters of the AAFC is based in Canberra (HQAAFC). HQAAFC oversees eight operational wings across the states and territories of Australia.<sup>526</sup>

HQAAFC accommodates the Commander of the AAFC,<sup>527</sup> responsible for the operation and daily management of the AAFC.<sup>528</sup> The Commander of the AAFC is not a member of the ADF.<sup>529</sup>

Each AAFC wing is commanded by an AAFC Officer Commanding, who has Wing Commander rank.<sup>530</sup> Each wing is responsible for developing operating plans for squadrons, ensuring that adequate

controls are in place for effective policy implementation, overseeing performance at a squadron level and delivering AAFC services to cadets in accordance with national standards.<sup>531</sup>

Each wing is made up of a number of squadrons under the supervision of a Commanding Officer. Most cadet activity is performed under squadron-based training.<sup>532</sup>

The Royal Commission heard that specialist AAFC flights may be established within wings to deliver specialist training. Some examples are field craft, engineering, aero-modelling, powered flying or gliding.<sup>533</sup>

## Staff

In addition to the ADF Cadet roles of officers and instructors of cadets, the AAFC provides for two additional categories of adult instructors:

- Civilian Instructor Volunteers
- ADF Support Instructors.<sup>534</sup>

AAFC officers of cadets, instructors of cadets, Civilian Instructor Volunteers and ADF Support Instructors are referred to in this report as Adult Staff Members.

### Civilian Instructor Volunteers

Civilian Instructor Volunteers are generally parents or friends of cadets. They receive no or a nominal reward or compensation for duties undertaken.<sup>535</sup> Civilian Instructor Volunteers hold no rank within the AAFC.<sup>536</sup>

The Royal Commission heard that those awaiting appointment as officers or instructors of cadets normally attend AAFC activities as Civilian Instructor Volunteers for six months while their applications are processed and to confirm their desire to become Adult Staff Members.<sup>537</sup>

The conditions of service of Civilian Instructor Volunteers are examined in the policies and procedures in section 6.

### ADF Support Instructors

ADF personnel who wish to assist and support the objectives of the AAFC as auxiliary instructors or officers may be registered with the AAFC as ADF Support Instructors.<sup>538</sup> The period of duty for ADF personnel as ADF Support Instructors is not to exceed three weeks in a financial year.<sup>539</sup>

The conditions of service of ADF Support Instructors are examined in the policies and procedures in section 6.

## 6 ADF Cadets policies and procedures

### 6.1 Development of policies

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Until very recently, the individual ADF Cadets organisations developed and administered separate policies and procedures for the management of children within the ADF Cadets. There has been ‘little inter-service collaboration’.<sup>540</sup>

In 2013, in response to the early work of DART, Defence resolved to adopt joint child protection policies for all three ADF Cadet organisations.<sup>541</sup>

At the time of the public hearing, this joint child protection policy was still under development.<sup>542</sup>

The Royal Commission heard that, once completed, the joint child protection policy would be incorporated into an overarching policy manual currently being developed by Defence to cover all aspects of Defence’s engagement with children (YOUTHPOLMAN).<sup>543</sup>

The YOUTHPOLMAN is discussed in further detail in section 9.

#### Vice Chief of the Defence Force Directive 03/14 – Child Protection

In 2014, pending promulgation of YOUTHPOLMAN, the Vice Chief of the ADF issued a directive providing interim guidance on child protection within the ADF Cadets.<sup>544</sup>

The Vice Chief of the ADF Directive 03/14 – Child Protection (the 2014 Vice Chief Directive) sets out the current policy on child protection within the ADF Cadets.

The 2014 Vice Chief Directive is an interim policy and is due to be cancelled upon finalisation of YOUTHPOLMAN.<sup>545</sup>

The 2014 Vice Chief Directive sets out requirements in relation to:

- the screening and recruitment of staff in the ADF Cadets with direct contact with children<sup>546</sup>
- the management of complaints of child abuse within the ADF Cadets<sup>547</sup>
- the roles and responsibilities of Service Chiefs, the Director General of Cadets, Unit Commanders, officers of cadets, instructors of cadets and Defence personnel.<sup>548</sup>

## 6.2 Implementation of the 2014 Vice Chief Directive within the AAFC

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As mentioned above, a key focus of the public hearing was the response of the AAFC to allegations of child sexual abuse.

The 2014 Vice Chief Directive applies to the AAFC and is implemented through:

- the AAFC Manual of Management
- the AAFC Standing Instructions.

The AAFC Manual of Management sets out all policies for the administration and operation of the AAFC, including policies on child protection,<sup>549</sup> behavioural expectations for AAFC staff,<sup>550</sup> and the management of complaints.<sup>551</sup>

AAFC Standing Instructions provide more specific guidance and direction on how to implement the requirements set out in the AAFC Manual of Management.

Mr John Devereux, a former Officer Commanding of 2 Wing AAFC, gave evidence that the purpose of the AAFC Manual of Management and AAFC Standing Instructions is to place the joint ADF Cadet directions in an AAFC context.<sup>552</sup>

## 6.3 Relevant AAFC policies regarding the management of children

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### Duty of care of Adult Staff Members

The 2014 Vice Chief Directive provides that Adult Staff Members in the ADF Cadets are responsible for the protection of cadets with whom they interact, directly or indirectly, in the course of their duties.<sup>553</sup>

In addition to this requirement, the AAFC Standing Instructions provide that AAFC Adult Staff Members have a duty of care to ensure that all who access AAFC facilities and activities are provided with a safe environment that protects cadets.<sup>554</sup>

The AAFC Standing Instructions also provide that the Commanding Officer of an AAFC squadron is responsible for assessing and managing child protection risks within their unit and ensuring that all staff and cadets over the age of 18 have fulfilled all AAFC screening and training requirements.<sup>555</sup>

## Screening of Adult Staff Members

### Defence Purple Card

All Adult Staff Members are required to hold a Defence-wide working with children clearance, referred to within Defence as a 'Defence Purple Card'.<sup>556</sup>

In order to qualify for a Defence Purple Card, Adult Staff Members must:

- hold a Working With Children Check from their relevant state or territory jurisdiction; or complete a Working With Children Declaration for jurisdictions that do not require a Working With Children Check
- state in writing that they have read and undertake to comply with the Defence Child Protection Code of Conduct
- complete an online training program in identifying and responding to child abuse (the Safeguarding Children Awareness Program (SCAP)). This is explained further below.<sup>557</sup>

A Defence Purple Card remains current for the duration of the relevant Working With Children Clearance period as defined in the relevant state and territory jurisdiction.<sup>558</sup>

### Working With Children Checks / Working With Children Declarations

All Adult Staff Members are required to hold a valid Working With Children Check.<sup>559</sup>

In jurisdictions that do not require Working With Children Checks, Defence requires that Adult Staff Members complete a Working With Children Declaration.<sup>560</sup>

The Working With Children Declaration is a statutory declaration signed by an Adult Staff Member confirming that he or she has not been convicted of, and is not under investigation for, an offence which would normally disqualify an individual from a Working With Children Check.<sup>561</sup>

During the public hearing Mr Dennis Green, a former Director General Cadets – Air Force, gave evidence that the variations in the state and territory Working With Children Check requirements make it difficult for organisations such as Defence to deliver a safe environment for young people, especially when members of the organisation travel across state and territory borders.<sup>562</sup> He said that it is essential that all states and territories adopt a uniform approach to child protection legislation.<sup>563</sup>

In its *Working with Children Checks report*, published in July 2015, the Royal Commission recommended to governments that a national model for Working With Children Checks be adopted by introducing consistent standards and establishing a centralised database to facilitate cross-border information sharing.<sup>564</sup>

## Defence Child Protection Code of Conduct

All Adult Staff Members are required to read and undertake to comply with a Defence Child Protection Code of Conduct.<sup>565</sup> It relevantly provides that all Adult Staff Members must:

- promptly report all incidents, allegations or suspicions of child abuse
- not engage in any sexual or indecent act on or with or make any sexual threat, suggestion or comment to a child
- not have, or attempt to have, or cultivate intimate relationships with a child
- not involve children in any form of sexual or indecent activity or acts
- not invite unaccompanied children into their home, except in an emergency
- not sleep in close proximity to unsupervised children
- use common sense to avoid actions or behaviour that could be perceived as child abuse.<sup>566</sup>

In addition, the AAFC Manual of Management provides that all AAFC personnel must also read and agree to abide by:

- the AAFC Code of Conduct
- the AAFC's Behavioural Expectations.<sup>567</sup>

## Safeguarding Children Awareness Program

All Adult Staff Members are required to complete the SCAP, which is an online training module on identifying and responding to child sexual abuse.<sup>568</sup>

Cadets who turn 18 are also required to complete the SCAP during the year in which they turn 18.<sup>569</sup>

The Royal Commission was provided with the SCAP, which consists of online units that address:

- child abuse and neglect
- perpetrators of sexual abuse
- creating safer organisations
- recruitment and screening
- child abuse reports and allegations.<sup>570</sup>

The Royal Commission heard that the SCAP takes approximately two to three hours to complete and that, on completion, Adult Staff Members are issued with a certificate to indicate successful completion of the SCAP component of the Defence Purple Card.<sup>571</sup>

Vice Admiral Griggs accepted that the SCAP is a very important tool in Defence's child protection policy.<sup>572</sup>

## Training of Adult Staff Members

All AAFC personnel are required to undertake annual training on acceptable behavioural standards within the AAFC.<sup>573</sup>

The AAFC Manual of Management provides that training on acceptable behavioural standards must also form part of an annual briefing to all personnel at the start of each calendar year as well as part of any briefing to cadets at the start of AAFC activities, such as promotion camps.<sup>574</sup>

The Royal Commission heard that up until 2013 Adult Staff Members in the AAFC were required to complete a course called ‘Societal and Legal’, in which instructors were provided with training on child protection matters and unacceptable behaviour within the AAFC.<sup>575</sup>

Since 2013, the requirement to complete the Societal and Legal course has been overtaken by the introduction of the AAFC Staff Induction Program, which includes a unit on child protection matters and identifying and responding to unacceptable behaviour.<sup>576</sup>

## AAFC Behaviour Policies

The AAFC Manual of Management and AAFC Standing Instructions each contain a ‘Behaviour’ chapter which collectively set out the AAFC’s expectations in relation to acceptable and unacceptable behaviour for all AAFC personnel (the AAFC Behaviour Policies).<sup>577</sup>

Further, the AAFC’s behavioural expectations are set out in an AAFC Code of Conduct and a document entitled ‘AAFC’s Behavioural Expectations’.<sup>578</sup> All AAFC members are required to read and agree to comply with both documents before they are appointed to or registered with the AAFC.<sup>579</sup>

## No touching rule

The AAFC Behaviour Policies stipulate that a ‘no touching’ rule applies in all AAFC workplaces.<sup>580</sup> ‘Touching’ is defined as any physical contact with another person, using part of the body or an object, with the purpose of sexual arousal or gratification or for the purpose of displaying private intimacy.<sup>581</sup>

‘Legitimate physical contact’ is allowed in certain circumstances, such as when it is necessary for the purpose of instruction.<sup>582</sup>

## Unacceptable behaviour

The AAFC Behaviour Policies stipulate that the AAFC has zero tolerance of ‘unacceptable behaviour’. ‘Unacceptable behaviour’ is defined as behaviour that ‘would be offensive, belittling, abusive or threatening to another person or adverse to the morale, discipline or cohesion in the workplace’ and may include bullying, sexual harassment, inappropriate relationships or abuse of power.<sup>583</sup>

Under the AAFC Behaviour Policies, sexual offences are considered to be a form of ‘unacceptable behaviour’.<sup>584</sup>

## Inappropriate fraternisation

The Royal Commission heard evidence that since at least 2000 the AAFC has prohibited ‘inappropriate fraternisation’ within the ADF Cadets.

The current AAFC Behaviour Policies contain a rule on ‘inappropriate fraternisation’, which provides that sexual relations and intimacy between AAFC personnel is prohibited in all AAFC workplaces.<sup>585</sup> In particular, the rule provides that intimate personal relationships between Adult Staff Members and cadets are strictly prohibited and will result in action to terminate the Adult Staff Member’s service with the AAFC.<sup>586</sup>

‘Inappropriate fraternisation’ is broadly defined as including:

- voluntary sexual or intimate relations between AAFC personnel
- a close and exclusive emotional relationship involving public displays of affection or private intimacy
- a relationship which involves or gives the appearances of involving partiality, preferential treatment or improper use of rank
- the public expression of intimate relations between AAFC personnel.<sup>587</sup>

Vice Admiral Griggs gave evidence that the core aim of the rule against ‘inappropriate fraternisation’ is to protect children and to avoid an environment in which child abuse can occur.<sup>588</sup>

## Information for parents and guardians regarding the AAFC’s Behaviour Policies

The AAFC Manual of Management requires the AAFC to inform parents about the child protection policy and procedures.<sup>589</sup>

The Royal Commission also heard that parents are required to sign an ‘activity approval form’ authorising their child to attend any AAFC activity. If the activity approval form is not signed, the cadet is not allowed to attend the activity.<sup>590</sup>

## Complaints-handling procedure within the AAFC

The 2014 Vice Chief Directive provides that all Adult Staff Members who suspect on reasonable grounds that there has been, or may have been, an incident of child abuse or that a child is at risk of abuse must first report the matter to the relevant state or territory child protection authority by the quickest means available and appropriate in the circumstances.<sup>591</sup>

Adult Staff Members are also required to report the matter to their chain of command. The matter must be reported along the chain of command to the Australian Defence Force Investigative Service (ADFIS). ADFIS is then responsible for liaising with the relevant civilian authorities and police on behalf of ADF Cadets.<sup>592</sup>

The 2014 Vice Chief Directive provides that parents and guardians may be advised of incidents involving cadets after due consideration is given to the nature of the incident and in conjunction with advice from the relevant state or territory civilian authority or police.<sup>593</sup>

The AAFC Manual of Management and AAFC Standing Instructions each provide further guidance for AAFC members on making and managing complaints.<sup>594</sup>

These policies are examined further below.

### Making a complaint

All AAFC members have the right to make a complaint of unacceptable behaviour to their supervisory chain.<sup>595</sup>

Before making a complaint, AAFC members are encouraged to seek advice through their supervisory chain, which may provide clarification and/or early resolution.<sup>596</sup>

Complaints may be made verbally or in writing.<sup>597</sup> If the complaint is made verbally, the person who receives the complaint must put it in writing.<sup>598</sup>

All complaints are to be taken seriously and must be managed in a prompt, fair and impartial manner.<sup>599</sup>

Complaints are managed by a 'Complaint Manager', who is typically the person to whom the complaint is made. The Complaint Manager is responsible for managing the complaint from receipt to resolution.<sup>600</sup>

AAFC's policy is that complaints should be resolved at the lowest possible level in the chain of command.<sup>601</sup> AAFC members are advised that, in the majority of matters, complainants can expect a response to their complaint within 21 days.<sup>602</sup>

## Initial assessment

On receipt of a complaint, a Complaint Manager may appoint and brief an Initial Assessment Officer (IAO) to conduct an initial assessment and complete an initial assessment report (IAR).<sup>603</sup>

The purpose of the initial assessment is to gather relevant information regarding the nature and seriousness of the complaint. The resulting IAR sets out options for resolution of the complaint and allows the Complaint Manager to decide what further action is required, if any.<sup>604</sup>

The Royal Commission heard that the initial assessment process is to be completed within seven days.<sup>605</sup>

## Complaint Manager's decision

On receipt of the IAR, the Complaint Manager must decide whether there are grounds for the complaint.

If the Complaint Manager is satisfied that there are no grounds for the complaint, he or she must advise the complainant and respondent of this and advise HQAAFC that the complaint has been resolved.<sup>606</sup>

If the complainant is not satisfied with the outcome, he or she can request that the complaint be referred up the supervisory chain for further consideration.<sup>607</sup>

If the Complaint Manager determines that there are grounds for the complaint, he or she must:

- resolve the complaint if it is within his or her power to do so
- appoint a Complaint Inquiry Officer (CIO) to inquire into the complaint and make recommendations
- refer the complaint to the next level in the supervisory chain, or
- refer the complaint to civil authorities.<sup>608</sup>

## Complaint inquiry

If the Complaint Manager appoints a CIO to inquire into the complaint, the CIO may conduct interviews and take statements from any relevant parties in order to deliver a written report on all information received and make recommendations for further action, if any, to the Complaint Manager.<sup>609</sup>

Interviews must be held in private and records must be taken. For interviews conducted with cadets under 18 years old, a support person must be present.<sup>610</sup>

A complaint is deemed to be resolved when the Complaint Manager has made a decision and the appropriate action has been taken or the complaint has been forwarded to the relevant authorities.<sup>611</sup>

## Management of complaints involving sexual offences

The AAFC Standing Instructions set out steps to be taken where a complaint involves sexual abuse or sexual misconduct of a child or young person.<sup>612</sup>

Any AAFC Adult Staff Member who has received an allegation of or has a reasonable suspicion of child abuse must:

- report the matter to a relevant state or territory child protection authority
- advise the parents/guardians of the allegations where the cadet is under 18 and it is appropriate to do so
- contact local police
- report the matter in a 'Hot Issues Brief' to the Cadet Branch – Air Force.<sup>613</sup>

The Royal Commission heard that, once a matter has been passed to civil authorities, the AAFC ceases to conduct its own investigations into the matter.<sup>614</sup>

## Record keeping

AAFC squadrons are required to maintain a case file for each complaint. The case file must contain the complaint, the IAR and any records that the Complaint Manager has created or received. The AAFC squadron must retain the file for at least five years.<sup>615</sup>

AAFC squadrons are 'encouraged' to maintain a complaint register recording all relevant information relating to the complaint. The Commanding Officer of the squadron is to review the register on a monthly basis and report on any unresolved complaint to the supervisory chain.<sup>616</sup>

HQAAFC is also required to keep a record of all complaints, including who is managing the complaint and the outcome of the complaint. For privacy reasons, HQAAFC is not required to record the specific details of the complaint.<sup>617</sup>

The Royal Commission was not provided with any of the AAFC's complaint registers.

## Support mechanisms

AAFC members who make or are the subject of a complaint are to be provided with reasonable access to appropriate support services, including medical, psychological, social worker or chaplaincy support.<sup>618</sup>

AAFC members who make a complaint are also to receive protection from victimisation or other unfair disadvantage as a result of making the complaint.<sup>619</sup>

Cadets under the age of 18 who make a complaint or who are responding to a complaint can request the assistance of an adult support person. This may be the cadet's parent or guardian, family members, an adult friend or AAFC Adult Staff Member.<sup>620</sup>

## 'Mountain of policy' in the AAFC

During the public hearing it was put to Mr Green that there is a 'mountain of policy' in the AAFC 'which most people don't have the time or take the time to read'.<sup>621</sup> Mr Green agreed that there is a mountain of policy in Defence, but he said that the AAFC Manual of Management is designed to be 'user friendly' when used by someone who is an infrequent user. Mr Green gave evidence that AAFC members are not expected to have read the entire document; instead, they are expected to be able to find their way to the relevant section if they have an issue.<sup>622</sup>

Mr Green was asked whether an 'infrequent user' of the manual would understand how it interacted with the YOUTHPOLMAN. Mr Green gave evidence that most of the AAFC staff have probably never heard of the YOUTHPOLMAN.<sup>623</sup>

It is apparent that the policies and procedures in place within the ADF Cadets and AAFC as examined during the hearing are unnecessarily duplicative and, as a result, are not likely to be user friendly or effective in ensuring that AAFC staff are properly informed of the AAFC's expectations in relation to the protection of cadets.

Defence accepts this criticism but told the Royal Commission that since the hearing there has been policy reform to address these issues.<sup>624</sup>

## 7 The experiences of former cadets of the ADF Cadets

The Royal Commission heard evidence from four survivor witnesses of sexual abuse perpetrated on them between 2000 and 2013 by Adult Staff Members who were in positions of authority within the various cadet organisations.

We also heard evidence from the mother of Cadet Sergeant Eleanore Tibble (CSGT Tibble), who died by suicide in 2000 following an allegation she had been involved in a sexual relationship with an adult instructor.

The experiences of these witnesses are described below.

### 7.1 The experience of Cadet Sergeant Eleanore Tibble

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The public hearing examined the experience of CSGT Tibble, a cadet with the Air Training Corps (now known as the AAFC).

In the second half of 2000 the Tasmanian squadron of the AAFC comprised seven flights. CSGT Tibble was a cadet within AAFC1 Flight.

The chain of command within the Tasmanian AAFC at the relevant time was as follows:

- Until his resignation as described below, Mr Harper, AAFC instructor within Number 1 Flight, was subordinate to:
  - Mr Glen Kowalik, then Flying Officer (AAFC) and Flight Commander of Number 1 Flight of the AAFC
  - Mr Brian Smith, then Flying Officer (AAFC) and Deputy Flight Commander of Number 1 Flight of the AAFC.
- Mr Kowalik reported to Mr Carroll James, then Wing Commander (AAFC), who was the Commanding Officer of the Tasmanian AAFC squadron.
- Mr James reported to Ms Lydia Stevens, then Wing Commander and Deputy Director of Reserve Personnel and Cadets – Air Force.<sup>625</sup>

Mr Dale Watson, a former Air Force officer who was the Regional Liaison Officer with the AAFC in Tasmania in 2000, was involved in the AAFC's response to the experience of CSGT Tibble. However, Mr Watson's role did not form part of the chain of command set out above.<sup>626</sup>

The first part of the public hearing of the case study was held between 21 June 2016 and 30 June 2016 as scheduled. Among other witnesses, we heard evidence concerning the experience of CSGT Tibble.

During that time, we decided that there should be further inquiry into the matter of CSGT Tibble, and that Mr Watson and Mr James should be called as witnesses. It was then arranged for Mr Watson to give evidence, but it was ascertained that Mr James was abroad for the rest of the duration of the public hearing, and no evidence would be able to be obtained from him.

After the public hearing, it was learnt that Mr James had returned to Australia. It was then decided that the public hearing should be reopened to hear Mr James's evidence.

A complaint of procedural fairness was made on behalf of Mr James when he was first called to give evidence.

In summary, Mr James was concerned about findings being made on two particular matters – namely, whether or to what extent the treatment of CSGT Tibble by the AAFC staff, including Mr James, contributed to her taking her own life and whether or to what extent the Stunden report was the product of a fair process or recorded justifiable findings.

As is evident from the following section of the report, we make no findings as to any contributing factors to CSGT Tibble's suicide. We also make no findings in relation to the Stunden report.

In addition, Mr James raised concerns that he was not able to question the witnesses who gave evidence in the first part of the hearing, and he asked Counsel Assisting to tender certain documents. Counsel Assisting declined to do so.

The Royal Commission made it clear to Mr James's representatives that he could make such application to the Commissioners as may seem to him to be appropriate. The availability of that course of action was clear from the Practice Guideline on the Royal Commission's website. There was never any application on behalf of Mr James to call or recall any witnesses or to tender documents which Counsel Assisting declined to tender.

We have taken Mr James's submissions into account in coming to the findings expressed in this report. We are satisfied that there has been no want of procedural fairness in respect of Mr James.

## CSGT Tibble's involvement with the AAFC

The Royal Commission heard evidence of CSGT Tibble's experience through Ms Susan Campbell, CSGT Tibble's mother. Contrary to Mr James's submission concerning Ms Campbell's credibility,<sup>627</sup> Ms Campbell was an impressive witness with clear recollections of the events the subject of evidence. We accept Ms Campbell's evidence as set out below.

CSGT Tibble was born in 1985. In 1998, when she was 13 years old, she joined the AAFC in Darwin. She loved the AAFC and gained a sense of self-worth and value through her involvement in it.<sup>628</sup>

In February 1999, when CSGT Tibble was 14 years old, she joined the AAFC 1 Flight Air Training Corps based in the Anglesea Barracks in Hobart after she relocated from Darwin with her mother. The Anglesea Barracks were located approximately 45 kilometres away from CSGT Tibble's home.<sup>629</sup> CSGT Tibble thrived in her new flight unit and in June 2000 was promoted to Cadet Sergeant.<sup>630</sup>

Mr Harper was an adult instructor in CSGT Tibble's flight unit.<sup>631</sup>

Ms Campbell first met Mr Harper in June 2000. She said Mr Harper was around 30 years old at the time.<sup>632</sup> Mr Harper visited CSGT Tibble at their family home on several occasions. During the visits, Mr Harper said to Ms Campbell that he was a taxi driver and that he would look after CSGT Tibble if she ever needed a lift home from the city.<sup>633</sup>

Ms Campbell initially saw Mr Harper as a mentor or older brother figure for CSGT Tibble and did not think that there was anything inappropriate about their relationship.<sup>634</sup>

In August 2000, CSGT Tibble told Ms Campbell that Mr Harper had given her a silver necklace and told her that he loved her.<sup>635</sup> Ms Campbell formed the view that Mr Harper's intentions were improper. She made it known to him that any relationship with her daughter was 'inappropriate and out of the question'.<sup>636</sup> She said to him at her house one Sunday afternoon:

You being in love with Eleanore can't happen. You are her instructor, you know that she is only 15, you know she is a schoolgirl and you are a nearly 30 year old man.<sup>637</sup>

Later that month, Mr Harper called CSGT Tibble and told her that he was resigning from the AAFC.<sup>638</sup>

## Mr Harper resigns

On 15 August 2000, Mr Harper provided a written letter of resignation to Flying Officer Kowalik. The letter stated that he had 'committed a cardinal sin', 'totaly [sic] failed in my obligations as an instructor' and 'surcummed [sic] to the attention of a female cadet and become personaly [sic] involved with her'. The resignation letter did not identify the female cadet involved and said that he had the 'full blessing' of her parents. He wished to move on as quickly and quietly as possible.<sup>639</sup>

The next day, Mr Kowalik met with his Commanding Officer, Wing Commander James, and notified him that Mr Harper had admitted to a relationship with an unidentified female cadet who was under 16 years old.<sup>640</sup> Mr Kowalik told Mr James that he believed that the relationship was sexual, although Mr Harper had told Mr Kowalik that it was not sexual.<sup>641</sup>

An entry in Mr James's 2000 diary, at 16 August 2000, records that:

[Mr Kowalik] informed that LAC (AIRC) Harper was having a sexual relationship with female [cadet] believed to be under 16 [years of] age ... identity of [cadet] unknown ... Harper [has] been contacted [and] will not reveal [cadet's] name ...<sup>642</sup>

In response to Mr Kowalik's report, Mr James instructed Mr Kowalik to suspend Mr Harper immediately.<sup>643</sup> At this stage, Mr James was not aware that Mr Harper had in fact resigned.<sup>644</sup>

Mr James also instructed Mr Kowalik to take steps to identify the female cadet involved and that there be an investigation to 'get to the bottom' of the matter.<sup>645</sup> He said that he had a 'duty of care' to find the cadet and establish the truth of the allegation.<sup>646</sup>

Further, Mr James instructed Mr Kowalik to suspend the cadet.<sup>647</sup>

At the public hearing, it was put to Mr James that his instruction to suspend CSGT Tibble was not exercising a duty of care towards her – instead, it was a punitive or disciplinary action carrying the implication that the cadet was somehow at fault.<sup>648</sup>

Mr James said that he did not 'think it would be in her interest to be among a peer group knowing she was being investigated'.<sup>649</sup> It was put to Mr James that, if CSGT Tibble's peers knew she was being investigated, suspending her was likely to '[multiply] the grief' she was experiencing. Mr James accepted that this was true but that he did not appreciate this at the time.<sup>650</sup>

When asked whether a 15-year-old child is at fault in a situation where the child is in a relationship with a 30-year-old teacher, Mr James responded that '[t]he child could always say no'.<sup>651</sup> Mr James said that:

It depends on the maturity of the child. I think most children these days are quite savvy, they can say yes or no, or just walk away. So, to try to work in the minds of someone under 18 years old is very difficult.<sup>652</sup>

Following the meeting with Mr Kowalik on 16 August 2000, Mr James notified Wing Commander Watson that Mr Harper had admitted to a sexual relationship with a female cadet. At the same time the Deputy Director of the AAFC, Wing Commander Stevens, became aware of the matter.<sup>653</sup>

As the Regional Liaison Officer, Mr Watson acted as a liaison between the AAFC and the RAAF and provided assistance to the flight unit as required.<sup>654</sup> Mr James did not report to Mr Watson.<sup>655</sup> Mr James reported to Ms Stevens, who was based in Canberra.<sup>656</sup>

Mr James said that he approached Mr Watson because:

I was out of my depth in this area. I had received no training whatsoever for the job that I'd had ... So I went to Wing Commander Watson for advice so that he could steer me in the right direction, or steer the organisation in the right direction.<sup>657</sup>

Mr Watson told the Royal Commission that Mr James informed him that the relationship between Mr Harper and the female cadet was a sexual relationship with the apparent consent of the parents.<sup>658</sup>

In response to Mr James's report, Mr Watson advised that efforts be made to identify the female cadet in question.<sup>659</sup> He gave evidence that the purpose of identifying the female cadet was to:

- inform the female cadet and her parents that he intended to report the matter to the civil authorities, regardless of whether the sexual relationship was consensual
- discharge the cadet for breach of policy.<sup>660</sup>

Mr Watson gave evidence that at the time he considered that the course of action he took was appropriate. Today, he is 'not sure' that it was right and accepted that he can now see that, in a situation such as this, the child is not to blame.<sup>661</sup>

On 20 August 2000, Mr Kowalik prepared a report regarding the circumstances of Mr Harper's resignation, annexing Mr Harper's letter of resignation.<sup>662</sup> Mr James was on leave at the time and did not receive the report until 28 August 2000.<sup>663</sup>

## Mr Kowalik's interview with CSGT Tibble

On 29 August 2000, Mr James heard a rumour that the female cadet whom Mr Harper referred to in his written resignation was CSGT Tibble.<sup>664</sup> Mr James did not provide this information to Mr Kowalik or any other staff member at the time because he 'had given [Mr Kowalik] the task to identify the cadet [and] he wanted him to complete the task' and he wanted confirmation of her identity from another source.<sup>665</sup> Mr James said that it would not have been fair to intervene in a job that Mr Kowalik had been tasked with and that it was 'also a test of his ability'.<sup>666</sup>

When it was suggested to Mr James that it would have been proper to seek to confirm the identity of the female cadet as soon as possible to protect that cadet and any others who might be in danger, Mr James responded that he did not 'believe the cadet was at risk during the investigation' because Mr Harper had resigned and left the state.<sup>667</sup> Mr James accepted that he did not know what access Mr Harper may have had or been having to other minors at this time.<sup>668</sup>

On 5 October 2000, Mr Kowalik informed Mr James that he believed CSGT Tibble was the female cadet involved with Mr Harper.<sup>669</sup> Mr James directed Mr Kowalik to speak with CSGT Tibble and ask

her about the circumstances surrounding Mr Harper's resignation.<sup>670</sup> CSGT Tibble was interviewed by Mr Kowalik and a female AAFC officer whose role was to record the conversation and act as the 'responsible adult female'.<sup>671</sup> Ms Campbell was not informed of the interview.<sup>672</sup>

The contemporaneous notes record, among other things:

- CSGT Tibble said that her relationship with Mr Harper was not sexual
- CSGT Tibble did not feel she was able to tell her Flight Commander about the relationship, as Mr Harper had threatened she would be 'thrown out or demoted'
- CSGT Tibble stated 'there was no justification for what she had done'
- CSGT Tibble understood that fraternisation was 'wrong' and that she 'understood the consequences ... that she had placed herself in this position'
- CSGT Tibble said that the worst possible scenario for her was that she would be thrown out of the AAFC
- Mr Kowalik would speak to CSGT Tibble further once he had consulted his Commanding Officer.<sup>673</sup>

Ms Campbell picked CSGT Tibble up from her flight unit later that evening and found her distraught. CSGT Tibble spoke about the interview and the allegation of fraternising with Mr Harper. CSGT Tibble told her mother there was no substance to the allegation but that she had been told that she would be expelled or dishonourably discharged for fraternising with Mr Harper.<sup>674</sup> She said that CSGT Tibble felt like 'her world was crumbling around her'.<sup>675</sup>

On 12 October 2000, CSGT Tibble signed the record of interview. CSGT Tibble signed the record without Ms Campbell's knowledge and without CSGT Tibble being given the opportunity to discuss the record with a support person or reflect on the contents of the record.<sup>676</sup>

The meeting between CSGT Tibble and Mr Kowalik on 5 October 2000 was improper. It caused considerable distress to CSGT Tibble. The record of interview demonstrates that, in her mind, CSGT Tibble considered that she bore responsibility for the relationship. The AAFC did not inform Ms Campbell of the interview with her daughter, and the AAFC did not provide CSGT Tibble with a support person of her choice.

The Royal Commission received evidence that Mr James was provided with the transcript of the record of interview on 17 October 2000.<sup>677</sup> Mr James accepted that, upon reading the transcript, he understood that CSGT Tibble appreciated that her relationship with Mr Harper was wrong, that she had taken steps to end the relationship and that her continued good standing within the AAFC was important to her.<sup>678</sup>

Mr Kowalik did not follow up with CSGT Tibble once he had spoken to his Commanding Officer, despite his commitment to her at the interview on 5 October 2000.<sup>679</sup>

## Administrative action against CSGT Tibble

Mr James told us he believed he did not have authority to take disciplinary action against cadets.<sup>680</sup> An applicable AAFC policy relating to fraternisation and unacceptable behaviour provided, on its face, the capacity for Mr James as Commanding Officer to discharge a cadet according to a process which included written notice to the cadet and an opportunity for the cadet to contest the decision.<sup>681</sup> However, as is submitted by Mr James, regulation 14 of the Cadet Forces Regulation 1977 provided that a cadet may be discharged by the 'service chief'. Mr James, not being a 'service chief', submits that he did not have authority to discharge CSGT Tibble.<sup>682</sup>

Between 17 and 27 October 2000, Mr James had several discussions with Directorate of Reserves in the Air Force (DRES-AF) staff and Ms Stevens in which he sought advice regarding administrative action against CSGT Tibble.<sup>683</sup>

It is unnecessary for us to resolve any inconsistency in applicable policy or regulation. As set out below, Mr James did not attempt to discharge CGST Tibble of his own accord. Rather, he was acting under the command of Ms Stevens.

On 27 October 2000, Mr James spoke with Ms Stevens regarding action to be taken against CSGT Tibble.<sup>684</sup> He read the record of interview with CGST Tibble to Ms Stevens but was unable to say whether he had read it to her in its entirety.<sup>685</sup>

Ms Stevens directed Mr James to give CSGT Tibble the opportunity to resign or else face discharge proceedings.<sup>686</sup>

Mr James gave evidence that at the time he 'wasn't comfortable with [this] ultimatum' and that he did not think it was fair on CSGT Tibble.<sup>687</sup> Mr James did not express his concerns to Ms Stevens,<sup>688</sup> telling the Royal Commission that 'I don't think I was smart enough to do that'.<sup>689</sup>

On 28 October 2000, Mr James directed Mr Kowalik's deputy, Flight Officer Smith, to telephone CSGT Tibble in Mr Kowalik's absence and inform her that she was to submit a notice of resignation within four days or be discharged from the AAFC.<sup>690</sup> Mr James imposed this four-day time frame of his own volition.<sup>691</sup> Mr James gave evidence that it did not occur to him at the time to ask CSGT Tibble to come in and discuss the issue face to face.<sup>692</sup>

On 30 October 2000 Mr Smith telephoned CSGT Tibble and told her that she had the choice of either submitting a notice of resignation or being dishonourably discharged. CSGT Tibble was told to return her kit and that she was not to parade with her unit on 2 November 2000.<sup>693</sup>

During CSGT Tibble's conversation with Mr Smith, Ms Campbell took the phone from CSGT Tibble and asked why CSGT Tibble was required to resign. She did not receive an explanation from Mr Smith and she told him that she would take the matter further.<sup>694</sup>

Ms Campbell said that, after the call with Mr Smith, CSGT Tibble was distraught. She understood CSGT Tibble was told that she had brought dishonour to her flight unit and that her resignation was the 'only honourable option' available to her.<sup>695</sup>

Mr James gave evidence that, to his knowledge, there is no such thing as a 'dishonourable discharge' in the AAFC or in the RAAF and that 'discharge or termination ... are the only two words that are used within the cadet unit'.<sup>696</sup>

On 1 November 2000, Mr Kowalik telephoned CSGT Tibble and confirmed that she would not be permitted to parade the next day. CSGT Tibble told Mr Kowalik that she had not been given natural justice and that she would be taking the matter further.<sup>697</sup> Mr James recorded in his diary at the time that he was told that 'CSGT Tibble or [her] mother intends not to go quietly ... [and] to obtain legal advice'.<sup>698</sup>

On 2 November 2000, CSGT Tibble delivered a letter to Mr Kowalik requesting written confirmation of the verbal communications made to her 'regarding my current status within the AIRTC'. She also requested a suitable time to review her cadet file.<sup>699</sup> Mr Kowalik referred the letter to Mr James, but there is no evidence of any response to CSGT Tibble,<sup>700</sup> and we accept Ms Campbell's evidence that there was none.<sup>701</sup> CSGT Tibble was 'anxious and stressed about the humiliation and the possibility that she may be dishonourably discharged'.<sup>702</sup>

We are satisfied that, despite CSGT Tibble's request for written confirmation of the administrative action to be taken by the AAFC, the AAFC failed to comply with its own policies by not providing written notice to CSGT Tibble or an opportunity for her to contest the proposed action against her. This had the effect of denying CSGT Tibble natural justice, when she should not have been the subject of disciplinary proceedings in any event, and exposed her to further harm.

The attitude that the AAFC adopted in relation to CSGT Tibble, a child, assumed that she was in part to be blamed for her relationship with Mr Harper, an AAFC leader. Mr Harper was an adult, and the responsibility fell upon him to ensure that no inappropriate relationship developed with CGST Tibble. It must always be the case, particularly in an organisation with an hierarchical command, that the child will be vulnerable to the inappropriate advances of an adult. At no time should blame be placed on a cadet when an adult instructor or officer engages in a relationship with the cadet. It is the responsibility of the organisation to care for children and the responsibility remains entirely with the adult instructor or officer.

A similar position would prevail if a 15-year-old schoolgirl was groomed into an inappropriate relationship with a 30-year-old teacher. The child may need assistance and counselling, but it would be wrong if it was ever contemplated that she would be subject to disciplinary action, far less expelled from the school. The blame rests with the schoolteacher.

## AAFC action in relation to Mr Harper

Mr James told the Royal Commission that he did not take any steps to speak to Mr Harper between being made aware of the relationship and becoming aware of Mr Harper's resignation because Mr Watson 'took control'.<sup>703</sup>

Mr Watson said that, because Mr Harper chose to resign, he formed the view that this meant that 'he was finished, gone'.<sup>704</sup> He accepted that he made no efforts to ascertain whether Mr Harper was available for an interview to clarify the information he received, and he did not take any steps to communicate with Mr Harper. Instead, he accepted Mr Harper's resignation and viewed the matter as being a 'policy issue'.<sup>705</sup>

Accordingly, it is apparent that at no stage during the AAFC consideration of this matter was Mr Harper contacted to be questioned, and no action was taken in relation to him.

## The decision not to discharge CSGT Tibble

On 10 November 2000, Mr James had a discussion with Mr Watson in which Mr Watson was made aware of the identity of CSGT Tibble and that the relationship was not in fact 'sexual'.<sup>706</sup> Mr Watson then thought there were insufficient grounds to support discharge action against CSGT Tibble<sup>707</sup> and that the matter did not have to be reported to the civilian authorities.<sup>708</sup>

Mr Watson said that, before he found out that the relationship was not sexual, he supported the proposed discharge.<sup>709</sup> He gave evidence that the policies of the AAFC did not tolerate or condone fraternisation<sup>710</sup> and that, if the relationship was sexual, it would amount to a gross breach of trust between the staff member and the cadet.<sup>711</sup>

Mr Watson said that before 10 November 2000 the information available to him suggested that the cadet was a willing participant and that the sexual relationship had parental consent.<sup>712</sup> He said that, at that time, some blame had to be apportioned to the child cadet, who had knowingly consented to, and participated in, the relationship, despite being seduced by an adult instructor.<sup>713</sup>

When asked whether any blame should be apportioned to the child cadet at all, he said 'she's not solely to blame'.<sup>714</sup> He accepted that a 15-year-old is in a seriously disadvantaged position relative to a 30-year-old adult instructor in a position of authority.<sup>715</sup> However, he said that it depends on the circumstances as to where the blame lies, telling the Royal Commission that:

Certainly, I would see that the adult – I don't see any excuse whatsoever for an adult, but for ... the child, I say that they are quite capable of making decisions and in the context in which I'm dealing with here, I understood that all of this was happening with the parent's consent, the child's parent's consent ...

... if the child is quite happy for this situation to occur and it is with the consent and encouragement of the family, I would think that that's a bit different to a girl who is being suborned by a male in isolation.<sup>716</sup>

On 12 November 2000, Ms Stevens decided that a discharge could no longer be supported. She directed that Mr James reinstate CSGT Tibble and that the proposed discharge action be abandoned.<sup>717</sup> Mr Watson expected that Mr James would carry out this order within the following week.<sup>718</sup>

We have considered the submissions before us made on behalf of Mr James. Mr James submits, among other things, that:

- to describe CSGT Tibble by her chronological age and the descriptor of 'child' is to 'generalise to a less than sufficient degree'
- CGST Tibble was 'precocious', and it is 'simple to go to the age disparity between Tibble and Harper and conclude that the older is the predator. But is that what really occurred here?'
- 'the fact that she was a minor and Harper twice her age, does not necessarily excuse her conduct'.<sup>719</sup>

In response to Mr James's submissions, Defence submits that any person under the age of 18 is considered to be a minor and cannot be held responsible or blamed for a sexual relationship with an instructor or officer of cadets.<sup>720</sup>

We reject Mr James's submissions and agree with the submissions of Defence. Any person under the age of 18 is considered to be a minor. CSGT Tibble should be considered a child who could not be held responsible or blamed for the relationship with Mr Harper.

For the reasons set out above, there was no justification for management within the AAFC to place any responsibility or blame on CGST Tibble in this matter and for any administrative action to be taken against her. The evidence set out above suggests that the management's response turned on whether or not the relationship was 'sexual'. We wish to make clear that it was and is not important to understand the precise nature of the relationship. Mr Harper's resignation letter contained admissions that he had 'committed a cardinal sin', 'totaly [sic] failed in my obligations as an instructor' and 'surcumbed [sic] to the attention of a female cadet and become personally [sic] involved with her'. Whatever was known about the physical status of the relationship, any disciplinary action, forced resignation or discharge of CSGT Tibble was wrong in light of Mr Harper's disclosures. She was the child victim of the advances of an older instructor.

Despite the direction from Ms Stevens and Mr Watson, Mr James did not in fact reinstate CSGT Tibble.<sup>721</sup>

## CSGT Tibble's death

On 27 November 2000, Ms Campbell drove CSGT Tibble to the bus stop and 'kissed her goodbye and told her that [she] loved her' before she went to work.<sup>722</sup>

Ms Campbell said that, when she returned home later that evening, she found CSGT Tibble hanging in the woodshed of their home. CSGT Tibble had died by suicide.<sup>723</sup>

On 28 November 2000, and as yet unaware of CSGT Tibble's death, Mr James reported to Mr Watson that he had not finalised the matter involving CSGT Tibble.<sup>724</sup>

Later that day, Mr James became aware that CSGT Tibble had died by suicide the previous day. He informed Mr Watson of this.<sup>725</sup>

Ms Campbell told the Royal Commission that she could not believe that, for over two weeks, 'somebody sat on' the order to reinstate her daughter and, in that time, her daughter had died by suicide.<sup>726</sup> She described the delay as being 'a litany of errors and actions taken on people's perception rather than on fact'.<sup>727</sup>

Mr James gave evidence that he regretted not immediately reinstating CSGT Tibble, but he said that he 'had other reasons for delaying the process'.<sup>728</sup> Mr James said he sought further advice from an AAFC Equity Officer on how best to proceed and was subsequently told that counselling was the only course of action that could be sustained. Mr James told the Royal Commission that he sought advice because he was unsure how to deal with a 'hostile' parent who had previously threatened legal action regarding the proposed disciplinary action against her daughter.<sup>729</sup> He said:

I didn't have any experience as far as counselling was concerned. I didn't have any experience on how to handle the situation, so what I needed was advice and I went to the equity officer to try and get that advice.<sup>730</sup>

When asked by Counsel Assisting whether he should have immediately told CSGT Tibble that she would not be discharged, Mr James said 'in hindsight, I should have done'.<sup>731</sup> He said that, at the time, he 'was looking at the ramifications as far as the cadets were concerned, as far as the squadron was concerned'.<sup>732</sup>

Mr Watson gave evidence that Mr James was more concerned that he would 'lose face' if he reinstated CSGT Tibble, as he had already commenced the discharge process.<sup>733</sup> According to notes of an interview with Mr Watson conducted on 17 April 2001<sup>734</sup> as part of an inquiry by Group Captain Stunden (discussed below), Mr James told Mr Watson that he had not reinstated CSGT Tibble because he had been 'seeking support for his desire to get rid of [CSGT Tibble]'.<sup>735</sup> Mr James said in evidence that this statement 'is entirely incorrect'.<sup>736</sup>

Mr Watson gave evidence that he advised Mr James to counsel CSGT Tibble. His advice was to:

Get the girl in, advise her that you have reconsidered your position and have decided not to discharge her. Counsel her strongly that her conduct is not what is expected, that we are not happy and make sure that she understands.<sup>737</sup>

When asked whether this approach was wrong, Mr Watson did not agree. He said that ‘to advise her that she was not the party at fault – I think that’s taking it too far’.<sup>738</sup> He did not consider that his advice to Mr James was placing blame on CSGT Tibble; instead, he considered that it was ‘informing’ her of the expectations of the AAFC.<sup>739</sup> Mr Watson told us that ‘behaviour of that type was contrary to policy at the time’ and that a matter of concern to him was the ‘efficiency’ of the squadron, which he described as the example set to other cadets: ‘what we are doing about this sort of thing and are we condoning it’.<sup>740</sup>

Mr James told the Royal Commission that he could not recall Mr Watson giving him the above instruction and that, if Mr Watson had ‘told [him] that, [he] would recall it’.<sup>741</sup>

Mr James gave evidence that he agreed that discharge procedures should not be taken but thought that there should be some form of disciplinary action against CSGT Tibble because ‘[t]here was a breach of the rules’.<sup>742</sup> Mr James said that he had concerns that, if no action was taken, discipline would be affected, as the breach was well known within the squadron.<sup>743</sup>

When asked whether it was necessary to discipline the child in a situation where a 30-year-old had been engaged with the child, Mr James stated that:

Some action had to be taken to show that the organisation itself is a training organisation, it teaches self-respect, it teaches discipline, it teaches – there’s a set of rules to work on. If people break the rules, are we to close a blind eye to them because they are a child?<sup>744</sup>

Mr James went on to state that he believed that ‘something had to be shown within the squadron, that the practice of fraternisation was unacceptable and there had to be some minor disciplinary action taken’.<sup>745</sup>

Mr James’s delay in acting on the order that CSGT Tibble not be discharged is inconsistent with the immediacy of his actions when acting on the earlier order to discharge. We find Mr James’s explanation that he was seeking advice from an Equity Officer and was concerned with how to deal with a hostile parent unconvincing. The reinstatement of CSGT Tibble was likely to relieve hostility. The concern about the hostile parent is inconsistent with an intention on Mr James’s part to persist with disciplinary action against CSGT Tibble despite his having been instructed to reinstate her: such a course would maintain or even strengthen the hostility, whereas to unconditionally reinstate CSGT Tibble would remove the cause of the hostility.

We are therefore unable to accept Mr James's justification for delaying the implementation of the command he had received to reinstate CSGT Tibble.

We do not adopt Mr Watson's characterisation that Mr James was concerned not to 'lose face'.<sup>746</sup> Rather, on the basis of Mr James's evidence, we are satisfied that he was concerned to maintain disciplinary action against CSGT Tibble. That concern caused the delay in implementing the command to reinstate CSGT Tibble.

We are also satisfied that, when considering the discharge of CSGT Tibble, the AAFC was more concerned with the 'efficiency' of the flight unit and setting an example to other cadets than it was with the protection of cadets from adult instructors in positions of authority. As we have stated above, the AAFC wrongly apportioned blame to CSGT Tibble, a child, without adequately considering CSGT Tibble's vulnerability and innocence in her relationship with Mr Harper.

When asked if he accepted that he failed in his duty of care to CSGT Tibble, Mr James indicated that he could have been more diligent.<sup>747</sup> He told the Royal Commission he could have been more diligent by checking on CSGT Tibble's wellbeing after the interview and advising CSGT Tibble as soon as he received information that she would not be discharged.<sup>748</sup> He accepted that it 'could be the case' that his failure to inform CSGT Tibble that she was not going to be discharged would have caused her a considerable amount of despair.<sup>749</sup>

CSGT Tibble's funeral was on 4 December 2000. The Royal Commission heard that Ms Campbell received a letter of sympathy from the AAFC and, without any consultation, the AAFC attended the funeral and provided a cadet guard of honour.<sup>750</sup>

Ms Campbell said that the AAFC did not offer any assistance to the family at the time.<sup>751</sup>

## Inquiries into CSGT Tibble's death

Between 2001 and 2004, Ms Campbell contacted 'anyone who would listen' to open an investigation into the circumstances surrounding CSGT Tibble's death.<sup>752</sup>

In early 2001, Ms Campbell made a submission to the Military Justice Audit Team to review the actions leading up to CSGT Tibble's death. This led to an internal RAAF investigation led by Air Force Group Captain Stunden (Stunden report).<sup>753</sup>

The Stunden report made a number of findings in relation to how the AAFC handled the allegations against CSGT Tibble. The findings included the following:<sup>754</sup>

- Mr James was aware that the situation required careful management.
- Mr James should have advised Mr Kowalik immediately when he became aware of CSGT Tibble's identity.

- Mr James should have advised Ms Stevens and Mr Watson immediately when he became aware of CSGT Tibble's identity.
- An appropriate person was not in attendance at the interview with CSGT Tibble to provide CSGT Tibble with support.
- CSGT Tibble was not given adequate opportunity to provide her version of events.
- Mr Kowalik did not follow up on his clear commitment to CSGT Tibble and advise her of the outcome of subsequent discussions with Mr James.
- The direction that Ms Stevens gave to Mr James to reinstate CSGT Tibble was unambiguous.
- The AAFC did not exhibit any appreciation that they were dealing with an adolescent and that the circumstances required special skills and attention.
- Mr James's initiation and continuance of a process to discharge a cadet without at least one face-to-face meeting is unacceptable and inexcusable.
- Mr James inappropriately kept information about the identification of CSGT Tibble to himself rather than sharing it with relevant staff members.
- The lack of timely sharing of this information was a major factor in the failed administration process.
- The way the AAFC staff dealt with CSGT Tibble could be viewed as victimisation.

The Stunden report found that Mr James's performance demonstrated serious deficiencies and, as such, he should be immediately suspended and a formal process of termination be commenced.<sup>755</sup> During the public hearing, Mr James did not accept the finding that his performance demonstrated serious deficiencies but stated that in hindsight he would have handled things differently.<sup>756</sup>

In May 2001, the Director General Personnel – Air Force (DGPERS-AF) sought a legal review of the recommendations and findings of the Stunden report (Legal Review). The Legal Review was requested to consider, among other things:

- whether the investigation was adequate in that it satisfactorily addressed all its terms of reference
- whether the evidence supported the conclusions that Group Captain Stunden reached.<sup>757</sup>

The Legal Review found that:

- the recommendations made by [him] are appropriate and flow logically from the evidence
- the recommendation in relation to [Wing Commander] James is generally supported
- although some procedural issues were overlooked, the findings and recommendations of [Group Captain Stunden] were consistent with and supported by the evidence.<sup>758</sup>

Mr James told the Royal Commission that he did not believe that the Stunden report was accurate, as it made assumptions that were biased against him.<sup>759</sup> Mr James made a legal claim against the Commonwealth. The claim included a challenge to the constitution, form, validity, methodology, findings and recommendations of the Stunden report. He also claimed that he had been defamed by the public release of the Stunden report. The claim was settled when the Commonwealth paid Mr James a sum of money without admission of liability.<sup>760</sup>

In November 2007, the Chief of the Air Force wrote to Mr James to apologise for the 'inappropriate publication' of the Stunden report and acknowledge the damage caused to his reputation by its release.<sup>761</sup>

On 15 February 2002, a coronial inquiry found that the AAFC's Tasmanian branch had contributed more than 50 per cent to CSGT Tibble's suicide.<sup>762</sup>

The DVA accepted liability for CSGT Tibble's death and provided compensation to Ms Campbell for funeral and medical expenses.<sup>763</sup> Ms Campbell also received compensation from Defence.<sup>764</sup>

In April 2002, Ms Campbell met with representatives of the Chief of the Air Force. She said she was presented with drafts of updated policy manuals and suggested changes to the drafts. She did not know whether her changes were implemented.<sup>765</sup>

In 2004 a Senate inquiry investigated the suspension of CSGT Tibble and, more broadly, the effectiveness of Australia's military justice system.<sup>766</sup> In its final report, the Senate inquiry acknowledged that there were major issues in how the ADF handled 'allegations that personnel including cadets [had] been mistreated'.<sup>767</sup> The report recommended that the ADF needed to take immediate steps to draft and make regulations dealing with the ADF Cadets to ensure that the rights and responsibilities of cadets and staff were clearly defined.<sup>768</sup>

During this inquiry, Ms Campbell received an apology from Air Chief Marshall Angus Houston for how the allegations against CSGT Tibble were handled. Ms Campbell said that this was the first apology she had received from Defence.<sup>769</sup>

In March 2005 the Australian Human Rights Commission published a report that concluded that the human rights of CSGT Tibble were breached by the Commonwealth of Australia.<sup>770</sup>

## Impact of CSGT Tibble's death

Ms Campbell gave evidence of the impact CSGT Tibble's death has had on her and her family. She said:

To say that [CSGT Tibble]'s death has had ongoing effects upon me and my family is an understatement. Not a day goes by that I don't think about my daughter and the abject waste of her life.<sup>771</sup>

Ms Campbell told the Royal Commission that the AAFC officers had the power to tell CSGT Tibble that there was no case to answer. She said that, instead, CSGT Tibble was 'humiliated and denigrated' and probably died thinking that she was 'saving her family the shame of a dishonourable discharge'.<sup>772</sup>

Ms Campbell said that CSGT Tibble was not given natural justice. She said:

[CSGT Tibble] was found guilty, tried, convicted and sentenced while others escaped scrutiny or were [not] brought to task for their compounding failures to execute a directive that they found unpalatable and against their judgment.<sup>773</sup>

Ms Campbell hopes that CSGT Tibble's death has changed the AAFC and the ADF Cadet policies, through the Stunden report and the Senate inquiry, to 'ensure that everyone is respectfully dealt with and there is procedural fairness to any allegations made or any areas of concerns within the AAFC and Defence Force'.<sup>774</sup>

The Royal Commission will include guidance for institutions on improving responses to complaints of child sexual abuse in its final report, due for submission to government in December 2017.

## 7.2 The experience of CJD

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CJD grew up in Maitland, New South Wales. In 1998, when she was 13, she applied to become a cadet at the Australian Navy Cadets unit, Training Ship (TS) Tobruk.<sup>775</sup>

We set out below a summary of CJD's evidence to us. In the time available for the hearing, the Royal Commission was unable to hear evidence from those mentioned below who were the subject of allegations in CJD's evidence. Accordingly, they were given pseudonyms.

When CJD joined TS Tobruk, she looked up to CJK, a cadet instructor who was in his fifties. She felt that other cadets tried to impress CJK because he selected those who participated in sailing activities.<sup>776</sup>

In around 2000, CJD attended lectures addressing the ANC Code of Conduct and the ‘no fraternising rule’, which was specific to relationships between cadets. CJD told the Royal Commission that there was no mention of sexual relationships between cadets and instructors.<sup>777</sup>

CJD gave evidence that in 2001, when she was 15, CJK started grooming her, although she did not know it at the time. CJD said that CJK flirted with her, asked her to sit on his lap, touched her breasts or buttocks, grabbed her vagina and encouraged her to kiss him on the cheek and eventually the mouth. CJD felt ‘conflicted’: no one ever complained about CJK’s behaviour, so she felt it must have been appropriate and she complied with his requests.<sup>778</sup>

The Royal Commission heard that conversations between CJD and CJK became more personal over the next two years, and their relationship turned sexual shortly before she turned 18. CJD said that CJK told her he had loved her since she was 15 and not to tell anyone about their relationship.<sup>779</sup>

In 2004, at the age of 19, CJD ‘aged out’ of ADF Cadets and then attended an ANC instructor’s course. CJD could not recall being taught that sexual relationships between cadets and instructors may amount to a criminal offence.<sup>780</sup>

In 2008, at the age of 23, CJD was ‘depressed and completely non-functional’ and ended the relationship with CJK. After this, CJD met with the then Commanding Officer of TS Tobruk, CJN, and a cadet instructor who was at TS Tobruk when she joined in 2001.<sup>781</sup> CJD disclosed her sexual relationship with CJK, informing them that it had developed when she was a cadet.<sup>782</sup>

CJD said, ‘I’m opening a can of worms, aren’t I?’, to which CJN replied, ‘Yes, you are, but we won’t say anything because CJL is related to CJK’.<sup>783</sup> CJL was the Commanding Officer at the time CJD joined TS Tobruk.<sup>784</sup>

CJD said that, when her mother expressed concern to CJN about other girls CJK could be grooming, CJN said there was nothing he could do but keep an eye on it.<sup>785</sup>

CJD gave evidence that, as a result of the abuse, she suffered from depression and anxiety and wanted to end her life.<sup>786</sup> She described her struggle with repairing her relationship with her family and feeling like she ‘let everyone down’.<sup>787</sup>

### 7.3 The experience of Mr Aaron Symonds

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In 1996, Mr Aaron Symonds joined the AAFC at 17 Flight in Cleveland, Queensland (later known as 217 Squadron), when he was 13 years old.<sup>788</sup>

Mr Symonds said that soon after he commenced he was taught the behaviour policy and the 'no fraternisation rule' between cadets. At the time, he understood that fraternisation was not permitted during 'cadet time' and that penalties included possible termination from the AAFC.<sup>789</sup>

## Allegations of sexual abuse by Mr Oakley

Mr Todd Oakley was a civilian staff instructor at the AAFC whose unit occasionally joined 217 Squadron for larger activities. Mr Symonds was about 14 years old and Mr Oakley was about 25 years old when they first met. Mr Symonds said that Mr Oakley was friendly with the cadets and invited cadets for 'get togethers' at the coffee shop.<sup>790</sup>

Mr Symonds said that, while he was on a RAAF base for an AAFC activity when he was aged 16, Mr Oakley offered him a cigarette and then massaged his back and fondled his earlobe and neck area. Mr Symonds said that, as the AAFC had a culture of trust, he did not question Mr Oakley's motive in massaging him. Mr Symonds said that Mr Oakley offered to rent a room next time they met to give him a 'proper massage'.<sup>791</sup>

Mr Symonds gave evidence that later that year he was sexually abused by Mr Oakley on two occasions. On the first occasion, Mr Symonds fell asleep after drinking alcohol and woke up to find Mr Oakley's hands down Mr Symonds's pants, rubbing his penis. Mr Symonds told Mr Oakley to 'bugger off' at this point.<sup>792</sup>

On the second occasion, Mr Symonds said that Mr Oakley invited him for coffee and rented a room to give Mr Symonds a 'proper massage'. Mr Oakley sexually abused Mr Symonds during this encounter. Afterwards, Mr Symonds said that Mr Oakley told him to 'keep this a secret' and 'it's going to reflect badly on both of us if you tell'.<sup>793</sup>

Mr Oakley was legally represented at the public hearing and through his legal representatives submitted that he did not accept the allegations that Mr Symonds made against him.<sup>794</sup>

Mr Symonds did not report the sexual abuse at the time because he wanted a career in the ADF and did not want to risk the AAFC finding out and discharging him.<sup>795</sup> In 2001, Mr Symonds left the AAFC and subsequently joined the Australian Regular Army, where he served until 2007.<sup>796</sup>

When Mr Symonds was about 30 years old, he contacted 217 Squadron to become an Adult Staff Member but withdrew his interest after discovering to his surprise that Mr Oakley held a position of authority within the AAFC. He told us 'I did not want to become a staff instructor but I did not tell them why'.<sup>797</sup> The following year, in April 2014, Mr Symonds disclosed his allegations of sexual abuse to Mr Michael Brett, the Commanding Officer of 217 Squadron.<sup>798</sup>

## The AAFC investigation

On 28 April 2014, Mr Brett reported Mr Symonds's disclosure to Mr Devereux, the Regional AAFC Commanding Officer. The next day, Mr Symonds met with Mr Devereux. Mr Symonds was offered support services and gave his permission for the matter to be referred to the Queensland Police Service.<sup>799</sup>

On 29 April 2014, Mr Devereux commissioned an AAFC investigation, which was to be conducted by Flight Lieutenant Mike Crome.<sup>800</sup> That same day, Mr Devereux sent a Hot Issues Brief to the Commander of the AAFC advising that the allegations against Mr Oakley would be referred to the police within 48 hours.<sup>801</sup>

Mr Devereux explained:

I thought it was important that we start an investigation immediately, that there was going to be a time delay before the matter would come before the police. I didn't think we could avoid or be seen to be complicit in the matter; we needed to do something.<sup>802</sup>

## Suspension of Mr Oakley

On 29 April 2014, Mr Devereux emailed Mr Oakley informing him that he had been suspended, pending an investigation into an allegation against him of unacceptable conduct.<sup>803</sup>

Mr Devereux said that he suspended Mr Oakley to avoid any risk arising from his access to children.<sup>804</sup> Upon receipt of a phone call from Mr Oakley, Mr Devereux told Mr Oakley in 'very broad terms' the allegations against him and that the matter may be handled by the Queensland Police Service.<sup>805</sup>

## Police referral and suspension of the AAFC investigation

Mr Devereux said that the operative policy at the time, together with the SCAP training he had received, made it clear that suspected child abuse had to be referred to the relevant authorities.<sup>806</sup> Accordingly, on 30 April 2014, Mr Devereux reported the matter to the Queensland Police Service.<sup>807</sup>

Upon confirmation on 2 May 2014 that the matter was under police investigation, Mr Devereux ceased the AAFC investigation.<sup>808</sup> Mr Terrence Delahunty, the Director General Cadets – Air Force, directed Mr Devereux to stop the investigation until further advised by the civilian police.<sup>809</sup>

Mr Oakley's suspension remained in effect during the police investigations.<sup>810</sup>

Mr Symonds gave evidence that he assisted the police with their investigation of Mr Oakley, including by making pretext calls to Mr Oakley in an attempt to procure an admission of guilt.<sup>811</sup>

Counsel for Mr Symonds submitted that the well-meant – but perhaps rushed – decision to initiate the AAFC investigation put Mr Devereux in the position of informing Mr Oakley of the nature of the allegations against him and the potential involvement of Queensland Police Service. Counsel submitted that this created significant risk that Mr Oakley was put on notice of the substance of the complaint against him.<sup>812</sup>

Defence submitted that Mr Oakley was entitled to be informed about the broad nature of the allegations against him as a matter of natural justice.<sup>813</sup>

The Royal Commission will include guidance for institutions on improving responses to complaints of child sexual abuse in its final report, due for submission to government in December 2017.

## Queensland Police Service ceases its investigations of Mr Oakley

The police did not proceed to charge Mr Oakley and informed the Cadet Branch – Air Force of this decision on 27 August 2015.<sup>814</sup>

Mr Symonds said that he was told that there was insufficient evidence for the police to continue their investigations. He said that the police advised they would pass the investigation to the military police, as their evidentiary system would assume that Mr Oakley was guilty until proven innocent. At the time of giving evidence to the Royal Commission, Mr Symonds had not received any communication from the military police or the AAFC.<sup>815</sup>

## Mr Oakley is reinstated

Following the termination of police investigations, the Cadet Branch – Air Force lifted Mr Oakley's suspension and reinstated his employment as an AAFC instructor as required.<sup>816</sup> Mr Delahunty accepted the advice from Cadet Branch – Air Force on the basis that Mr Oakley had not been charged.<sup>817</sup>

Mr Oakley was given a position at the RAAF base in Amberley. While the position did not involve direct contact with cadets,<sup>818</sup> Amberley held cadet camps.<sup>819</sup>

The AAFC did not continue its internal investigation of the allegations against Mr Oakley after the police decided to cease its investigations.<sup>820</sup> Mr Devereux told the Royal Commission that the AAFC should have recommenced its internal investigation, as it had an ongoing obligation to children and the standard of proof to be applied internally was less than the criminal standard.<sup>821</sup>

Mr Devereux flagged this issue with Mr Delahunty and suggested that the child protection policies needed a ‘jolly good nudge along’.<sup>822</sup> Mr Devereux expressed concern that the policies were interim, contained discrepancies and referred to documents that were yet to be created or could not be located; and that there were too many and conflicting sources.<sup>823</sup>

Mr Delahunty accepted that police investigations were separate from the AAFC’s responsibility to children and that it was open to the AAFC to recommence its internal investigation.<sup>824</sup> He conceded that it was wrong of AAFC not to proceed and that, as a result, Mr Oakley could have been employed as an Adult Staff Member instructing cadets. Mr Delahunty accepted that, ultimately, an assessment that the AAFC failed in its obligations to run and maintain a child safe organisation could be made.<sup>825</sup>

Mr Oakley resigned from the AAFC on 30 January 2016.<sup>826</sup>

Defence submitted that many aspects of the AAFC investigation demonstrated appropriate, timely and sensitive responses to Mr Symonds’s allegations. However, Defence acknowledged that:

- the AAFC should not have solely relied upon the outcome of the police investigations in determining the allegations against Mr Oakley
- Defence should have undertaken further follow-up actions within the AAFC once the outcome of the police investigation was known.<sup>827</sup>

We accept those concessions. In relying on the outcome of the police investigation and failing to complete its internal investigation, the AAFC reinstated Mr Oakley as an Adult Staff Member, which meant that he could have been given opportunity to again have access to cadets. Without proper investigation of the allegations against Mr Oakley, the AAFC exposed cadets to a risk of sexual abuse.

In this particular instance, we conclude that the AAFC failed in its obligations to maintain a child safe organisation. It can never be appropriate to rely on the criminal justice system, particularly when it requires proof beyond reasonable doubt. It is the institution itself that has the obligation to ensure the safety of children who are involved in it.

## Impact of sexual abuse on Mr Symonds

The Royal Commission heard that the sexual abuse impacted on Mr Symonds’s mental health, military career and employment prospects.<sup>828</sup> Mr Symonds gave evidence that he became suicidal after reporting the sexual abuse to the AAFC.<sup>829</sup>

## 7.4 The matter of Christopher Adams

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The public hearing examined the response of the AAFC to complaints of sexual relationships between an adult instructor, Christopher Adams, and two female cadets, CJG and CJE, between 2012 and 2013. In 2014, Adams was charged with multiple sexual offences in relation to three victims, including CJG and CJE. He pleaded guilty to five charges of sexual offences, three of which were offences against CJG and CJE. In December 2015 he was sentenced to two years imprisonment.

The following people involved in the AAFC's response gave evidence at the public hearing:

- CJJ, an instructor at the AAFC between 2011 and the present
- CJF, an instructor at the AAFC between 2010 and 2014 and the Executive Officer of 302 Squadron, AAFC, between 2013 and 2014
- Ms Sharon O'Donnell, former Staff Officer Training of the AAFC between 5 May 2013 and 30 November 2015 at the rank of Squadron Leader
- Mr Darren Banfield, a Squadron Leader employed as the Southern Region Executive Officer of the AAFC between January 2011 and the present
- Mr Wayne Laycock, Officer Commanding 3 Wing, AAFC, between January 2010 and December 2015
- Mr Dennis Green, Director General Cadets – Air Force between June 2011 and February 2014
- Mr Terrence Delahunty, Director General Cadets – Air Force between February 2014 and the present
- Ms Jacqueline Hatch, Squadron Leader of the RAAF, who was employed in Personnel Administration, Cadet Branch – Air Force, between January 2012 and July 2014
- Mr Sean Watson, Squadron Leader of the RAAF, who was the former Staff Officer Personnel in the Directorate of Cadets – Air Force between January 2013 and October 2015.

### The experiences of CJG and CJE

CJG and CJE were both born in 1995 and were 21 and 20 years old respectively at the time of giving evidence to the Royal Commission.<sup>830</sup> In 2009, when they were both 13 years old, both CJG and CJE joined the AAFC. CJG joined 310 Squadron in Tamworth, New South Wales.<sup>831</sup> CJE joined 302 Squadron in Rockdale, New South Wales.<sup>832</sup> They met in March 2010 at a General Services Training Course (GST) at the RAAF base in Williamtown, New South Wales.<sup>833</sup>

CJG and CJE both met Adams while attending AAFC courses during 2011, when they were both 15.<sup>834</sup> Adams was about 20 years old at the time.<sup>835</sup> He was a RAAF firefighter who attended AAFC courses as an adult ranked staff instructor.<sup>836</sup> At these AAFC courses, Adams was the Detachment Warrant Officer and was responsible for discipline and adherence to AAFC policies, including matters concerning bullying and fraternisation.<sup>837</sup>

In September 2012, CJG and CJE attended a GST in Williamstown.<sup>838</sup> Adams also attended the course as an AAFC adult instructor.<sup>839</sup> CJG said that during the course she was grabbed on her bottom by Adams, who also wrapped his arms around her.<sup>840</sup> CJE said that Adams sent her text messages asking her to meet him in the communal bathroom, where Adams proceeded to kiss her and touch her breast and groin over her clothing. She said that this occurred on two further occasions.<sup>841</sup>

Both CJE and CJG said that Adams was in regular contact with them after the course, and his conversations became more sexual in nature.<sup>842</sup> At the time, they did not discuss their contact with Adams with each other.<sup>843</sup>

In January 2013, CJE and CJG attended a promotion course at the RAAF base in Wagga. They were both aged 17.<sup>844</sup> Adams was the Detachment Warrant Officer at the course.<sup>845</sup> CJE said that at the course Adams requested that she meet him in the laundry, where he proceeded to kiss her and put his hand into her underwear and on her vagina. She said that on several occasions Adams invited her to his bedroom, where Adams performed oral sex on her, touched her on the vagina and put her hand on his erect penis. On another occasion, Adams met her in a room where they had sex.<sup>846</sup>

CJG gave evidence that during the course Adams touched her sexually and on one occasion, when Adams insisted that she come to his room, he locked the door, kissed her and had sex with her. On another occasion, he came to her room to have sex with her, as he knew she was alone.<sup>847</sup>

In March 2013, CJG attended a GST in Williamstown. She said she knew that Adams worked at the RAAF base in Williamstown, although he was not instructing on the course.<sup>848</sup> She said that during this course Adams knocked on her bedroom door, pushed her against a wall and had sex with her.<sup>849</sup>

## A staff member observes Adams's conduct

CJJ, an AAFC adult instructor from 310 Squadron, told the Royal Commission that she attended the GST in September 2012.<sup>850</sup> She gave evidence that she observed Adams sending sexual text messages to CJE,<sup>851</sup> and she sent him a text message telling him to stop.<sup>852</sup> She also gave evidence that she had observed Adams being inappropriate with a number of female cadets before the September 2012 GST but did not report it at the time.<sup>853</sup>

CJJ said that towards the end of the September 2012 GST she spoke to Ms O'Donnell, a senior AAFC staff member, about her observations of Adams's behaviour, including the sexually explicit text messages he sent to CJE.<sup>854</sup> She could not recall what exactly she said to Ms O'Donnell.<sup>855</sup> CJJ said that Ms O'Donnell informed her that she would tell the Warrant Officer the following morning. CJJ said she did not follow up her complaint and received no further response.<sup>856</sup>

CJG gave evidence that she was aware of CJJ's report to Ms O'Donnell but said that it occurred in the June 2012 course.<sup>857</sup> CJG said that CJJ also told her to keep an eye on CJE, as she was concerned that Adams had an inappropriate relationship with CJE.<sup>858</sup>

Ms O'Donnell said she did not attend the June 2012 course<sup>859</sup> and she could not recall a conversation with CJJ about Adams, although she said that she was 'not saying it didn't [happen]'. She said that, if it had been reported to her, she would have written it down and reported it orally to the detachment commander.<sup>860</sup>

Defence submitted that CJG's evidence is not corroborative of CJJ's evidence and is inconsistent in relation to, among other things:

- when the report was made to Ms O'Donnell
- the content of the report made to Ms O'Donnell
- the communication of the report by CJJ to CJG.<sup>861</sup>

Defence also submitted that it is not clear what, if anything, CJJ disclosed to Ms O'Donnell about the actual content of the text messages.<sup>862</sup>

We are satisfied that, if CJJ made a report to Ms O'Donnell, it did not occur on the June 2012 course because CJJ and Ms O'Donnell did not attend that course. On the evidence before the Royal Commission, we are unable to determine whether, when or what CJJ disclosed to Ms O'Donnell or what action Ms O'Donnell took, if any, to any report that CJJ made to her.

Defence submitted that, regardless of whether CJJ reported Adams's behaviour to Ms O'Donnell, CJJ herself, an adult AAFC instructor, knew enough about his behaviour to have a 'reasonable suspicion' that he was engaging in inappropriate behaviour with cadets.<sup>863</sup>

We agree with this submission. We are satisfied that the AAFC was aware of concerns regarding Adams's behaviour and this was sufficient to raise a reasonable suspicion that he was engaging in inappropriate behaviour of a sexual nature with cadets.

The AAFC did not respond to those concerns, and this allowed Adams to continue to engage in inappropriate behaviour and eventually to commit sexual offences against CJE and CJG.

## Disclosure of sexual relationship

Both CJG and CJE gave evidence that they did not disclose Adams's conduct at the time.

CJG gave evidence that CGST Tibble's story was well known among cadets and there was a general understanding that, if cadets engaged in any sexual or inappropriate behaviour, they would be 'kicked out'.<sup>864</sup> CJE said that initially she did not report to anyone, as she feared disciplinary action and thought Adams would be disappointed in her. She later said that Adams had a big influence over her and she craved his attention and approval.<sup>865</sup>

CJG said that, at the time, she had not been sexual with anyone. She did not know how to handle the situation and did not feel like there was anyone to whom she could talk.<sup>866</sup> She said:

I was scared and powerless ... Again I felt it was easier to get it over and done with and I certainly didn't participate in the sex. Afterwards I felt ashamed and confused why I couldn't stop this from happening. I didn't tell anyone because I was petrified I would be blamed and kicked out of cadets ...<sup>867</sup>

Shortly after the January 2013 course, CJE and CJG disclosed to each other that they had sex with Adams. Around the same time, CJE told her ex-boyfriend, CJQ, who was also involved with the AAFC, that she had had sex with Adams.<sup>868</sup>

On 22 May 2013, CJQ reported Adams's sexual contact with CJE to his Commanding Officer. This was then reported to the Officer Commanding 3 Wing, Mr Laycock.<sup>869</sup>

## The AAFC conducts an initial assessment review

On 28 May 2013, Mr Laycock and Mr Banfield, the AAFC's the Southern Region Executive Officer, discussed the complaint and decided that an IAR be undertaken.<sup>870</sup> At that time, no consideration was given to whether a criminal offence had been committed or whether the complaint should be reported to the police.<sup>871</sup>

Ms O'Donnell was appointed to conduct the IAR. She did not have experience dealing with an allegation of an inappropriate relationship between an adult instructor and a cadet<sup>872</sup> or any experience in conducting an IAR. This was her first.<sup>873</sup> Mr Banfield said that she was appointed because the allegation involved female cadets and it was an opportunity to train her to conduct investigations.<sup>874</sup> He conceded that in hindsight it was not acceptable that a person without training or experience be given such a serious matter.<sup>875</sup>

On 4 June 2013, Ms O'Donnell made telephone calls to CJE, CJE's family members and Adams.<sup>876</sup> Ms O'Donnell first called CJE's mother, CJO, and informed her of the alleged inappropriate sexual relationship between CJE and a male staff member.<sup>877</sup> Ms O'Donnell later spoke to CJE, who confirmed the allegation, and told CJE that she was to be interviewed.<sup>878</sup> On the same day, Ms O'Donnell also spoke to Adams about the allegation,<sup>879</sup> which he denied.<sup>880</sup>

CJE told Ms O'Donnell that CJG was also involved, so Ms O'Donnell also spoke to CJG.<sup>881</sup> CJG said that she initially denied having any sexual relations with Adams for fear she was 'going to lose cadets after dedicating five years of [her] life to it', but she later called Ms O'Donnell and confirmed that something had happened between her and Adams.<sup>882</sup>

Both Mr Banfield and Ms O'Donnell gave evidence that, in making the calls to CJE and CJG, they developed the following script:

There's been an allegation made that on the January promotion course you had a sexual encounter with a male staff member. I'm required to make you aware of this allegation. However, no judgment will be made until further investigation has been completed ... You are entitled to a support person if this investigation proceeds further and you will be given adequate time and opportunity to respond to the allegation.<sup>883</sup>

Ms O'Donnell accepted that she did not tell CJE or CJG that 'they were not to blame'<sup>884</sup> and conceded that the language used made it sound like 'they are at fault, and that was never meant to be any intention at any point in time'.<sup>885</sup>

Mr Banfield accepted that the phrasing used in the script implied that the person hearing the statement had been involved in misconduct and that, on reflection, the words used were wrong.<sup>886</sup> He said that it would have been preferable to have face-to-face conversations with CJE. However, due to the geographic limitations, this could not occur.<sup>887</sup> He accepted that cold-calling CJE was not an appropriate course of action to have taken.<sup>888</sup>

After their initial telephone calls with Ms O'Donnell, CJG was 'petrified and started crying. It felt like the end of the world as I felt like I was going to lose cadets after dedicating five years of my life to it',<sup>889</sup> and CJE felt like her 'world had crumbled'.<sup>890</sup> CJE was 'ashamed and embarrassed. [She] was worried that [her] reputation in the AAFC had been ruined'.<sup>891</sup>

CJE recommended that the AAFC have better reporting processes. She stated that:

It is not acceptable that an unknown person from headquarters calls to talk to parents and cadets about sensitive allegations. I cannot emphasize the damage this caused me. A report of this type should be a face to face conversation. There should be effective communication about the steps from that point and continual communication throughout.<sup>892</sup>

We consider that the manner in which the AAFC conducted the IAR was deficient in several respects. The seriousness of the allegations required the appointment of an experienced investigator, yet the IAR was conducted by a person with no experience or training in conducting an IAR or in dealing with an allegation of an inappropriate relationship between a cadet and an instructor.

The subject of the IAR was plainly sensitive, and approaches to the teenage victims required care. We find that the IAR was conducted in an insensitive manner. The process adopted for the investigation, as suggested in the script reproduced above, implied that the victims of abuse were themselves the subject of allegations.

Defence accepts this deficiency and that responsibility lies with the AAFC.<sup>893</sup>

We note that the deficiency – in particular, the suggestion that the victims of the assaults were partially at fault – arises in 2013, well after the experience of CGST Tibble was known and had become the subject of public inquiry.

On 14 June 2013, Ms O'Donnell, with Mr Banfield's assistance, drafted the findings of the IAR. The IAR recommended a full inquiry into the incident and that Adams be suspending pending those inquiries.<sup>894</sup>

## The AAFC's formal investigation

On 15 June 2013, Mr Laycock appointed Mr Banfield to conduct the full inquiry recommended in the IAR.<sup>895</sup> The purpose of the inquiry was to determine whether Adams had an 'inappropriate relationship' with CJE or any other cadets at the January 2013 Promotion Course.<sup>896</sup>

The next day, verbal and written approval was given to suspend Adams from all duties with the AAFC and interaction with cadets for the period of the investigation.<sup>897</sup>

During the investigation, Mr Banfield made telephone calls to Adams, CJO on behalf of CJE, CJG and CJG's Commanding Officer to advise that a formal investigation had commenced.<sup>898</sup> Mr Banfield said that he arranged to meet with CJO and CJE and checked on CJE's welfare.<sup>899</sup> He told CJG that she was not responsible for what occurred.<sup>900</sup> The AAFC also arranged a psychologist to provide support to CJG and CJE,<sup>901</sup> which CJG described as 'pointless' telephone calls.<sup>902</sup>

On 17 June 2013, the AAFC received legal advice from the RAAF indicating that, while it was not clear whether CJE was under the 'special care' of Adams for the purposes of the *Crimes Act 1900* (NSW), there was sufficient information to refer the matter to the police.<sup>903</sup> In Australia, there are legislative provisions that make it an offence for a person in a supervisory role to have sexual intercourse or intimacy with a person under their 'special care' who is aged between 16 and 18 years. These provisions are set out in further detail at section 8.2.

Mr Green, the then Director General Cadets – Air Force, instructed Mr Laycock to refer the matter to the NSW Police and suspend the AAFC investigation.<sup>904</sup>

## Report to the NSW Police and the AAFC’s formal investigation ceases

On 18 June 2013, Mr Laycock referred the matter to NSW Police and directed Mr Banfield to cease the AAFC investigation.<sup>905</sup> Mr Banfield confirmed that he would cease the investigation and maintain contact with CJE, CJG and Adams to check on their welfare and ensure that support networks were in place.<sup>906</sup>

The AAFC informed CJG, CJE and Adams that complaints against Adams for inappropriate sexual relationship with three female cadets had been referred to NSW Police for investigation.<sup>907</sup> Mr Banfield told CJG and CJE that the AAFC was subsequently unable to make further inquiries until the police investigation was finalised.<sup>908</sup>

Around this time, CJO made a complaint to the AAFC regarding their handling of the complaint.<sup>909</sup>

Mr Laycock informed CJO that Mr Banfield was appointed to lead the AAFC investigation and provide support to CJE and that the AAFC investigation was suspended pending the police investigation.<sup>910</sup> Mr Laycock said that after the phone call he believed that CJO was not happy with his explanation.<sup>911</sup>

Mr Green said that at the time he did not consider that CJO and CJE may be confused as to whether the AAFC investigation was continuing, but he conceded that the wording of the script could cause confusion.<sup>912</sup>

On 25 June 2013, NSW Police contacted Mr Laycock and advised that they would not be conducting any further investigation until the victims made formal complaints to the police.<sup>913</sup> Mr Green said that the intent was that, if the police decided they would not act, the AAFC would relaunch their investigation.<sup>914</sup> He wrote to the police requesting they take urgent action to investigate the matter, as the AAFC’s penalties were completely inadequate to address the allegations if they proved to be correct.<sup>915</sup>

Mr Green said that, if the police investigation did not proceed, the AAFC would issue Adams with a show cause notice for termination.<sup>916</sup> He gave evidence that Adams’s ‘behaviour was untenable for the Air Force as well as untenable for the AAFC’.<sup>917</sup> He arranged a show cause notice for termination to be prepared and issued within hours if the police decided not to proceed.<sup>918</sup>

CJE made a statement to police about her sexual relationship with Adams.<sup>919</sup> CJG later provided a statement to the police to help CJE and another female complainant.<sup>920</sup>

Both CJE and CJG gave evidence that the AAFC never told them that a sexual relationship between an instructor and a cadet was a criminal offence. CJE said that, while she knew that she was in breach of AAFC policies, she only discovered that this was a crime after making a report to the police. CJG said that she did not receive any instruction from the AAFC on the 'special care' provisions. She said that this information would have given her extra strength to resist Adams if she had known that this was a criminal offence, as 'knowledge is power'.<sup>921</sup>

Further detail about the level of information provided by the AAFC through its policies and training on when a sexual relationship is a criminal offence and the 'special care' provisions is set out in section 8.

On 2 August 2013, Adams resigned from the AAFC, with his resignation effective immediately.<sup>922</sup>

## Support provided by the AAFC during the police investigation

During the investigation, the Royal Commission heard that CJE attended counselling services organised and funded by the AAFC.<sup>923</sup> Payment of medical expenses such as psychological counselling for CJE's parents was also authorised, despite there being no entitlement in the policies.<sup>924</sup>

Mr Green also said that, for CJO and CJE, he appointed Ms Hatch, Personnel Administration at the Cadet Branch – Air Force, to take over as their point of contact.<sup>925</sup> He said that he did this upon realising that CJE and her parents lacked confidence and trust in the support being provided.<sup>926</sup>

CJG was not provided with any support or financial assistance for counselling before Adams's trial, as she was told by an ADF representative that it was not available to her.<sup>927</sup> She said that, when the ADF refused to provide financial support, the Officer Commanding of the AAFC in New South Wales pushed the AAFC to fund her counselling and apologised that funding could not be sought from the ADF.<sup>928</sup> CJG said she subsequently received a letter from Mr Delahunty advising her that the funding for her counselling would conclude on 31 December 2015.<sup>929</sup>

Vice Admiral Griggs accepted that the way the AAFC dealt with CJG was 'woeful' and that, if CJG and CJE sought redress, they could expect to be supported by the ADF.<sup>930</sup>

We find that the failure of the ADF to provide support (including financial support) to CJG was wholly inadequate and was likely to compound CJG's trauma.

## The criminal proceedings against Adams

In 2014, Adams was charged with multiple sexual offences in relation to three victims, including CJG and CJE.<sup>931</sup> Following these charges, Adams was suspended from the RAAF on 22 May 2014.<sup>932</sup>

In December 2015, Adams pleaded guilty to five charges, three of which were charges of having sexual intercourse with CJE and CJG when they were aged 17 and while they were under his care.<sup>933</sup> He was sentenced to two years imprisonment with a 14-month non-parole period.<sup>934</sup> CJG recalled that at the sentencing hearing Adams said that he knew his conduct breached AAFC policy, but he thought the age of consent was 16 and he did not know his actions were criminal.<sup>935</sup> CJE gave evidence that, while she knew fraternisation was against the rules, 'at no time during my involvement with Adams did I think having a sexual relationship with him was a crime'.<sup>936</sup>

At the sentencing proceedings, CJE and CJG read victim impact statements. CJE described that as one of the hardest things she has ever done.<sup>937</sup>

## Resolution of the AAFC investigation

As a result of the criminal proceedings, Adams's position with the RAAF was terminated.<sup>938</sup>

Mr Green stated that, as Adams had resigned, the AAFC investigation could not proceed.<sup>939</sup>

CJE described feeling frustrated by the AAFC's slow responses, lack of updates and miscommunications, which placed pressure on her and her family.<sup>940</sup> She said she felt the AAFC investigation was not being taken seriously.<sup>941</sup>

Mr Banfield accepted that his correspondence with CJE would not have assisted in her understanding of how the AAFC investigation was proceeding. He accepted that parts of his communications with her were 'very badly worded' and 'misleading'.<sup>942</sup>

The Royal Commission will provide guidance for institutions on improving responses to complaints of child sexual abuse in its final report, due for submission to government in December 2017.

## Impact on CJE and CJG

CJG said that her relationship with her family has been destroyed because the way the AAFC handled its investigation led her parents to believe that the situation was her fault and not serious. She said she has struggled to form meaningful relationships because she does not trust people and that sometimes she wished that she could go to sleep and not wake up.<sup>943</sup>

CJE said that the way the AAFC handled the investigation broke her trust in the AAFC and she felt they had 'kicked [her] to the side and didn't care about [her] or [her] welfare'.<sup>944</sup> She gave evidence that as a result of the abuse she had been diagnosed with depression, her self-confidence has declined and she feels that she has been labelled a victim. CJE gave evidence that her HSC was negatively impacted and she 'lost hope of getting a job and into the university [she] wanted'.<sup>945</sup>

## 8 Policies of the ADF Cadets since 2000

We heard evidence that since 2000 a number of ADF Cadets policies and training manuals – in particular, those of the AAFC – included information that was incorrect, incomplete or inadequate. We address these problems below.

### 8.1 Age of consent

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Subject to the special care provisions referred to in section 8.2, the legislation providing for the legal age for consensual sex varies across the states and territories in Australia. Currently, the age of consent is:

- 16 years in the Australian Capital Territory,<sup>946</sup> New South Wales,<sup>947</sup> Queensland,<sup>948</sup> the Northern Territory,<sup>949</sup> Victoria<sup>950</sup> and Western Australia<sup>951</sup>
- 17 years in Tasmania and South Australia.<sup>952</sup>

### ADF Cadets policies and training manuals on the legal age of consent

The Royal Commission was provided with the following policy guides and training manuals of the ADF Cadets that deal with sexual offences and the age of consent:

- ADF Cadets Behaviour Policy Information booklet dated 2004<sup>953</sup>
- ADF Cadets Behaviour Policy: A Guide for Cadets<sup>954</sup>
- ADF Cadets Behaviour Policy: A Guide for Staff and Other Adults working with Cadets<sup>955</sup>
- training slides on acceptable and unacceptable behaviour.<sup>956</sup>

Each of the documents listed above define ‘sexual offences’ as being any sexual activity that occurs without consent, and they identify the age of consent to sexual activity as being 16 years.<sup>957</sup>

Vice Admiral Griggs accepted that the documents were deficient in failing to take into account the varying legal ages of consent across the different Australian jurisdictions. He accepted that this incorrect information could have serious consequences for cadets and staff members who rely on its accuracy.<sup>958</sup>

Information regarding the age of consent also appears in a document as part of the compulsory SCAP training.<sup>959</sup> The document can be accessed by way of a hyperlink. The hyperlinked document states that each jurisdiction has its own legislation stipulating the age of consent. It contains a table that sets out the legal age of consent for sexual activity in all Australian jurisdictions.<sup>960</sup>

Vice Admiral Griggs said that the compulsory SCAP training could be completed without accessing, reviewing or even seeing the document regarding the age of consent.<sup>961</sup> This means that the provision of, and access to, information in the SCAP does not ensure that all officers and instructors of cadets are aware of the law.

## AAFC policies and training manuals on the legal age of consent

The Royal Commission was also provided with the following AAFC documents that referred to the legal age of consent:

- Chapter 7 of the AAFC Behaviour Policy dated May 2008 (2008 Behaviour Policy)<sup>962</sup>
- AAFC Standing Instruction SI (PERS) 8-1 Behaviour dated September 2015 (2015 Behaviour Instruction)<sup>963</sup>
- Manual of Staff Training Introduction to Societal and Legal MST 211: Trainers Guide and Course Notes dated July 2006 (Societal and Legal Guide)<sup>964</sup>
- training slides used at the annual cadet behaviour policy training (AAFC Training Slides).<sup>965</sup>

Both the 2008 Behaviour Policy and the 2015 Behaviour Instruction define ‘sexual offence’ as an ‘action that is explicitly sexual in nature’, which may be carried out with or without the consent of the complainant. Both documents state that the ‘law’ regards complainants ‘under 14 years old’ as being too young to consent.<sup>966</sup>

Mr Delahunty accepted that the age of consent specified in the 2008 Behaviour Policy was an egregious error.<sup>967</sup> The 2015 Behaviour Instruction also suffers the same defect in that it states that the age of consent is 14 years.<sup>968</sup> This is also wrong.

He said that it was ‘terrible’ that the error had been there for that long and had not been corrected.<sup>969</sup>

A ‘sexual offence’ is also defined in the Societal and Legal Guide and the AAFC Training Slides.

The Societal and Legal Guide does not contain any information regarding the age of consent. Mr Delahunty accepted that the document makes no specific reference to the age of consent, is misleading and is an example of a deficient AAFC document.<sup>970</sup>

The AAFC Training Slides state that a sexual offence occurs with someone under the age of 16 years, even if they consent to it.<sup>971</sup> Mr Delahunty accepted that the document still does not address the differences in the legal age of consent across the various Australian jurisdictions<sup>972</sup> and that the problem with providing incorrect and incomplete information is that it could be taken generally into the community<sup>973</sup> as a correct statement of the law.

## 8.2 Special care provisions

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Across the different states and territories of Australia there are legislative provisions that make it an offence for a person in a supervisory role to have sexual intercourse or intimacy with a person under their ‘special care’ who is aged 16 and 17 years.<sup>974</sup>

‘Special care’ is defined in the legislation to apply to those persons who provide a supervisory role – for example, a teacher, foster parent, religious official or spiritual leader, medical practitioner, employer or custodial officer.<sup>975</sup>

In New South Wales, Western Australia and the Northern Territory, the definition extends to those persons who have established a personal relationship by means of providing ‘instruction’, ‘supervision’ and/or ‘authority’.<sup>976</sup> In these jurisdictions, the relationship between an officer or instructor of cadets and a cadet is one of special care. The provisions were operative since at least 2003.

## ADF Cadets policies and training manuals on special care

As mentioned above, the Royal Commission was provided with policy guides and training manuals of the ADF Cadets. These documents refer to sexual offences and the legal age of consent. None of them mention the special care provisions.

Vice Admiral Griggs accepted that there was no mention of the special care provisions and said that, while there is acknowledgment of the position of power and authority of officers and instructors, there is no specific reference to special care.<sup>977</sup> He said that the information contained in the documents is deficient, misleading and incorrect.<sup>978</sup>

## AAFC policies and training manuals on special care

None of the policy guides or training manuals of the AAFC provided to the Royal Commission expressly refers to the legislative provisions dealing with special care.

Both Mr Green and Mr Delahunty gave evidence that none of the training courses they attended covered special care provisions or criminal sanctions that generally apply to persons involved in child sexual abuse.<sup>979</sup>

Mr Delahunty accepted that the AAFC documents are misleading and inaccurate and that these inaccuracies meant that the AAFC has not properly fulfilled its duty of care to its members.<sup>980</sup>

As mentioned above, the Royal Commission heard evidence that Adams did not know that his actions against CJG and CJE were criminal.

## Conclusion

We find that since at least 2000 the policy guides and training manuals of the ADF Cadets and the AAFC regarding the legal age of consent and the effect of special care provisions were incorrect, incomplete and misleading. The documents did not address the variances in the legal age of consent across the different jurisdictions in Australia and failed to take into account special care provisions at all. The deficiencies in the documents increased the risk of child sexual abuse and had the potential for serious consequences for those who relied on them in good faith.

### 8.3 Reforms

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In its submissions to the Royal Commission, Defence acknowledged the ‘shortcomings’ of the ADF Cadets and AAFC policies and training manuals and submitted that Defence has been reviewing and amending its policies and training manuals.<sup>981</sup>

Defence submitted that it has taken a number of steps to address the deficiencies regarding the age of consent and special care. These steps include:

- a directive issued by Vice Admiral Griggs that provides information on the legal age of consent across all Australian jurisdictions and legal liabilities arising from special care provisions<sup>982</sup>
- a letter issued by Vice Admiral Griggs to all officers and instructors of cadets which it is said brings the issues concerning age of consent and special care to the attention of all officers and instructors of cadets<sup>983</sup>
- correction of the AAFC’s 2015 Behaviour Instruction and review of all AAFC authorised documents, which Defence submits is to ensure all inconsistencies are identified and corrected.<sup>984</sup>

## 9 Reform of the ADF Cadets

### 9.1 Organisational reform

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The Royal Commission heard evidence that, since at least 2000, Defence has conducted a number of reviews of the ADF Cadets in an attempt to find an appropriate structure for the management of children.<sup>985</sup> Based on the cases the subject of the public hearing, these reviews have not been entirely successful in preventing incidents of child sexual abuse within the ADF Cadets.<sup>986</sup>

Mr Delahunty accepted that Defence has ‘struggled’ to create the appropriate structure, culture, rules and procedures for a military organisation like the ADF Cadets that is responsible for children.<sup>987</sup>

Both Mr Delahunty and Vice Admiral Griggs agreed that it has taken Defence a long time to come to grips with its responsibilities to children and ‘[f]ar too long’ to learn its lesson from the experience of CGST Tibble.<sup>988</sup>

Vice Admiral Griggs said that one of the major challenges for Defence has been the relationship between the ADF as a military structure and the ADF Cadets as a volunteer civilian organisation.<sup>989</sup>

Defence submitted that following the public hearing Vice Admiral Griggs commissioned a further review of the ADF Cadets.<sup>990</sup> As a result of this review, Defence has undertaken to reform the ADF Cadets in the following manner:<sup>991</sup>

- Defence is adopting a ‘One Cadet’ organisational model aimed at consolidating and centralising the ADF Cadets.
- The ADF Cadets is being restructured to enable tri-service governance and service delivery, while streamlining accountability and assurance systems to support the consistent implementation of ‘One Cadet’ policies and procedures.
- ADF Cadets Headquarters and Cadet Reserve and Employer Support Division (CRESD) are being located in one joint ADF Cadets headquarters to enhance collaboration.

Under the new governance structure:

- the head of CRESD will be accountable directly to the Vice Chief of the ADF for the development, implementation and governance of the ADF Cadets’ child safety system<sup>992</sup>
- the Director General of Australian Navy Cadets and Reserves, Commander of Australian Army Cadets and the Director General of Cadets – Air Force will be:<sup>993</sup>
  - accountable to the head of CRESD for core common functions within the ADF Cadets ‘enterprise’, including child safety training
  - subject to a new ADF Cadets assurance regime, which will ensure their consistent implementation of child safety policy and governance within the respective services’ Cadet organisations.

Defence submitted that the new ‘One Cadet’ model is to be phased in with a new organisational structure established by 1 February 2017.<sup>994</sup>

Defence acknowledges that the evidence before the Royal Commission has identified that, at particular points in time and at particular locations, Defence has failed to meet best practice in ensuring a child safe organisation.<sup>995</sup> Defence says that, in light of the reforms set out above, ADF Cadets now has an appropriate organisational structure which provides the foundations for a safe environment for children participating in ADF Cadets.<sup>996</sup>

## 9.2 Policy reforms

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### YOUTHPOLMAN

During the public hearing, the Royal Commission heard evidence that since 2013 Defence has been in the process of developing and publishing a single policy manual to cover all aspects of Defence’s engagement with children, including the ADF Cadets (YOUTHPOLMAN).<sup>997</sup>

At the time of the public hearing, YOUTHPOLMAN was still under development. It is structured in three parts:<sup>998</sup>

- Part 1: Defence-wide policies related to youth and the conduct of youth programs<sup>999</sup>
- Part 2: information about Defence youth programs, such as the Australian Defence Force Academy<sup>1000</sup>
- Part 3: all joint ADF Cadets policies and service-specific annexures.<sup>1001</sup>

Part 3 of YOUTHPOLMAN, which contained the chapter on child protection, was ‘under development’ at the time of the public hearing.<sup>1002</sup>

### Delay in completion of YOUTHPOLMAN

The Royal Commission heard evidence that there has been significant delay in completion of the child protection chapter in YOUTHPOLMAN.

The 2014 Vice Chief Directive indicates that the child protection chapter in the YOUTHPOLMAN was initially due to be completed in December 2014.<sup>1003</sup> In his oral evidence, Vice Admiral Griggs gave evidence that this timeline was ‘optimistic’.<sup>1004</sup>

Vice Admiral Griggs said that in late 2014 Defence was ‘in the throes of developing a defence instruction on child protection to be part of YOUTHPOLMAN’.<sup>1005</sup> Subsequently, a decision was made to incorporate the potential lessons learned from this case study to develop a more contemporary policy.<sup>1006</sup> Vice Admiral Griggs said that he wanted to ensure that any lessons from the public hearing, such as the ‘glaring omission’ with regard to the special care provisions, could be incorporated into the child protection chapter.<sup>1007</sup>

It was put to Vice Admiral Griggs that a cynic might wonder why Defence ‘are going to get this right now’ when there had been opportunity to ‘get this right many times in the past’. Vice Admiral Griggs responded:

Well, that is a fair question. What I can – all I can answer is what I intend to do and I now have additional legislative cover, if you like, to enable me to do that. And frankly, I have this case study and there is an incredible moral authority in this case study for us to make the changes we need to make.<sup>1008</sup>

## Development of YOUTHPOLMAN since the public hearing

Defence submitted that YOUTHPOLMAN has recently been redesigned and reduced to two parts.<sup>1009</sup>

Part 1 of YOUTHPOLMAN now contains the whole of Defence policy on child safety and incorporates policies on:

- Defence Youth Safety Commitment Statement
- Defence Youth Safety Governance
- Defence Youth Safety Risk Management
- Defence Youth Safety Responding and Reporting.<sup>1010</sup>

Part 1 of YOUTHPOLMAN is complete and is available to the public on the Defence youth website, *youthHQ*.<sup>1011</sup>

Defence submitted that Part 2 of YOUTHPOLMAN will contain policies specific to the ADF Cadets, including:

- ADF Cadets Youth Safety
- ADF Cadets Management of Volunteers
- ADF Cadets Expectations of Behaviour
- ADF Cadets Issues Resolution.<sup>1012</sup>

Of the above policies, only the ADF Cadets Youth Safety policy is complete and available on the *youthHQ* website.<sup>1013</sup>

The remaining policies in Part 2 of YOUTHPOLMAN are ‘being developed over time’.<sup>1014</sup>

Based on the evidence and submissions before the Royal Commission, it is not clear when YOUTHPOLMAN is due to be completed.

### Interaction of YOUTHPOLMAN with AAFC policies

The Royal Commission heard that YOUTHPOLMAN is intended to be a high-level Defence policy manual that will inform local ADF Cadet policies in relation to child safety, such as the AAFC Manual of Management and AAFC Standing Instructions.<sup>1015</sup>

During the public hearing, Vice Admiral Griggs gave evidence that, as Defence transitions from the current policy framework to YOUTHPOLMAN, there will be an issue as to duplication between the policy in YOUTHPOLMAN and the individual cadet organisation policies.<sup>1016</sup> We are satisfied there is potential for confusion amongst ADF staff and cadets as to which policy should apply.

### ‘One Cadet’ policies and procedures

Defence submitted that, as part of its implementation of the ‘One Cadet’ model, Defence is moving towards a single set of child safety procedures and protocols for ADF Cadets.<sup>1017</sup>

The ‘One Cadet’ child safety procedures and protocols will be developed over the next 12 months and will replace the current AAFC, ANC and AAC policy materials ‘where they are [duplicated]’.<sup>1018</sup>

It is not clear how the proposed ‘One Cadet’ child safety procedures will interact, if at all, with the existing ADF Cadets Youth Safety policy in Part 2 of YOUTHPOLMAN.

We welcome Defence’s move towards the creation of uniform child safety procedures and protocols for ADF Cadets. We consider it important that Defence seeks to minimise duplication of child safety procedures and protocols for ADF Cadets.

## Reform of ADF Cadets and AAFC policies since the public hearing

Following the public hearing, Defence has taken a number of steps to improve ADF Cadets policies and procedures to ensure the protection of children. These improvements include:

- Defence-specific Youth Safety Training, which will replace SCAP training and provide accurate training to ADF Cadets on sexual relationships, the age of consent, special care relationships, and ‘inappropriate fraternisation’<sup>1019</sup>
- a 12-month pilot that will enable ADF Cadets to access services provided by Defence’s Sexual Misconduct Prevention and Response Office<sup>1020</sup>
- access for ADF Cadet Adult Staff Members, cadets and their immediate families to free, confidential counselling services through Defence’s Employee Assistance Program.<sup>1021</sup>

In addition to the above general reforms, Defence noted the following specific improvements to AAFC policies and procedures:

- a requirement that, where an AAFC officer or instructor hands in a resignation, unit commanders must ensure that the resignation is not a result of unacceptable behaviour
- amendments to enable the suspension or cancellation of AAFC officers and instructors of cadets for contravention of the Code of Conduct
- a requirement that both complainants and respondents be provided with access to support during the management of a complaint
- a requirement that the parents or guardians of a cadet under the age of 18 who has been involved in a substantiated complaint of sexual abuse be informed before the police are called
- policies and procedures to specifically articulate that no blame is to be placed on a child where an unacceptable relationship is suspected between an adult and a child
- mandatory annual Behavioural Policy Training for AAFC members
- a review of all AAFC staff and cadet training programs.<sup>1022</sup>

On 6 March 2017, as part of the hearing of Case Study 51, Vice Admiral Griggs returned to give evidence to the Royal Commission in relation to the steps Defence has taken since the public hearing of Case Study 40. The evidence given in that hearing will be considered in the Royal Commission’s final report, due for submission to government in December 2017.

# 10 Acknowledgement and apology

## 10.1 Apology

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During the public hearing, Vice Admiral Griggs apologised to the survivors of sexual abuse on behalf of the ADF:

Thank you for the opportunity for me to acknowledge the courage and the strength of the survivors who have come forward and told their story, not only those who have come forward to this Commission but those who have come forward to the Defence Abuse Response Taskforce and to Defence more generally.

Your stories are changing the ADF and they have strengthened the resolve of the senior leadership of the ADF to stamp out abuse in all its forms and, in particular, child sexual abuse.

People and systems have failed you and they have put others at risk and that is simply not good enough. I am deeply sorry for what has happened to you. No-one who pulls on the uniform of this country and no child who is under our care should ever have had happen to them what has happened to you. I would particularly like to acknowledge the partners, the families and the carers of survivors and those who carry the memory of survivors who have passed away. I know you are as impacted by the consequence of abuse as much as the survivor themselves. I know you carry this for many decades and in many cases for your life.

I also know that there are many survivors who have told their stories who simply would not be here today without you, and I think your role is not recognised anywhere near enough.

We have made some significant changes to our culture. We needed to. We are trying to move away from the culture that excludes and allows what has happened in the past to a culture that includes. Strangely, the senior leadership has been very publicly criticised for this approach. I want to reassure you that, to a person, we will not be bowed by this criticism and we will continue vigorously to pursue a path where we have a culture that is diverse and inclusive. We will strive to make children's interactions in Defence safe. We will try and build on the thousands of volunteers and Defence members who are committed to that today and are working towards that reality. Your stories are tragic, but they are transformation, and I thank you again for your courage in bringing forward these stories.<sup>1023</sup>

Vice Admiral Griggs acknowledged that, within the ADF and in the ADF Cadets organisations, the systems, policies and practices that were in place in the past let children down. He acknowledged that cases of sexual abuse were not always managed well and that institutional responses were 'inappropriate and inadequate'.<sup>1024</sup>

When asked to reflect on the experience of survivors of child sexual abuse at Leeuwin and Balcombe, Vice Admiral Griggs accepted that:

- there was significant and widespread abuse at the institutions<sup>1025</sup>
- the system of supervision of the recruits and apprentices at Leeuwin and Balcombe respectively was inadequate, and this inadequacy was a factor in enabling the abuse to occur<sup>1026</sup>
- each boy who was sexually abused at Leeuwin and Balcombe was let down by the Navy and the Army respectively.<sup>1027</sup>

Vice Admiral Griggs accepted that there was a failure of management in Leeuwin and Balcombe that allowed the abuse to take place. He said that, in his view, each institution at the time failed in its duty of care.<sup>1028</sup>

## 10.2 Cultural reforms within the ADF

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During the public hearing, Vice Admiral Griggs acknowledged that, in the past, the culture in the ADF was one that excluded rather than included; diversity was not tolerated; and those that did not 'fit in' paid the price.<sup>1029</sup>

The Royal Commission heard that, following the work of the DART, Defence has taken steps to change this culture, most notably through the implementation of the *Pathway to change* strategy.

The *Pathway to change* strategy is a statement of Defence's cultural intent. It was announced in March 2012 and was accompanied by a plan for the realisation of that intent over five years.<sup>1030</sup> Vice Admiral Griggs gave evidence that cultural change required:

- leadership commitment through the organisation
- clear, strong and concise policy statements
- appropriate internal staffing structures
- training to ensure that the message resonates.<sup>1031</sup>

Vice Admiral Griggs gave evidence that the purpose of the reforms was to:

- create conditions that reduce the likelihood of harm occurring to all Defence personnel, including children
- create conditions that increase the likelihood of any harm being disclosed
- ensure that any disclosure, allegations or suspicions of harm are responded to appropriately.<sup>1032</sup>

Defence's submissions to the Royal Commission state that:

- as at September 2016, 98 per cent of the key actions and recommendations in the *Pathway to change* strategy had been implemented
- Defence continues to review the impact of the *Pathway to change* strategy in achieving Defence's cultural reform goals
- the *Pathway to change* strategy will be an enduring cultural reform strategy within the ADF and that Defence-wide consultation is underway to develop the next stage of reforms for 2017 and beyond.<sup>1033</sup>

# 11 Systemic Issues

The systemic issues arising in Case Study 40 are:

- organisational understanding of the scope and impact of child sexual abuse
- the importance of providing children with trusted adults to whom they can disclose sexual abuse
- the importance of educating and reassuring children that it is safe to report child sexual abuse and that they will receive support and assistance where they do so
- the culture of secrecy and barriers to disclosure in a hierarchical organisational structure in which alleged abusers remain as superiors
- the increased risk of child sexual abuse occurring where cadets and staff do not receive appropriate and correct information, training and supervision
- internal responses by institutions to allegations, and risk management, of child sexual abuse, including complaint handling and risk management
- an institution's disciplinary process for dealing with alleged perpetrators, especially where they have voluntarily resigned from the institution
- the impact of internal investigative mechanisms on criminal investigations
- developing an organisational culture that recognises and embraces the principle of acting in the best interest of children within its responsibility, especially where children represent only a small portion of the organisation's personnel.

# APPENDIX A: Terms of Reference

## Letters Patent dated 11 January 2013

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO

The Honourable Justice Peter David McClellan AM,  
Mr Robert Atkinson,  
The Honourable Justice Jennifer Ann Coate,  
Mr Robert William Fitzgerald AM,  
Dr Helen Mary Milroy, and  
Mr Andrew James Marshall Murray

GREETING

WHEREAS all children deserve a safe and happy childhood.

AND Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse.

AND all forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.

AND child sexual abuse and other related unlawful or improper treatment of children have a long-term cost to individuals, the economy and society.

AND public and private institutions, including child-care, cultural, educational, religious, sporting and other institutions, provide important services and support for children and their families that are beneficial to children's development.

AND it is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse and any related unlawful or improper treatment of children be fully explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of child sexual abuse and to respond appropriately when any allegations and incidents of child sexual abuse occur, including holding perpetrators to account and providing justice to victims.

AND it is important that those sexually abused as a child in an Australian institution can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify.

AND noting that, without diminishing its criminality or seriousness, your inquiry will not specifically examine the issue of child sexual abuse and related matters outside institutional contexts, but that any recommendations you make are likely to improve the response to all forms of child sexual abuse in all contexts.

AND all Australian Governments have expressed their support for, and undertaken to cooperate with, your inquiry.

NOW THEREFORE We do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and under the Constitution of the Commonwealth of Australia, the Royal Commissions Act 1902 and every other enabling power, appoint you to be a Commission of inquiry, and require and authorise you, to inquire into institutional responses to allegations and incidents of child sexual abuse and related matters, and in particular, without limiting the scope of your inquiry, the following matters:

- a. what institutions and governments should do to better protect children against child sexual abuse and related matters in institutional contexts in the future;
- b. what institutions and governments should do to achieve best practice in encouraging the reporting of, and responding to reports or information about, allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- c. what should be done to eliminate or reduce impediments that currently exist for responding appropriately to child sexual abuse and related matters in institutional contexts, including addressing failures in, and impediments to, reporting, investigating and responding to allegations and incidents of abuse;
- d. what institutions and governments should do to address, or alleviate the impact of, past and future child sexual abuse and related matters in institutional contexts, including, in particular, in ensuring justice for victims through the provision of redress by institutions, processes for referral for investigation and prosecution and support services.

AND We direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

- e. the experience of people directly or indirectly affected by child sexual abuse and related matters in institutional contexts, and the provision of opportunities for them to share their experiences in appropriate ways while recognising that many of them will be severely traumatised or will have special support needs;
- f. the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you will be informed by individual cases and may need to make referrals to appropriate authorities in individual cases;
- g. the adequacy and appropriateness of the responses by institutions, and their officials, to reports and information about allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- h. changes to laws, policies, practices and systems that have improved over time the ability of institutions and governments to better protect against and respond to child sexual abuse and related matters in institutional contexts.

AND We further declare that you are not required by these Our Letters Patent to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and We authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration:

- i. the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things, in accordance with section 6P of the *Royal Commissions Act 1902* or any other relevant law, including, for example, for the purpose of enabling the timely investigation and prosecution of offences;
- j. the need to establish investigation units to support your inquiry;
- k. the need to ensure that evidence that may be received by you that identifies particular individuals as having been involved in child sexual abuse or related matters is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;

- l. the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses;
- m. the need to ensure that institutions and other parties are given a sufficient opportunity to respond to requests and requirements for information, documents and things, including, for example, having regard to any need to obtain archived material.

AND We appoint you, the Honourable Justice Peter David McClellan AM, to be the Chair of the Commission.

AND We declare that you are a relevant Commission for the purposes of sections 4 and 5 of the *Royal Commissions Act 1902*.

AND We declare that you are authorised to conduct your inquiry into any matter under these Our Letters Patent in combination with any inquiry into the same matter, or a matter related to that matter, that you are directed or authorised to conduct by any Commission, or under any order or appointment, made by any of Our Governors of the States or by the Government of any of Our Territories.

AND We declare that in these Our Letters Patent:

**child** means a child within the meaning of the Convention on the Rights of the Child of 20 November 1989.

**government** means the Government of the Commonwealth or of a State or Territory, and includes any non-government institution that undertakes, or has undertaken, activities on behalf of a government.

**institution** means any public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated), and however described, and:

- i. includes, for example, an entity or group of entities (including an entity or group of entities that no longer exists) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families; and
- ii. does not include the family.

***institutional context***: child sexual abuse happens in an institutional context if, for example:

- i. it happens on premises of an institution, where activities of an institution take place, or in connection with the activities of an institution; or
- ii. it is engaged in by an official of an institution in circumstances (including circumstances involving settings not directly controlled by the institution) where you consider that the institution has, or its activities have, created, facilitated, increased, or in any way contributed to, (whether by act or omission) the risk of child sexual abuse or the circumstances or conditions giving rise to that risk; or
- iii. it happens in any other circumstances where you consider that an institution is, or should be treated as being, responsible for adults having contact with children.

***law*** means a law of the Commonwealth or of a State or Territory.

***official***, of an institution, includes:

- i. any representative (however described) of the institution or a related entity; and
- ii. any member, officer, employee, associate, contractor or volunteer (however described) of the institution or a related entity; and
- iii. any person, or any member, officer, employee, associate, contractor or volunteer (however described) of a body or other entity, who provides services to, or for, the institution or a related entity; and
- iv. any other person who you consider is, or should be treated as if the person were, an official of the institution.

***related matters*** means any unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse.

AND We:

- n. require you to begin your inquiry as soon as practicable, and
- o. require you to make your inquiry as expeditiously as possible; and
- p. require you to submit to Our Governor-General:

- i. first and as soon as possible, and in any event not later than 30 June 2014 (or such later date as Our Prime Minister may, by notice in the *Gazette*, fix on your recommendation), an initial report of the results of your inquiry, the recommendations for early consideration you may consider appropriate to make in this initial report, and your recommendation for the date, not later than 31 December 2015, to be fixed for the submission of your final report; and
  - ii. then and as soon as possible, and in any event not later than the date Our Prime Minister may, by notice in the *Gazette*, fix on your recommendation, your final report of the results of your inquiry and your recommendations; and
- q. authorise you to submit to Our Governor-General any additional interim reports that you consider appropriate.

IN WITNESS, We have caused these Our Letters to be made Patent.

WITNESS Quentin Bryce, Governor-General of the Commonwealth of Australia.

Dated 11th January 2013  
Governor-General  
By Her Excellency's Command  
Prime Minister

## Letters Patent dated 13 November 2014

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO

The Honourable Justice Peter David McClellan AM,  
Mr Robert Atkinson,  
The Honourable Justice Jennifer Ann Coate,  
Mr Robert William Fitzgerald AM,  
Dr Helen Mary Milroy, and  
Mr Andrew James Marshall Murray

GREETING

WHEREAS We, by Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia, appointed you to be a Commission of inquiry, required and authorised you to inquire into certain matters, and required you to submit to Our Governor-General a report of the results of your inquiry, and your recommendations, not later than 31 December 2015.

AND it is desired to amend Our Letters Patent to require you to submit to Our Governor-General a report of the results of your inquiry, and your recommendations, not later than 15 December 2017.

NOW THEREFORE We do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and under the Constitution of the Commonwealth of Australia, the *Royal Commissions Act 1902* and every other enabling power, amend the Letters Patent issued to you by omitting from subparagraph (p)(i) of the Letters Patent “31 December 2015” and substituting “15 December 2017”.

IN WITNESS, We have caused these Our Letters to be made Patent.

WITNESS General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia.

Dated 13th November 2014  
Governor-General  
By His Excellency's Command  
Prime Minister

## APPENDIX B: Public Hearing

<b>The Royal Commission</b>	Justice Peter McClellan AM (Chair) Justice Jennifer Coate Mr Bob Atkinson AO APM Mr Robert Fitzgerald AM Professor Helen Milroy Mr Andrew Murray
<b>Commissioners who presided</b>	Justice Peter McClellan AM (Chair) Mr Robert Fitzgerald AM Professor Helen Milroy
<b>Date of hearing</b>	21 June 2016 to 30 June 2016 and 26 August 2016
<b>Legislation</b>	<i>Royal Commissions Act 1902</i> (Cth) <i>Royal Commission Act 1923</i> (NSW) <i>Commissions of Inquiry Act 1950</i> (QLD) <i>Commission of Inquiry Act 1995</i> (TAS) <i>Evidence (Miscellaneous Provisions) Act 1958</i> (VIC)
<b>Leave to appear</b>	Aaron Symonds Adair Donaldson Carroll Keith James Christopher Adams CJA CJB CJC CJD CJE CJF CJG CJJ

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**Leave to appear**

CJT

CJU

CJV

Commonwealth of Australia

Daryl James

David Sparreboom

Glen Greaves [also referred to as CJI]

Graeme Frazer

Lisa Marie Flynn

Susan Campbell

Todd Oakley

---

**Legal representation**Patrick Nunan, Shine Lawyers, appearing  
for Graeme Frazer and CJAFiona McLeod SC instructed by the Australian Government  
Solicitor, appearing for the Commonwealth of AustraliaAngela Sdrinis, Angela Sdrinis Legal, appearing  
for David Sparreboom, Daryl James, CJC and CJVPeter O'Brien, Peter O'Brien Solicitors, appearing  
for CJU, CJG and CJBLouise Jardim, Samuel Griffith Chambers, appearing  
for Christopher AdamsPauline David, Samuel Griffith Chambers, appearing  
for Glen Greaves [also referred to as CJI], CJT and Susan  
CampbellTim Hammond, Samuel Griffith Chambers, appearing  
for CJJ and CJFGuy Humble, McCullough Robertson Lawyers, appearing  
for Adair Donaldson and Lisa Marie FlynnWendy Thompson, instructed by Holman Webb Lawyers,  
appearing for CJE

<b>Legal representation</b>	Paul Hogan, Samuel Griffith Chambers, appearing for CJD  Catherine Gleeson, Samuel Griffith Chambers, appearing for Todd Oakley  James Benjamin, instructed by Howden Saggars Lawyers, appearing for Aaron Symonds  Timothy Barrett, Tierney Law, appearing for Carroll Keith James
<b>Pages of transcript</b>	941
<b>Summons to Attend issued under <i>Royal Commission Act 1902</i> (Cth)</b>	38
<b>Notices to Produce documents issued under <i>Royal Commissions Act 1902</i> (Cth) and documents produced</b>	59, producing 60,085 documents
<b>Summons to Produce documents issued under <i>Royal Commission Act 1923</i> (NSW)</b>	4, producing 1169 documents
<b>Requirement to Produce documents issued under <i>Commissions of Inquiry Act 1950</i> (QLD)</b>	1, producing 1 document
<b>Summons to Produce documents issued under <i>Commission of Inquiry Act 1995</i> (TAS)</b>	1, producing nil documents
<b>Summons to Produce documents issued under <i>Evidence (Miscellaneous Provisions) Act 1958</i> (VIC)</b>	1, producing 2 documents
<b>Number of exhibits</b>	51 exhibits consisting of a total of 699 documents tendered at the hearing
<b>Witnesses</b>	<b>CJA</b> Survivor, HMAS Leeuwin  <b>Graeme Andrew Frazer</b> Survivor, HMAS Leeuwin

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**Witnesses****CJT**

Survivor, HMAS Leeuwin

**Glen Thomas Greaves** [also referred to as CJJ]

Survivor, HMAS Leeuwin

**CJB**

Survivor, HMAS Leeuwin

**Geoffrey Edwin Curran**

Former Divisional Officer, HMAS Leeuwin

**Peter Ross Sinclair**

Former Executive Officer, HMAS Leeuwin

**Laurence David Watson**

Former Staff Secretary, HMAS Leeuwin

**Peter Bradshaw Ball**

Former Chaplain, HMAS Leeuwin

**David Phillip Sparreboom**

Survivor, Army Apprentices School Balcombe

**CJC**

Survivor, Army Apprentices School Balcombe

**Daryl William James**

Survivor, Army Apprentices School Balcombe

**CJV**

Survivor, Army Apprentices School Balcombe

**CJU**

Survivor, Army Apprentices School Balcombe

**Alan Martin McDonald**

Former Commanding Officer, Army Apprentices School Balcombe

**Adair Angus Donaldson**

Former Partner, Shine Lawyers

**Neil Ross Bayles**

Assistant Secretary, Rehabilitation, Case Escalation and MRCA Review at Department of Veteran Affairs

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**Witnesses****Michael Lysewycz**

Defence Special Counsel at the Defence legal division,  
Department of Defence

**Susan Margaret Campbell**

Mother of Eleanore Tibble, Australian Air Force Cadets,  
formerly known as Air Training Corps

**CJD**

Survivor, Australian Navy Cadets

**Aaron Roy Symonds**

Survivor, Australian Air Force Cadets, formerly known as  
Air Training Corps

**CJG**

Survivor, Australian Air Force Cadets

**CJE**

Survivor, Australian Air Force Cadets

**CJJ**

Instructor, Australian Air Force Cadets

**CJF**

Instructor, Australian Air Force Cadets

**Sharon Lee O'Donnell**

Squadron Leader, Australian Air Force Cadets

**Darren John Banfield**

Squadron Leader, Australian Air Force Cadets

**Jacqueline Hatch**

Squadron Leader, Royal Australian Air Force

**Sean Watson**

Squadron Leader, Royal Australian Air Force

**Terrence Charles Delahunty**

Air Commodore, Royal Australian Air Force

**Dennis Green**

Air Commodore, Royal Australian Air Force

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**Witnesses****Dale Bernard Roy Watson**

Former Air Force Officer, Royal Australian Air Force

**John Anthony Devereux**

Wing Commander, Australian Air Force Cadets

**Raymond James Griggs**

Vice Chief, Australian Defence Force

**Carroll Keith James**

Former Commanding Officer, Air Training Corps

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# Endnotes

- 1 *Defence Act 1903* (Cth) Part III, Division 1.
- 2 Australian Government Department of Defence, *Who we are and what we do*, [www.defence.gov.au/AboutUs.asp](http://www.defence.gov.au/AboutUs.asp) (viewed 9 August 2016).
- 3 Australian Government Department of Defence, *Defence white paper 2016*, [www.defence.gov.au/whitepaper/Docs/2016-Defence-White-Paper.pdf](http://www.defence.gov.au/whitepaper/Docs/2016-Defence-White-Paper.pdf) at 146 (viewed 9 August 2016).
- 4 *Defence Act 1903* (Cth) s 8(1).
- 5 *Defence Act 1903* (Cth) s 8(2).
- 6 *Defence Act 1903* (Cth) ss 9(1), 9(2).
- 7 *Defence Act 1903* (Cth) ss 9(3), 10(3).
- 8 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0002.
- 9 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0492\_R at 0492\_R.
- 10 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0005, 0010.
- 11 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0048.
- 12 Defence Recruitment Centre, *Your age and gender*, [www.defencejobs.gov.au/recruitment-centre/can-i-join/age-gender](http://www.defencejobs.gov.au/recruitment-centre/can-i-join/age-gender) (viewed 9 August 2016).
- 13 Defence Recruitment Centre, *Your age and gender*, [www.defencejobs.gov.au/recruitment-centre/can-i-join/age-gender](http://www.defencejobs.gov.au/recruitment-centre/can-i-join/age-gender) (viewed 9 August 2016).
- 14 Exhibit 40-0007, 'Statement of G Curran', Case Study 40, STAT.1023.001.0001\_R at 0001\_R; Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0003, 0006; Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0004\_R.
- 15 Exhibit 40-0009, 'Statement of P Sinclair', Case Study 40, STAT.1014.001.0001\_R at 0002\_R.
- 16 Exhibit 40-0010, 'Statement of L Watson', Case Study 40, STAT.1020.001.0001\_R at 0001\_R.
- 17 Exhibit 40-0011, 'Statement of P Ball', Case Study 40, STAT.1012.001.0001\_R at 0002\_R; Transcript of P Ball, Case Study 40, 23 June 2016 at 19513:42–47; Exhibit 40-0001, 'Statement of CJA' Case Study 40, STAT.0993.001.0001\_R at 0006\_R–0007\_R.
- 18 Exhibit 40-0008, Case Study 40, DART.0006.001.0001 at 0015; Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0010.
- 19 Exhibit 40-0008, Case Study 40, DART.0006.001.0001 at 0015; Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0010.
- 20 Exhibit 40-0008, Case Study 40, DART.0006.001.0001 at 0016.
- 21 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0012.
- 22 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0012.
- 23 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0012.
- 24 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0012; Exhibit 40-0009, 'Statement of P Sinclair', Case Study 40, STAT.1014.001.0001\_R at 0002\_R.
- 25 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0012.
- 26 Exhibit 40-0006, Case Study 40, DEF.02.0009.001.0441 at 0496; Exhibit 40-0006, Case Study 40, DEF.02.0009.001.7214 at 7222–7223.
- 27 Transcript of G Curran, Case Study 40, 22 June 2016 at 19376:7–14; Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0002; Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0002\_R.
- 28 Exhibit 40-0002, 'Statement of G Frazer', Case Study 40, STAT.0995.001.0001 at 0002.
- 29 Exhibit 40-0007, 'Statement of G Curran', Case Study 40, STAT.1023.001.0001\_R at 0003\_R; Exhibit 40-0010, 'Statement of L Watson', Case Study 40, STAT.1020.001.0001\_R at 0003\_R.
- 30 Exhibit 40-0007, 'Statement of G Curran', Case Study 40, STAT.1023.001.0001\_R at 0003\_R; Transcript of G Curran, Case Study 40, 22 June 2016 at 19418:26–32; Exhibit 40-0006, Case Study 40, DEF.02.0009.001.7214 at 7222.
- 31 Exhibit 40-0007, 'Statement of G Curran', Case Study 40, STAT.1023.001.0001\_R at 0002\_R–0003\_R.
- 32 Exhibit 40-0007, 'Statement of G Curran', Case Study 40, STAT.1023.001.0001\_R at 0003\_R.
- 33 Exhibit 40-0007, 'Statement of G Curran', Case Study 40, STAT.1023.001.0001\_R at 0003\_R; Transcript of G Curran, Case Study 40, 22 June 2016 at 19419:14–31.
- 34 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0011.

- 35 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0011–0012; Exhibit 40-0006, Case Study 40, DEF.02.0009.001.7214 at 7222.
- 36 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0010; Exhibit 40-0007, 'Statement of G Curran', Case Study 40, STAT.1023.001.0001\_R at 0003\_R.
- 37 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0010.
- 38 Exhibit 40-0009, 'Statement of P Sinclair', Case Study 40, STAT.1014.001.0001\_R at 0007\_R.
- 39 Exhibit 40-0007, 'Statement of G Curran', Case Study 40, STAT.1023.001.0001\_R at 0002\_R–0003\_R.
- 40 Exhibit 40-0002, 'Statement of G Frazer', Case Study 40, STAT.0995.001.0001 at 0002–0003.
- 41 Exhibit 40-0007, 'Statement of G Curran', Case Study 40, STAT.1023.001.0001\_R at 0003\_R; Exhibit 40-0006, Case Study 40, DEF.02.0009.001.0441 at 0496, 0532–0533; Exhibit 40-0006, Case Study 40, DEF.02.0009.001.7214 at 7234.
- 42 Exhibit 40-0006, Case Study 40, DEF.02.0009.001.0441 at 0533.
- 43 Exhibit 40-0006, Case Study 40, DEF.02.0009.001.0441 at 0510, 0533.
- 44 Transcript of G Curran, Case Study 40, 22 June 2016 at 19376:4–14.
- 45 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0011; Exhibit 40-0006, Case Study 40, DEF.02.0009.001.7214 at 7222.
- 46 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0011.
- 47 Transcript of P Sinclair, Case Study 40, 23 June 2016 at 19491:41–19492:5.
- 48 Transcript of P Sinclair, Case Study 40, 23 June 2016 at 19492:2–13.
- 49 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0011; Exhibit 40-0006, Case Study 40, DEF.02.0009.001.7214 at 7224.
- 50 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0011; Exhibit 40-0006, Case Study 40, DEF.02.0009.001.7214 at 7223.
- 51 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0006; Exhibit 40-0006, Case Study 40, DEF.02.0009.001.0441 at 0496.
- 52 Exhibit 40-0006, Case Study 40, DEF.02.0009.001.7214 at 7234.
- 53 Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0003; Exhibit 40-0005, 'Statement of CJB', Case Study 40, STAT.0998.001.0001\_R at 0002\_R.
- 54 Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0004\_R.
- 55 Exhibit 40-0005, 'Statement of CJB', Case Study 40, STAT.0998.001.0001\_R at 0002\_R; Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0004\_R; Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0003.
- 56 Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0004\_R.
- 57 Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0004\_R.
- 58 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0005\_R; Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0004\_R–0005\_R; Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0003; Exhibit 40-0005, 'Statement of CJB', Case Study 40, STAT.0998.001.0001\_R at 0002\_R.
- 59 Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0004\_R–0005\_R.
- 60 Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0004\_R; Transcript of G Curran, Case Study 40, 22 June 2016 at 19382:24–32.
- 61 Transcript of G Curran, Case Study 40, 22 June 2016 at 19379:13–15; Exhibit 40-0007, 'Statement of G Curran', Case Study 40, STAT.1023.001.0001\_R at 0004\_R.
- 62 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0014.
- 63 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0013; Exhibit 40-0006, Case Study 40, DEF.02.0009.001.4839; Exhibit 40-0006, Case Study 40, DEF.02.0009.001.5039.
- 64 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0013; Exhibit 40-0006, Case Study 40, DEF.02.0009.001.0539; Exhibit 40-0006, Case Study 40, DEF.02.0009.001.0441.
- 65 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0013; Exhibit 40-0006, Case Study 40, DEF.02.0009.001.0388; Exhibit 40-0006, Case Study 40, DEF.02.0009.001.0441.
- 66 Exhibit 40-0006, Case Study 40, DEF.02.0009.001.4839 at 4866–4868.
- 67 Exhibit 40-0006, Case Study 40, DEF.02.0009.001.4839 at 4866–4867.

- 68 Exhibit 40-0006, Case Study 40, DEF.02.0009.001.4839 at 4866; Exhibit 40-0009, 'Statement of P Sinclair', Case Study 40, STAT.1014.001.0001\_R at 0002\_R-0003\_R.
- 69 Exhibit 40-0006, Case Study 40, DEF.02.0009.001.4839 at 4866.
- 70 Exhibit 40-0006, Case Study 40, DEF.02.0009.001.5039 at 5061.
- 71 Exhibit 40-0006, Case Study 40, DEF.02.0009.001.5039 at 5061.
- 72 Exhibit 40-0006, Case Study 40, DEF.02.0009.001.5039 at 5063.
- 73 Exhibit 40-0006, Case Study 40, DEF.02.0009.001.5039 at 5061-5062; Exhibit 40-0006, Case Study 40, DEF.02.0009.001.4839 at 4867-4868.
- 74 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0013.
- 75 Exhibit 40-0006, Case Study 40, DEF.02.0009.001.7272 at 7300.
- 76 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0002\_R.
- 77 Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0002\_R.
- 78 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0004\_R; Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0004\_R; Exhibit 40-0004, 'Statement of G Greaves'; Case Study 40, STAT.0994.001.0001 at 0002; Exhibit 40-0005, 'Statement of CJB', Case Study 40, STAT.0998.001.0001\_R at 0002\_R.
- 79 Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0006\_R.
- 80 Exhibit 40-0005, 'Statement of CJB', Case Study 40, STAT.0998.001.0001\_R at 0002\_R.
- 81 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0002\_R.
- 82 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0005\_R.
- 83 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0005\_R.
- 84 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0004\_R.
- 85 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0008\_R-0009\_R.
- 86 Exhibit 40-0002, 'Statement of G Frazer', Case Study 40, STAT.0995.001.0001 at 0001-0002.
- 87 Exhibit 40-0002, 'Statement of G Frazer', Case Study 40, STAT.0995.001.0001 at 0004-0005.
- 88 Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0002\_R.
- 89 Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0008\_R-0009\_R.
- 90 Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0010\_R-0011\_R.
- 91 Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0002.
- 92 Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0004-0006.
- 93 Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0007.
- 94 Exhibit 40-0005, 'Statement of CJB', Case Study 40, STAT.0998.001.0001\_R at 0002\_R.
- 95 Exhibit 40-0005, 'Statement of CJB', Case Study 40, STAT.0998.001.0001\_R at 0004\_R.
- 96 Exhibit 40-0002, 'Statement of G Frazer', Case Study 40, STAT.0995.001.0001 at 0004-0005; Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0010\_R.
- 97 Exhibit 40-0002, 'Statement of G Frazer', Case Study 40, STAT.0995.001.0001 at 0004-0005; Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0010\_R.
- 98 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0004\_R; Exhibit 40-0002, 'Statement of G Frazer', Case Study 40, STAT.0995.001.0001 at 0004.
- 99 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0004\_R.
- 100 Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0006.
- 101 Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0006.
- 102 Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0005\_R-0006\_R; Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0004; Exhibit 40-0005, 'Statement of CJB', Case Study 40, STAT.0998.001.0001\_R at 0003\_R-0004\_R; Exhibit 40-0002, 'Statement of G Frazer', Case Study 40, STAT.0995.001.0001 at 0003-0004; Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0003\_R-0004\_R.
- 103 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0004\_R.
- 104 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0004\_R.
- 105 Exhibit 40-0002, 'Statement of G Frazer', Case Study 40, STAT.0995.001.0001 at 0003-0004.
- 106 Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0006\_R, 0009\_R-0010\_R.
- 107 Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0006\_R.

- 108 Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0004.
- 109 Exhibit 40-0005, 'Statement of CJB', Case Study 40, STAT.0998.001.0001\_R at 0003\_R-0004\_R.
- 110 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0014\_R-0015\_R;  
Exhibit 40-0002, 'Statement of G Frazer', Case Study 40, STAT.0995.001.0001 at 0010; Exhibit 40-0003,  
'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0012\_R; Exhibit 40-0004, 'Statement of  
G Greaves', Case Study 40, STAT.0994.001.0001 at 0009-0010; Exhibit 40-0005, 'Statement of CJB',  
Case Study 40, STAT.0998.001.0001\_R at 0007\_R-0008\_R.
- 111 Exhibit 40-0005, 'Statement of CJB', Case Study 40, STAT.0998.001.0001\_R at 0007\_R-0008\_R;  
Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0009.
- 112 Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0009.
- 113 Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0009.
- 114 Exhibit 40-0002, 'Statement of G Frazer', Case Study 40, STAT.0995.001.0001 at 0010.
- 115 Exhibit 40-0002, 'Statement of G Frazer', Case Study 40, STAT.0995.001.0001 at 0010.
- 116 Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0012\_R-0013\_R;  
Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0009-0010.
- 117 Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0012\_R-0013\_R.
- 118 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0014\_R-0015\_R;  
Exhibit 40-0002, 'Statement of G Frazer', Case Study 40, STAT.0995.001.0001 at 0010; Exhibit 40-0004,  
'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0009.
- 119 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0015\_R; Exhibit 40-0003,  
'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0013\_R; Exhibit 40-0002,  
'Statement of G Frazer', Case Study 40, STAT.0995.001.0001 at 0010; Exhibit 40-0005,  
'Statement of CJB', Case Study 40, STAT.0998.001.0001\_R at 0008\_R.
- 120 Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0013\_R; Exhibit 40-0005,  
'Statement of CJB', Case Study 40, STAT.0998.001.0001\_R at 0008\_R.
- 121 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0015\_R; Exhibit 40-0005,  
'Statement of CJB', Case Study 40, STAT.0998.001.0001\_R at 0008\_R; Exhibit 40-0004,  
'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0009-0010.
- 122 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0015\_R.
- 123 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0005\_R-0006\_R,  
0008\_R-0009\_R.
- 124 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0009\_R-0010\_R.
- 125 Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0008\_R-0009\_R.
- 126 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0006\_R-0007\_R.
- 127 Exhibit 40-0002, 'Statement of G Frazer', Case Study 40, STAT.0995.001.0001 at 0005-0006.
- 128 Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0008\_R-0009\_R.
- 129 Exhibit 40-0005, 'Statement of CJB', Case Study 40, STAT.0998.001.0001\_R at 0006\_R.
- 130 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0004\_R, 0012\_R;  
Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0004-0005;  
Exhibit 40-0002, 'Statement of G Frazer', Case Study 40, STAT.0995.001.0001 at 0004-0005.
- 131 Exhibit 40-0002, 'Statement of G Frazer', Case Study 40, STAT.0995.001.0001 at 0004.
- 132 Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0004-0005.
- 133 Exhibit 40-0005, 'Statement of CJB', Case Study 40, STAT.0998.001.0001\_R at 0004\_R-0005\_R.
- 134 Exhibit 40-0003, 'Statement of CJT', Case Study 40, STAT.0988.001.0001\_R at 0009\_R.
- 135 Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0005-0006.
- 136 Exhibit 40-0005, 'Statement of CJB', Case Study 40, STAT.0998.001.0001\_R at 0005\_R-0006\_R.
- 137 Exhibit 40-0001, 'Statement of CJA', Case Study 40, STAT.0993.001.0001\_R at 0005\_R-0006\_R;  
Exhibit 40-0004, 'Statement of G Greaves', Case Study 40, STAT.0994.001.0001 at 0005-0006.
- 138 Exhibit 40-0010, 'Statement of L Watson', Case Study 40, STAT.1020.001.0001\_R at 0005\_R.
- 139 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0012-0013.
- 140 Transcript of G Curran, Case Study 40, 22 June 2016 at 19430:11-34.
- 141 Exhibit 40-0008, Case Study 40, DART.0006.001.0001 at 0017.

- 142 Exhibit 40-0006, Case Study 40, DEF.02.0001.002.0001\_R at 0002\_R.
- 143 Exhibit 40-0006, Case Study 40, DEF.02.0001.002.0036\_R at 0037\_R–0038\_R.
- 144 Exhibit 40-0006, Case Study 40, DEF.02.0001.002.0036\_R at 0077\_R.
- 145 Exhibit 40-0006, Case Study 40, DEF.02.0001.002.0036\_R at 0077\_R.
- 146 Exhibit 40-0006, Case Study 40, DEF.02.0001.002.0036\_R at 0078\_R.
- 147 Exhibit 40-0006, Case Study 40, DEF.02.0001.002.0036\_R at 0091\_R.
- 148 Exhibit 40-0006, Case Study 40, DEF.02.0001.002.0036\_R at 0078\_R.
- 149 Exhibit 40-0006, Case Study 40, DEF.02.0001.002.0036\_R at 0081\_R, 0095\_R.
- 150 Exhibit 40-0006, Case Study 40, DEF.02.0001.002.0036\_R at 0077\_R–0078\_R.
- 151 Exhibit 40-0006, Case Study 40, DEF.02.0001.002.0036\_R at 0086\_R–0087\_R.
- 152 Exhibit 40-0006, Case Study 40, DEF.02.0001.002.0036\_R at 0077\_R.
- 153 Transcript of CJT, Case Study 40, 21 June 2016 at 19325:26–34.
- 154 Exhibit 40-0004, ‘Statement of G Greaves’, Case Study 40, STAT.0994.001.0001 at 0004.
- 155 Exhibit 40-0008, Case Study 40, DART.0006.001.0001 at 0097–0098.
- 156 Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001 at 0017.
- 157 Transcript of G Curran, Case Study 40, 22 June 2016 at 19359:23–43.
- 158 Transcript of L Watson, Case Study 40, 23 June 2016 at 19509:36–42.
- 159 Exhibit 40-0043, ‘Statement of R Griggs’, Case Study 40, STAT.1005.001.0001 at 0015; Exhibit 40-0006, Case Study 40, DEF.02.0009.001.7272 at 7334.
- 160 Transcript of G Curran, Case Study 40, 22 June 2016 at 19430:11–34.
- 161 Exhibit 40-0009, ‘Statement of P Sinclair’, Case Study 40, STAT.1014.001.0001\_R at 0003\_R.
- 162 Exhibit 40-0005, ‘Statement of CJB’, Case Study 40, STAT.0998.001.0001\_R at 0006\_R.
- 163 Transcript of P Sinclair, Case Study 40, 22 June 2016 at 19464:10–19465:24; Exhibit 40-0008, Case Study 40, DART.0006.001.0001 at 0130; Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001 at 0018.
- 164 Exhibit 40-0019, Case Study 40, DART.0006.001.0149 at 0166.
- 165 Exhibit 40-0019, Case Study 40, DART.0006.001.0149 at 0189, 0527.
- 166 Exhibit 40-0019, Case Study 40, DART.0006.001.0149 at 0189.
- 167 Exhibit 40-0005, ‘Statement of CJB’, Case Study 40, STAT.0998.001.0001\_R at 0007\_R; Exhibit 40-0001, ‘Statement of CJA’, Case Study 40, STAT.0993.001.0001\_R at 0013\_R; Exhibit 40-0002, ‘Statement of G Frazer’, Case Study 40, STAT.0995.001.0001 at 0009; Exhibit 40-0003, ‘Statement of CJT’, Case Study 40, STAT.0988.001.0001\_R at 0012\_R; Exhibit 40-0013, ‘Statement of D Sparreboom’, Case Study 40, STAT.0991.001.0001 at 0006; Exhibit 40-0014, ‘Statement of CJC’, Case Study 40, STAT.0990.001.0001\_R at 0007\_R–0008\_R; Exhibit 40-0015, ‘Statement of D James’, Case Study 40, STAT.1001.001.0001 at 0010; Exhibit 40-0017, ‘Statement of CJU’, Case Study 40, STAT.0987.001.0001\_R at 0007\_R–0010\_R.
- 168 Exhibit 40-0019, Case Study 40, DART.0006.001.0149 at 0195.
- 169 Exhibit 40-0019, Case Study 40, DART.0006.001.0149 at 0195.
- 170 Exhibit 40-0019, Case Study 40, DART.0006.001.0149 at 0492.
- 171 Exhibit 40-0008, Case Study 40, DART.0006.001.0001 at 0020.
- 172 Exhibit 40-0008, Case Study 40, DART.0006.001.0001 at 0100–0101.
- 173 Exhibit 40-0008, Case Study 40, DART.0006.001.0001 at 0072–0076.
- 174 Exhibit 40-0008, Case Study 40, DART.0006.001.0001 at 0101.
- 175 Exhibit 40-0008, Case Study 40, DART.0006.001.0001 at 0102.
- 176 Exhibit 40-0008, Case Study 40, DART.0006.001.0001 at 0101.
- 177 Exhibit 40-0009, ‘Statement of P Sinclair’, Case Study 40, STAT.1014.001.0001\_R at 0007\_R.
- 178 Exhibit 40-0009, ‘Statement of P Sinclair’, Case Study 40, STAT.1014.001.0001\_R at 0006\_R–0007\_R.
- 179 Exhibit 40-0009, ‘Statement of P Sinclair’, Case Study 40, STAT.1014.001.0001\_R at 0006\_R–0007\_R.
- 180 Exhibit 40-0009, ‘Statement of P Sinclair’, Case Study 40, STAT.1014.001.0001\_R at 0005\_R–0006\_R; Transcript of P Sinclair, Case Study 40, 22 June 2016 at 19465:14–19466:29.
- 181 Transcript of P Sinclair, Case Study 40, 22 June 2016 at 19467:5–17.
- 182 Exhibit 40-0007, ‘Statement of G Curran’, Case Study 40, STAT.1023.001.0001\_R at 0007\_R.
- 183 Transcript of G Curran, Case Study 40, 22 June 2016 at 19428:7–25, 19429:7–26, 19431:36–40; Exhibit 40-0007, ‘Statement of G Curran,’ Case Study 40, STAT.1023.001.0001\_R at 0007\_R–0008\_R.

- 184 Transcript of G Curran, Case Study 40, 22 June 2016 at 19434:20–22.
- 185 Transcript of G Curran, Case Study 40, 22 June 2016 at 19361:37–42.
- 186 Transcript of G Curran, Case Study 40, 22 June 2016 at 19400:35–46.
- 187 Exhibit 40-0004, ‘Statement of G Greaves’, Case Study 40, STAT.0994.001.0001 at 0006.
- 188 Transcript of G Curran, Case Study 40, 22 June 2016 at 19387:42–19388:14.
- 189 Transcript of G Curran, Case Study 40, 22 June 2016 at 19411:29–30.
- 190 Transcript of G Curran, Case Study 40, 22 June 2016 at 19408:24–34.
- 191 Transcript of P Ball, Case Study 40, 23 June 2016 at 19513:34–44; Exhibit 40-0011, ‘Statement of P Ball’, Case Study 40, STAT.1012.001.0001\_R at 0005\_R.
- 192 Transcript of P Ball, Case Study 40, 23 June 2016 at 19520:38–41.
- 193 Transcript of P Ball, Case Study 40, 23 June 2016 at 19521:29–19522:3.
- 194 Exhibit 40-0001, ‘Statement of CJA’, Case Study 40, STAT.0993.001.0001\_R at 0006\_R–0007\_R.
- 195 Transcript of P Ball, Case Study 40, 23 June 2016 at 19520:38–44.
- 196 Exhibit 40-0011, ‘Statement of P Ball’, Case Study 40, STAT.1012.001.0001\_R at 0005\_R–0006\_R.
- 197 Transcript of L Watson, Case Study 40, 23 June 2016 at 19505:1–19; Exhibit 40-0010, ‘Statement of L Watson’, Case Study 40, STAT.1020.001.0001\_R at 0003\_R, 0005\_R.
- 198 Exhibit 40-0010, ‘Statement of L Watson’, Case Study 40, STAT.1020.001.0001\_R at 0003\_R.
- 199 Exhibit 40-0010, ‘Statement of L Watson’, Case Study 40, STAT.1020.001.0001\_R at 0005\_R–0006\_R; Transcript of L Watson, Case Study 40, 23 June 2016 at 19504:28–32.
- 200 Exhibit 40-0010, ‘Statement of L Watson’, Case Study 40, STAT.1020.001.0001\_R at 0007\_R.
- 201 Exhibit 40-0010, ‘Statement of L Watson’, Case Study 40, STAT.1020.001.0001\_R at 0008\_R.
- 202 Exhibit 40-0010, ‘Statement of L Watson’, Case Study 40, STAT.1020.001.0001\_R at 0007\_R–0008\_R; Exhibit 40-0007, ‘Statement of G Curran’, Case Study 40, STAT.1023.001.0001\_R at 0007\_R.
- 203 Exhibit 40-0007, ‘Statement of G Curran’, Case Study 40, STAT.1023.001.0001\_R at 0007\_R.
- 204 Transcript of G Curran, Case Study 40, 22 June 2016 at 19357:35–45, 19370:34–47, 19393:29–32, 19413:33–45.
- 205 Transcript of G Curran, Case Study 40, 22 June 2016 at 19413:47–19414:3.
- 206 Transcript of G Curran, Case Study 40, 22 June 2016 at 19393:8–19394:21.
- 207 Transcript of G Curran, Case Study 40, 22 June 2016 at 19393:44–19394:3.
- 208 Transcript of G Curran, Case Study 40, 22 June 2016 at 19393:2–27.
- 209 Transcript of G Curran, Case Study 40, 22 June 2016 at 19437:19–24.
- 210 Transcript of G Curran, Case Study 40, 22 June 2016 at 19366:32–19367:16.
- 211 Transcript of G Curran, Case Study 40, 22 June 2016 at 19359:35–38.
- 212 Transcript of G Curran, Case Study 40, 22 June 2016 at 19361:7–19.
- 213 Transcript of G Curran, Case Study 40, 22 June 2016 at 19365:21–39.
- 214 Transcript of G Curran, Case Study 40, 22 June 2016 at 19372:18–40.
- 215 Transcript of G Curran, Case Study 40, 22 June 2016 at 19368:28–33, 19370:22–32.
- 216 Transcript of G Curran, Case Study 40, 22 June 2016 at 19370:22–32.
- 217 Transcript of P Sinclair, Case Study 40, 22 June 2016 at 19441:13–17, 19448:31–33.
- 218 Transcript of P Sinclair, Case Study 40, 22 June 2016 at 19458:8–44, 19442:36–43.
- 219 Exhibit 40-0009, ‘Statement of P Sinclair’, Case Study 40, STAT.1014.001.0001\_R at 0003\_R–0004\_R.
- 220 Exhibit 40-0009, ‘Statement of P Sinclair’, Case Study 40, STAT.1014.001.0001\_R at 0004\_R.
- 221 Exhibit 40-0009, ‘Statement of P Sinclair’, Case Study 40, STAT.1014.001.0001\_R at 0004\_R.
- 222 Exhibit 40-0009, ‘Statement of P Sinclair’, Case Study 40, STAT.1014.001.0001\_R at 0003\_R; Transcript of P Sinclair, Case Study 40, 22 June 2016 at 19454:34–37.
- 223 Transcript of P Sinclair, Case Study 40, 22 June 2016 at 19454:44–19455:6.
- 224 Exhibit 40-0008, Case Study 40, DART.0006.001.0001, 0127, 0129.
- 225 Transcript of P Sinclair, Case Study 40, 22 June 2016 at 19455:38–19457:44.
- 226 Transcript of P Sinclair, Case Study 40, 22 June 2016 at 19457:35–44.
- 227 Exhibit 40-0009, ‘Statement of P Sinclair’, Case Study 40, STAT.1014.001.0001\_R at 0003\_R; Exhibit 40-0007, ‘Statement of G Curran’, Case Study 40, STAT.1023.001.0001\_R at 0003\_R.
- 228 Transcript of G Curran, Case Study 40, 22 June 2016 at 19375:19–36; Exhibit 40-0009, ‘Statement of P Sinclair’, Case Study 40, STAT.1014.001.0001\_R at 0003\_R; Exhibit 40-0007, ‘Statement of G Curran’, Case Study 40, STAT.1023.001.0001\_R at 0003\_R.

- 229 Transcript of P Sinclair, Case Study 40, 23 June 2016 at 19471:43–19472:10; Transcript of G Curran, Case Study 40, 22 June 2016 at 19392:22–26, 19410:10–16.
- 230 Exhibit 40-0009, ‘Statement of P Sinclair’, Case Study 40, STAT.1014.001.0001\_R at 0003\_R; Transcript of P Sinclair, Case Study 40, 23 June 2016 at 19472:12–36; Transcript of G Curran, Case Study 40, 22 June 2016 at 19392:3–44.
- 231 Transcript of G Curran, Case Study 40, 22 June 2016 at 19392:34–44.
- 232 Exhibit 40-0025, Case Study 40, DEF.0003.001.0001 at 0001.
- 233 Exhibit 40-0006, Case Study 40, DEF.02.0001.002.0036\_R at 0078\_R.
- 234 Exhibit 40-0025, Case Study 40, DEF.0003.001.0001.
- 235 Exhibit 40-0005, ‘Statement of CJB’, Case Study 40, STAT.0998.001.0001\_R at 0006\_R; Exhibit 40-0003, ‘Statement of CJT’, Case Study 40, STAT.0988.001.0001\_R at 0005\_R–0006\_R.
- 236 Transcript of G Curran, Case Study 40, 22 June 2016 at 19432:7–13.
- 237 Transcript of G Curran, Case Study 40, 22 June 2016 at 19432:36–41, 19364:44–47.
- 238 Transcript of G Curran, Case Study 40, 22 June 2016 at 19432:43–19433:8.
- 239 Transcript of P Sinclair, Case Study 40, 22 June 2016 at 19460:28–19461:36.
- 240 Transcript of P Sinclair, Case Study 40, 22 June 2016 at 19460:28–19461:36.
- 241 Transcript of P Sinclair, Case Study 40, 22 June 2016 at 19461:14–31.
- 242 Transcript of P Sinclair, Case Study 40, 23 June 2016 at 19487:14–29.
- 243 Transcript of P Sinclair, Case Study 40, 23 June 2016 at 19487:31–35.
- 244 Transcript of P Sinclair, Case Study 40, 23 June 2016 at 19488:24–26.
- 245 Transcript of G Curran, Case Study 40, 22 June 2016 at 19358:7–39, 19371:2–7.
- 246 Transcript of G Curran, Case Study 40, 22 June 2016 at 19358:33–39.
- 247 Transcript of G Curran, Case Study 40, 22 June 2016 at 19374:19–33.
- 248 Transcript of G Curran, Case Study 40, 22 June 2016 at 19374:19–38.
- 249 Transcript of P Sinclair, Case Study 40, 22 Jun 2016 at 19460:24–26, 19489:16–23; Transcript of G Curran, Case Study 40, 22 June 2016 at 19371:9–19.
- 250 Transcript of P Sinclair, Case Study 40, 23 June 2016 at 19460:22–26, 19487:31–35.
- 251 Transcript of G Curran, Case Study 40, 22 June 2016 at 19371:25–33.
- 252 Transcript of P Sinclair, Case Study 40, 22 June 2016 at 19460:18–26.
- 253 Exhibit 40-0009, ‘Statement of P Sinclair’, Case Study 40, STAT.1014.001.0001\_R at 0007\_R.
- 254 Transcript of P Sinclair, Case Study 40, 23 June 2016 at 19489:3–32.
- 255 Exhibit 40-0004, ‘Statement of G Greaves’, Case Study 40, STAT.0994.001.0001 at 0003–0006; Exhibit 40-0001, ‘Statement of CJA’, Case Study 40, STAT.0993.001.0001\_R at 0005\_R; Exhibit 40-0002, ‘Statement of G Frazer’, Case Study 40, STAT.0995.001.0001 at 0003–0005.
- 256 Exhibit 40-0007, ‘Statement of G Curran’, Case Study 40, STAT.1023.001.0001\_R at 0004\_R.
- 257 Transcript of G Curran, Case Study 40, 22 June 2016 at 19376:4–14.
- 258 Transcript of G Curran, Case Study 40, 22 June 2016 at 19376:4–14.
- 259 Exhibit 40-0043, ‘Statement of R Griggs’, Case Study 40, STAT.1005.001.0001 at 0013.
- 260 Exhibit 40-0006, Case Study 40, DEF.02.0001.002.0036\_R at 0083\_R–0084\_R; Exhibit 40-0008, Case Study 40, DART.0006.001.0001 at 0103.
- 261 Transcript of G Curran, Case Study 40, 22 June 2016 at 19363:2–11.
- 262 Transcript of G Curran, Case Study 40, 22 June 2016 at 19363:5–11, 19359:13–15, 19362:25–30.
- 263 Transcript of G Curran, Case Study 40, 22 June 2016 at 19380:4–9, 19382:23–29.
- 264 Exhibit 40-0009, ‘Statement of P Sinclair’, Case Study 40, STAT.1014.001.0001\_R at 0003\_R–0004\_R; Transcript of P Sinclair, Case Study 40, 22 June 2016 at 19450:22–28.
- 265 Exhibit 40-0009, ‘Statement of P Sinclair’, Case Study 40, STAT.1014.001.0001\_R at 0003\_R–0004\_R.
- 266 Transcript of P Sinclair, Case Study 40, 22 June 2016 at 19457:46–19458:14.
- 267 Transcript of P Sinclair, Case Study 40, 22 June 2016 at 19457:46–19458:14.
- 268 Exhibit 40-0018, ‘Statement of A McDonald’, Case Study 40, STAT.1019.001.0001\_R at 0001\_R, 0003\_R; Exhibit 40-0043, ‘Statement of R Griggs’, Case Study 40, STAT.1005.001.0001 at 0005.
- 269 Exhibit 40-0018, ‘Statement of A McDonald’, Case Study 40, STAT.1019.001.0001\_R at 0002\_R; Exhibit 40-0043, ‘Statement of R Griggs’, Case Study 40, STAT.1005.001.0001 at 0005.

- 270 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0005.
- 271 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0005.
- 272 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0006.
- 273 Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0004\_R.
- 274 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0006; Exhibit 40-0016, 'Statement of CJV', Case Study 40, STAT.0986.001.0001\_R at 0002\_R; Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0002\_R.
- 275 Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0002\_R.
- 276 Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0002\_R; Exhibit 40-0016, 'Statement of CJV', Case Study 40, STAT.0986.001.0001\_R at 0002\_R; Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0002\_R; Exhibit 40-0014, 'Statement of CJC', Case Study 40, STAT.0990.001.0001\_R at 0002\_R.
- 277 Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0002\_R.
- 278 Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0004\_R.
- 279 Exhibit 40-0013, 'Statement of D Sparreboom', Case Study 40, STAT.0991.001.0001 at 0002; Exhibit 40-0014, 'Statement of CJC', Case Study 40, STAT.0990.001.0001\_R at 0002\_R.
- 280 Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0002\_R.
- 281 Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0007\_R; Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0002\_R.
- 282 Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0002\_R.
- 283 Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0003\_R.
- 284 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0006; Exhibit 40-0013, 'Statement of D Sparreboom', Case Study 40, STAT.0991.001.0001 at 0002; Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0002\_R.
- 285 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0006.
- 286 Exhibit 40-0014, 'Statement of CJC', Case Study 40, STAT.0990.001.0001\_R at 0004\_R; Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0002\_R; Exhibit 40-0016, 'Statement of CJV', Case Study 40, STAT.0986.001.0001\_R at 0002\_R.
- 287 Exhibit 40-0016, 'Statement of CJV', Case Study 40, STAT.0986.001.0001\_R at 0002\_R.
- 288 Exhibit 40-0014, 'Statement of CJC', Case Study 40, STAT.0990.001.0001\_R at 0004\_R; Exhibit 40-0015, 'Statement of D James', Case Study 40, STAT.1001.001.0001 at 0002.
- 289 Exhibit 40-0016, 'Statement of CJV', Case Study 40, STAT.0986.001.0001\_R at 0002\_R.
- 290 Exhibit 40-0016, 'Statement of CJV', Case Study 40, STAT.0986.001.0001\_R at 0003\_R.
- 291 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0007; Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001, paras 104–109.
- 292 Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0005\_R.
- 293 Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0005\_R.
- 294 Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0006\_R.
- 295 Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0006\_R.
- 296 Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0006\_R.
- 297 Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0005\_R–0006\_R.
- 298 Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001, paras 107–109.
- 299 Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0003\_R.
- 300 Exhibit 40-0015, 'Statement of D James', Case Study 40, STAT.1001.001.0001 at 0002–0003.
- 301 Exhibit 40-0015, 'Statement of D James', Case Study 40, STAT.1001.001.0001 at 0002.
- 302 Exhibit 40-0013, 'Statement of D Sparreboom', Case Study 40, STAT.0991.001.0001 at 0003; Exhibit 40-0014, 'Statement of CJC', Case Study 40, STAT.0990.001.0001\_R at 0006\_R; Exhibit 40-0015, 'Statement of D James', Case Study 40, STAT.1001.001.0001 at 0002; Exhibit 40-0016, 'Statement of CJV', Case Study 40, STAT.0986.001.0001\_R at 0003\_R; Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0003\_R.

- 303 Exhibit 40-0015, 'Statement of D James', Case Study 40, STAT.1001.001.0001 at 0003; Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0003\_R; Exhibit 40-0014, 'Statement of CJC', Case Study 40, STAT.0990.001.0001\_R at 0004\_R; Exhibit 40-0016, 'Statement of CJV', Case Study 40, STAT.0986.001.0001\_R at 0003\_R.
- 304 Exhibit 40-0016, 'Statement of CJV', Case Study 40, STAT.0986.001.0001\_R at 0003\_R.
- 305 Exhibit 40-0014, 'Statement of CJC', Case Study 40, STAT.0990.001.0001\_R at 0004\_R.
- 306 Exhibit 40-0013, 'Statement of D Sparreboom', Case Study 40, STAT.0991.001.0001 at 0001.
- 307 Exhibit 40-0013, 'Statement of D Sparreboom', Case Study 40, STAT.0991.001.0001 at 0004.
- 308 Exhibit 40-0014, 'Statement of CJC', Case Study 40, STAT.0990.001.0001\_R at 0002\_R.
- 309 Exhibit 40-0014, 'Statement of CJC', Case Study 40, STAT.0990.001.0001\_R at 0004\_R–0005\_R.
- 310 Exhibit 40-0014, 'Statement of CJC', Case Study 40, STAT.0990.001.0001\_R at 0005\_R.
- 311 Exhibit 40-0015, 'Statement of D James', Case Study 40, STAT.1001.001.0001 at 0002.
- 312 Exhibit 40-0015, 'Statement of D James', Case Study 40, STAT.1001.001.0001 at 0003.
- 313 Exhibit 40-0015, 'Statement of D James', Case Study 40, STAT.1001.001.0001 at 0005–0006.
- 314 Exhibit 40-0015, 'Statement of D James', Case Study 40, STAT.1001.001.0001 at 0006.
- 315 Exhibit 40-0015, 'Statement of D James', Case Study 40, STAT.1001.001.0001 at 0007.
- 316 Exhibit 40-0015, 'Statement of D James', Case Study 40, STAT.1001.001.0001 at 0007.
- 317 Exhibit 40-0015, 'Statement of D James', Case Study 40, STAT.1001.001.0001 at 0008.
- 318 Exhibit 40-0016, 'Statement of CJV', Case Study 40, STAT.0986.001.0001\_R at 0001\_R–0002\_R.
- 319 Exhibit 40-0016, 'Statement of CJV', Case Study 40, STAT.0986.001.0001\_R at 0004\_R.
- 320 Exhibit 40-0016, 'Statement of CJV', Case Study 40, STAT.0986.001.0001\_R at 0005\_R.
- 321 Exhibit 40-0016, 'Statement of CJV', Case Study 40, STAT.0986.001.0001\_R at 0005\_R.
- 322 Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0001\_R–0002\_R.
- 323 Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0004\_R–0005\_R.
- 324 Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0005\_R.
- 325 Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0006\_R.
- 326 Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0006\_R.
- 327 Exhibit 40-0015, 'Statement of D James', Case Study 40, STAT.1001.001.0001 at 0003–0004.
- 328 Exhibit 40-0013, 'Statement of D Sparreboom', Case Study 40, STAT.0991.001.0001 at 0003; Exhibit 40-0015, 'Statement of D James', Case Study 40, STAT.1001.001.0001 at 0003–0004; Exhibit 40-0014, 'Statement of CJC', Case Study 40, STAT.0990.001.0001\_R at 0005\_R.
- 329 Exhibit 40-0013, 'Statement of D Sparreboom', Case Study 40, STAT.0991.001.0001 at 0003–0004.
- 330 Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0003\_R–0004\_R.
- 331 Exhibit 40-0016, 'Statement of CJV', Case Study 40, STAT.0986.001.0001\_R at 0004\_R.
- 332 Exhibit 40-0013, 'Statement of D Sparreboom', Case Study 40, STAT.0991.001.0001 at 0008; Exhibit 40-0015, 'Statement of D James', Case Study 40, STAT.1001.001.0001 at 0011; Exhibit 40-0016, 'Statement of CJV', Case Study 40, STAT.0986.001.0001\_R at 0007\_R; Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0011\_R.
- 333 Exhibit 40-0013, 'Statement of D Sparreboom', Case Study 40, STAT.0991.001.0001 at 0008; Exhibit 40-0015, 'Statement of D James', Case Study 40, STAT.1001.001.0001 at 0011; Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0011\_R.
- 334 Exhibit 40-0015, 'Statement of D James', Case Study 40, STAT.1001.001.0001 at 0011.
- 335 Exhibit 40-0013, 'Statement of D Sparreboom', Case Study 40, STAT.0991.001.0001 at 0008.
- 336 Exhibit 40-0013, 'Statement of D Sparreboom', Case Study 40, STAT.0991.001.0001 at 0008; Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0010\_R–0011\_R; Exhibit 40-0014, 'Statement of CJC', Case Study 40, STAT.0990.001.0001\_R at 0008\_R–0009\_R.
- 337 Exhibit 40-0013, 'Statement of D Sparreboom', Case Study 40, STAT.0991.001.0001 at 0008.
- 338 Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0011\_R; Exhibit 40-0013, 'Statement of D Sparreboom', Case Study 40, STAT.0991.001.0001 at 0008.
- 339 Exhibit 40-0014, 'Statement of CJC', Case Study 40, STAT.0990.001.0001\_R at 0009\_R.
- 340 Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0004\_R–0005\_R.
- 341 Exhibit 40-0017, 'Statement of CJU', Case Study 40, STAT.0987.001.0001\_R at 0006\_R.

- 342 Exhibit 40-0014, 'Statement of CJC,' Case Study 40, STAT.0990.001.0001\_R at 0004\_R–0006\_R;  
Exhibit 40-0015, 'Statement of D James,' Case Study 40, STAT.1001.001.0001 at 0005–0006; Exhibit 40-0016,  
'Statement of CJV,' Case Study 40, STAT.0986.001.0001\_R at 0004\_R–0005\_R; Exhibit 40-0017,  
'Statement of CJU,' Case Study 40, STAT.0987.001.0001\_R at 0003\_R, 0005\_R; Exhibit 40-0013,  
'Statement of D Sparreboom,' Case Study 40, STAT.0991.001.0001 at 0005.
- 343 Exhibit 40-0013, 'Statement of D Sparreboom,' Case Study 40, STAT.0991.001.0001 at 0005.
- 344 Exhibit 40-0014, 'Statement of CJC,' Case Study 40, STAT.0990.001.0001\_R at 0005\_R–0006\_R.
- 345 Exhibit 40-0015, 'Statement of D James,' Case Study 40, STAT.1001.001.0001 at 0005–0006; Exhibit 40-0017,  
'Statement of CJU,' Case Study 40, STAT.0987.001.0001\_R at 0005\_R; Exhibit 40-0016, 'Statement of CJV',  
Case Study 40, STAT.0986.001.0001\_R at 0005\_R.
- 346 Exhibit 40-0016, 'Statement of CJV,' Case Study 40, STAT.0986.001.0001\_R at 0004\_R.
- 347 Exhibit 40-0017, 'Statement of CJU,' Case Study 40, STAT.0987.001.0001\_R at 0007\_R.
- 348 Exhibit 40-0016, 'Statement of CJV,' Case Study 40, STAT.0986.001.0001\_R at 0004\_R.
- 349 Exhibit 40-0015, 'Statement of D James,' Case Study 40, STAT.1001.001.0001 at 0008.
- 350 Exhibit 40-0014, 'Statement of CJC,' Case Study 40, STAT.0990.001.0001\_R at 0006\_R.
- 351 Exhibit 40-0013, 'Statement of D Sparreboom,' Case Study 40, STAT.0991.001.0001 at 0005.
- 352 Exhibit 40-0016, 'Statement of CJV,' Case Study 40, STAT.0986.001.0001\_R at 0005\_R.
- 353 Exhibit 40-0013, 'Statement of D Sparreboom,' Case Study 40, STAT.0991.001.0001 at 0005.
- 354 Exhibit 40-0019, Case Study 40, DART.0006.001.0149 at 0339.
- 355 Exhibit 40-0019, Case Study 40, DART.0006.001.0149 at 0370.
- 356 Exhibit 40-0019, Case Study 40, DART.0006.001.0149 at 0371.
- 357 Exhibit 40-0019, Case Study 40, DART.0006.001.0149 at 0370.
- 358 Exhibit 40-0018, 'Statement of A McDonald,' Case Study 40, STAT.1019.001.0001\_R at 0008\_R.
- 359 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19611:5–18.
- 360 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19602:43–19603:10.
- 361 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19603:12–22.
- 362 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19596:8–14, 19602:28–41.
- 363 Exhibit 40-0018, 'Statement of A McDonald,' Case Study 40, STAT.1019.001.0001\_R at 0007\_R.
- 364 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19616:46–19617:15.
- 365 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19617:17–33.
- 366 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19618:1–19620:24.
- 367 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19619:2–16.
- 368 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19618:19–38.
- 369 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19619:18–23.
- 370 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19620:14–22.
- 371 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19598:38–44.
- 372 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19601:42–19602:17.
- 373 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19591:22–26.
- 374 Exhibit 40-0018, 'Statement of A McDonald,' Case Study 40, STAT.1019.001.0001\_R at 0004\_R;  
Transcript of A McDonald, Case Study 40, 24 June 2016 at 19590:31–40.
- 375 Exhibit 40-0018, 'Statement of A McDonald,' Case Study 40, STAT.1019.001.0001\_R at 0005\_R.
- 376 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19591:18–20.
- 377 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19607:2–15; Exhibit 40-0013,  
'Statement of D Sparreboom,' Case Study 40, STAT.0991.001.0001 at 0002; 'Statement of CJV',  
Case Study 40, STAT.0986.001.0001\_R at 0003\_R; Exhibit 40-0017, 'Statement of CJU,' Case Study 40,  
STAT.0987.001.0001\_R at 0003\_R.
- 378 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19605:20–30; Exhibit 40-0016,  
'Statement of CJV,' Case Study 40, STAT.0986.001.0001\_R at 0003\_R; Exhibit 40-0017,  
'Statement of CJU,' Case Study 40, STAT.0987.001.0001\_R at 0003\_R.
- 379 Exhibit 40-0016, 'Statement of CJV,' Case Study 40, STAT.0986.001.0001\_R at 0003\_R; Exhibit 40-0013,  
'Statement of D Sparreboom,' Case Study 40, STAT.0991.001.0001 at 0002; Exhibit 40-0017, 'Statement of  
CJU,' Case Study 40, STAT.0987.001.0001\_R at 0004\_R.

- 380 Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0005\_R;  
Transcript of A McDonald, Case Study 40, 24 June 2016 at 19604:6–11.
- 381 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19608:7–11; Exhibit 40-0018,  
'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0005\_R.
- 382 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19607:39–46.
- 383 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19608:1–5.
- 384 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19608:13–22.
- 385 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19608:24–19609:14.
- 386 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19591:41–47.
- 387 Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0004\_R.
- 388 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19591:28–47.
- 389 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19592:2–7.
- 390 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19592:2–14.
- 391 Transcript of A McDonald, Case Study 40, 24 June 2016 at 19592:25–30.
- 392 Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0005\_R.
- 393 Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0008\_R.
- 394 Exhibit 40-0018, 'Statement of A McDonald', Case Study 40, STAT.1019.001.0001\_R at 0005\_R.
- 395 Exhibit 40-0014, 'Statement of CJC', Case Study 40, STAT.0990.001.0001\_R at 0006\_R.
- 396 Exhibit 40-0016, 'Statement of CJV', Case Study 40, STAT.0986.001.0001\_R at 0004\_R.
- 397 Exhibit 40-0021, 'Statement of N Bayles', Case Study 40, STAT.1022.001.0001 at 0003.
- 398 Exhibit 40-0021, 'Statement of N Bayles', Case Study 40, STAT.1022.001.0001 at 0005.
- 399 Transcript of N Bayles, Case Study 40, 24 June 2016 at 19668:4–12; Exhibit 40-0021,  
'Statement of N Bayles', Case Study 40, STAT.1022.001.0001 at 0006.
- 400 Exhibit 40-0021, 'Statement of N Bayles', Case Study 40, STAT.1022.001.0001 at 0004;  
Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19648:40–42.
- 401 Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19637:41–47.
- 402 Transcript of N Bayles, Case Study 40, 24 June 2016 at 19668:29–31.
- 403 Exhibit 40-0002, 'Statement of G Frazer', Case Study 40, STAT.0995.001.0001 at 0008; Exhibit 40-0006,  
Case Study 40, DVA.02.0001.006.0941\_R.
- 404 Exhibit 40-0006, Case Study 40, DVA.02.0001.002.2082\_R at 2083\_R.
- 405 Exhibit 40-0006, Case Study 40, IND.0451.001.0001\_R at 0003\_R.
- 406 Exhibit 40-0021, 'Statement of N Bayles', Case Study 40, STAT.1022.001.0001 at 0008–0009; Transcript of N  
Bayles, Case Study 40, 24 June 2016 at 19673:3–9.
- 407 Transcript of N Bayles, Case Study 40, 24 June 2016 at 19669:4–13; Exhibit 40-0021, 'Statement of N Bayles',  
Case Study 40, STAT.1022.001.0001 at 0009; Transcript of A Donaldson, Case Study 40, 24 June 2016 at  
19642:43–19463:12.
- 408 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0041.
- 409 Exhibit 40-0021, 'Statement of N Bayles', Case Study 40, STAT.1022.001.0001 at 0008.
- 410 Transcript of N Bayles, Case Study 40, 24 June 2016 at 19676:13–21; Exhibit 40-0006, Case Study 40,  
WEB.0140.001.0001 at 0001.
- 411 Exhibit 40-0006, Case Study 40, WEB.0140.001.0001 at 0010.
- 412 Exhibit 40-0006, Case Study 40, WEB.0140.001.0001 at 0012.
- 413 Exhibit 40-0006, Case Study 40, WEB.0140.001.0001 at 0067.
- 414 Transcript of N Bayles, Case Study 40, 24 June 2016 at 19676:13–21.
- 415 Transcript of N Bayles, Case Study 40, 24 June 2016 at 19678:7–21.
- 416 Transcript of N Bayles, Case Study 40, 24 June 2016 at 19678:23–35.
- 417 Transcript of N Bayles, Case Study 40, 24 June 2016 at 19679:6–11.
- 418 Transcript of N Bayles, Case Study 40, 24 June 2016 at 19680:28–36.
- 419 Transcript of N Bayles, Case Study 40, 24 June 2016 at 19680:38–19681:14.
- 420 Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001, para 139.
- 421 Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001, para 113.
- 422 Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001, para 114.

- 423 Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001, para 117.  
424 Transcript of N Bayles, Case Study 40, 24 June 2016 at 19681:44–19682:26, 19678:11–21; Exhibit 40-0021, ‘Statement of N Bayles’, Case Study 40, STAT.1022.001.0001 at 0016.
- 425 Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001, para 115.  
426 Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001, para 118.  
427 Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001, paras 123–124.
- 428 Exhibit 40-0001, ‘Statement of CJA’, STAT.0993.001.0001\_R at 0014\_R; Exhibit 40-0022, ‘Statement of L Flynn’, Case Study 40, STAT.1013.001.0001 at 0013–0014.
- 429 Exhibit 40-0004, ‘Statement of G Greaves’, Case Study 40, STAT.0994.001.0001 at 0007; Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19637:23–19638:7; Exhibit 40-0022, ‘Statement of L Flynn’, Case Study 40, STAT.1013.001.0001 at 0007–0009.
- 430 Exhibit 40-0004, ‘Statement of G Greaves’, Case Study 40, STAT.0994.001.0001 at 0008; Transcript of G Greaves, Case Study 40, 21 June 2016 at 19336:27–32.
- 431 Exhibit 40-0021, ‘Statement of N Bayles’, Case Study 40, STAT.1022.001.0001 at 0017.
- 432 Exhibit 40-0021, ‘Statement of N Bayles’, Case Study 40, STAT.1022.001.0001 at 0017; Transcript of N Bayles, Case Study 40, 24 June 2016 at 19684:32–36.
- 433 Exhibit 40-0021, ‘Statement of N Bayles’, Case Study 40, STAT.1022.001.0001 at 0018.
- 434 Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19659:38–19660:6.
- 435 Transcript of N Bayles, Case Study 40, 24 June 2016 at 19687:14–19688:13.
- 436 Transcript of N Bayles, Case Study 40, 24 June 2016 at 19689:26–31.
- 437 Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001, para 127.
- 438 Exhibit 40-0020, ‘Statement of A Donaldson’, Case Study 40, STAT.1011.001.0001\_R at 0003\_R.
- 439 Exhibit 40-0020, ‘Statement of A Donaldson’, Case Study 40, STAT.1011.001.0001\_R at 0005\_R.
- 440 Exhibit 40-0020, ‘Statement of A Donaldson’, Case Study 40, STAT.1011.001.0001\_R at 0005\_R; Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19629:41–45.
- 441 Exhibit 40-0023, ‘Statement of M Lysewycz’, Case Study 40, STAT.1028.001.0001 at 0002.
- 442 Exhibit 40-0020, ‘Statement of A Donaldson’, Case Study 40, STAT.1011.001.0001\_R at 0005\_R–0006\_R.
- 443 Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19630:40–19631:4.
- 444 Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19631:6–20.
- 445 Attorney-General, *Legal Services Direction – Judiciary Act 1903*, [www.legislation.gov.au/Details/F2016N00007](http://www.legislation.gov.au/Details/F2016N00007) (viewed 24 July 2016).
- 446 Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19630:4–19.
- 447 Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19633:18–27.
- 448 Exhibit 40-0023, ‘Statement of M Lysewycz’, Case Study 40, STAT.1028.001.0001 at 0002.
- 449 Transcript of M Lysewycz, Case Study 40, 27 June 2016 at 19705:30–34.
- 450 Exhibit 40-0004, ‘Statement of G Greaves’, Case Study 40, STAT.0994.001.0001 at 0008.
- 451 Exhibit 40-0004, ‘Statement of G Greaves’, Case Study 40, STAT.0994.001.0001 at 0007; Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19637:41–47.
- 452 Exhibit 40-0004, ‘Statement of G Greaves’, Case Study 40, STAT.0994.001.0001 at 0008.
- 453 Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19634:30–19635:10, 19651:12–26.
- 454 Exhibit 40-0020, ‘Statement of A Donaldson’, Case Study 40, STAT.1011.001.0001\_R at 0007\_R; Exhibit 40-0004, ‘Statement of G Greaves’, Case Study 40, STAT.0994.001.0001 at 0007.
- 455 Exhibit 40-0020, ‘Statement of A Donaldson’, Case Study 40, STAT.1011.001.0001\_R at 0008\_R; Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19638:2–7.
- 456 Exhibit 40-0020, ‘Statement of A Donaldson’, Case Study 40, STAT.1011.001.0001\_R at 0009\_R; Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19638:9–14.
- 457 Exhibit 40-0004, ‘Statement of G Greaves’, Case Study 40, STAT.0994.001.0001 at 0008–0009.
- 458 Exhibit 40-0020, ‘Statement of A Donaldson’, Case Study 40, STAT.1011.001.0001\_R at 0010\_R; Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19645:21–30.
- 459 Exhibit 40-0023, ‘Statement of M Lysewycz’, Case Study 40, STAT.1028.001.0001 at 0004–0005; Transcript of M Lysewycz, Case Study 40, 27 June 2016 at 19711:37–43; Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19647:11–29.

- 460 Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19638:23–38; Transcript of M Lysewycz, Case Study 40, 27 June 2016 at 19711:37–43.
- 461 Transcript of M Lysewycz, Case Study 40, 27 June 2016 at 19711:37–43.
- 462 Exhibit 40-0020, ‘Statement of A Donaldson’, Case Study 40, STAT.1011.001.0001\_R at 0012\_R; Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19638:23–38; Transcript of M Lysewycz, Case Study 40, 27 June 2016 at 19711:37–43.
- 463 Exhibit 40-0023, ‘Statement of M Lysewycz’, Case Study 40, STAT.1028.001.0001 at 0005; Exhibit 40-0020, ‘Statement of A Donaldson’, Case Study 40, STAT.1011.001.0001\_R at 0012\_R; Transcript of M Lysewycz, Case Study 40, 27 June 2016 at 19711:37–43; Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19647:19–29.
- 464 Exhibit 40-0020, ‘Statement of A Donaldson’, Case Study 40, STAT.1011.001.0001\_R at 0012\_R; Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19647:1–9; Transcript of M Lysewycz, Case Study 40, 27 June 2016 at 19711:17–27.
- 465 Transcript of M Lysewycz, Case Study 40, 27 June 2016 at 19711:17–35.
- 466 Exhibit 40-0004, ‘Statement of G Greaves’, Case Study 40, STAT.0994.001.0001 at 0008.
- 467 Exhibit 40-0004, ‘Statement of G Greaves’, Case Study 40, STAT.0994.001.0001 at 0009.
- 468 Exhibit 40-0004, ‘Statement of G Greaves’, Case Study 40, STAT.0994.001.0001 at 0009.
- 469 Exhibit 40-0006, Case Study 40, DEF.02.0010.005.2430\_R at 2433\_R.
- 470 Transcript of M Lysewycz, Case Study 40, 27 June 2016 at 19708:9–36.
- 471 Exhibit 40-0006, Case Study 40, DEF.02.0010.005.2430\_R at 2431\_R.
- 472 Exhibit 40-0006, Case Study 40, DEF.02.0010.005.2430\_R at 2434\_R.
- 473 Transcript of M Lysewycz, Case Study 40, 27 June 2016 at 19715:8–11.
- 474 Transcript of M Lysewycz, Case Study 40, 27 June 2016 at 19716:14–28.
- 475 Transcript of M Lysewycz, Case Study 40, 27 June 2016 at 19716:30–37.
- 476 Transcript of M Lysewycz, Case Study 40, 27 June 2016 at 19717:5–8.
- 477 Transcript of M Lysewycz, Case Study 40, 27 June 2016 at 19717:5–14.
- 478 Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19653:26–19654:3.
- 479 Exhibit 40-0004, ‘Statement of G Greaves’, Case Study 40, STAT.0994.001.0001 at 0009; Exhibit 40-0006, Case Study 40, IND.0400.001.0018\_R.
- 480 Exhibit 40-0004, ‘Statement of G Greaves’, Case Study 40, STAT.0994.001.0001 at 0009.
- 481 Transcript of M Lysewycz, Case Study 40, 27 June 2016 at 19724:46–19725:9.
- 482 Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001, paras 154–156.
- 483 Exhibit 40-0023, ‘Statement of M Lysewycz’, Case Study 40, STAT.1028.001.0001 at 0005.
- 484 Exhibit 40-0006, Case Study 40, DEF.02.0010.005.2437.
- 485 Exhibit 40-0023, ‘Statement of M Lysewycz’, Case Study 40, STAT.1028.001.0001 at 0005.
- 486 Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19650:5–17.
- 487 Exhibit 40-0020, ‘Statement of A Donaldson’, Case Study 40, STAT.1011.001.0001\_R at 0013\_R.
- 488 Transcript of A Donaldson, Case Study 40, 24 June 2016 at 19650:46–19651:10.
- 489 Transcript of G Greaves, Case Study 40, 21 June 2016 at 19340:21–30.
- 490 Exhibit 40-0004, ‘Statement of G Greaves’, Case Study 40, STAT.0994.001.0001 at 0009.
- 491 Transcript of M Lysewycz, Case Study 40, 27 June 2016 at 19713:17–34, 19717:24–39.
- 492 Exhibit 40-0043, ‘Statement of R Griggs’, Case Study 40, STAT.1005.001.0001 at 0017, 0049; Transcript of R Griggs, Case Study 40, 30 June 2016 at 20037:38–45.
- 493 Exhibit 40-0043, ‘Statement of R Griggs’, Case Study 40, STAT.1005.001.0001 at 0016, 0059–0061.
- 494 Exhibit 40-0043, ‘Statement of R Griggs’, Case Study 40, STAT.1005.001.0001 at 0016, 0059–0061.
- 495 Exhibit 40-0043, ‘Statement of R Griggs’, Case Study 40, STAT.1005.001.0001 at 0018, 0059–0061.
- 496 Exhibit 40-0043, ‘Statement of R Griggs’, Case Study 40, STAT.1005.001.0001 at 0016–0017.
- 497 Exhibit 40-0043, ‘Statement of R Griggs’, Case Study 40, STAT.1005.001.0001 at 0018; Defence Act 1903 (Cth) s 62(1).
- 498 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0503 at 0503; Exhibit 40-0043, ‘Statement of R Griggs’, Case Study 40, STAT.1005.001.0001 at 0017–0018.

- 499 Australian Government Department of Defence, *About Cadets*, [www.defenceyouth.gov.au/experience/adf-cadets/about-cadets/](http://www.defenceyouth.gov.au/experience/adf-cadets/about-cadets/) (viewed 1 September 2016).
- 500 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0017.
- 501 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1004; Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0018.
- 502 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1004 at 1009.
- 503 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1017 at 1019.
- 504 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1017 at 1019.
- 505 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1017 at 1019.
- 506 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1017 at 1019.
- 507 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1017 at 1018.
- 508 *Defence Act 1903* (Cth) s 62C(2); Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1017 at 1025.
- 509 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1004 at 1010–1011; Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1612 at 1613.
- 510 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1017 at 1025, 1026.
- 511 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1017 at 1026.
- 512 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1004 at 1010–1011.
- 513 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1004 at 1009–1010.
- 514 Exhibit 40-0031, Case Study 40, STAT.1006.001.0001\_R at 0002\_R.
- 515 Exhibit 40-0034, 'Statement of CJF', Case Study 40, STAT.1007.001.0001\_R at 0003\_R.
- 516 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0001\_R.
- 517 Exhibit 40-0031, 'Statement of CJE', Case Study 40, STAT.1006.001.0001\_R at 0002\_R; Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0001\_R, 0002\_R; Exhibit 40-0029, 'Statement of A Symonds', Case Study 40, STAT.0997.001.0001 at 0001–0002.
- 518 *Defence Act 1903* (Cth) s 62C(1).
- 519 *Defence Act 1903* (Cth) s 62A(1); Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001, paras 216–219.
- 520 *Defence Act 1903* (Cth) s 62A(3); Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0019.
- 521 Transcript of R Griggs, Case Study 40, 30 June 2016 at 20035:18–20036:28.
- 522 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0019.
- 523 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0060.
- 524 Australian Air Force Cadets, [www.aafc.org.au](http://www.aafc.org.au) (viewed 9 August 2016).
- 525 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0061.
- 526 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0136 at 0136–0137.
- 527 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0136 at 0136.
- 528 Exhibit 40-0039, 'Statement of T Delahunty', Case Study 40, STAT.1010.001.0001\_R at 0002\_R.
- 529 Exhibit 40-0039, 'Statement of T Delahunty', Case Study 40, STAT.1010.001.0001\_R at 0002\_R.
- 530 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0136 at 0136.
- 531 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0136 at 0136–0137.
- 532 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0136 at 0137.
- 533 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0136 at 0137.
- 534 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1004 at 1010; Exhibit 40-0039, 'Statement of T Delahunty', Case Study 40, STAT.1010.001.0001\_R at 0003\_R.
- 535 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1608 at 1608.
- 536 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1608 at 1608.
- 537 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1608 at 1608.
- 538 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1605 at 1605; Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1633 at 1633.
- 539 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1605 at 1605.
- 540 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0018, 0022.
- 541 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0022; Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0492\_R.

- 542 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0024.
- 543 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0492\_R at 0493\_R; Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0024.
- 544 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0024.
- 545 Exhibit 40-0043, 'Statement of R Griggs', Case Study 40, STAT.1005.001.0001 at 0024.
- 546 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0492\_R at 0493\_R.
- 547 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0492\_R at 0494\_R.
- 548 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0492\_R at 0498\_R-0501\_R.
- 549 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0149.
- 550 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0152; Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0144; Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0162; Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1605; Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1608.
- 551 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1601 at 1602.
- 552 Transcript of J Devereux, Case Study 40, 28 June 2016 at 19819:47-19820:10.
- 553 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0492\_R at 0494\_R.
- 554 Exhibit 40-0027, Case Study 40, DEF.02.0021.006.0001 at 0001-0002.
- 555 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0149 at 0149.
- 556 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1612 at 1614; Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1605 at 1606; Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0509 at 0509.
- 557 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0492\_R at 0496\_R.
- 558 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0509 at 0509.
- 559 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0492\_R at 0496\_R.
- 560 Exhibit 40-0027, Case Study 40, DEF.02.0021.006.0001 at 0001; Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0525.
- 561 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0492\_R at 0496\_R.
- 562 Exhibit 40-0037, 'Statement of D Green', Case Study 40, STAT.1026.001.0001\_R at 0051\_R.
- 563 Transcript of D Green, Case Study 40, 29 June 2016 at 19945:4-24; Exhibit 40-0037, 'Statement of D Green', Case Study 40, STAT.1026.001.0001\_R at 0051\_R.
- 564 Royal Commission into Institutional Responses to Child Sexual Abuse, *Working with Children Checks Report*, Sydney, 2015, p 6.
- 565 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0492\_R at 0494\_R, 0497\_R; Exhibit 40-0027, Case Study 40, DEF.02.0021.006.0001 at 0001-0002.
- 566 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0515 at 0515-0516.
- 567 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0152 at 0152.
- 568 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0492\_R at 0496\_R; Exhibit 40-0027, Case Study 40, DEF.02.0018.001.0001\_E.
- 569 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0523 at 0523.
- 570 Exhibit 40-0027, Case Study 40, DEF.02.0018.001.0001\_E.
- 571 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0523 at 0523.
- 572 Transcript of R Griggs, Case Study 40, 30 June 2016 at 20050:34-20051:9.
- 573 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0152 at 0153; Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0014 at 0016; Exhibit 40-0027, Case Study 40, STAT.1010.001.0028; Exhibit 40-0027, Case Study 40, DEF.02.0022.002.0005.
- 574 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0014 at 0016; Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0152 at 0153.
- 575 Transcript of T Delahunty, Case Study 40, 29 June 2016 at 20003:15-34; Exhibit 40-0027, Case Study 40, DEF.02.0022.003.0151\_E at 0151\_E.
- 576 Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001, paras 164-165.
- 577 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0152; Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0014.
- 578 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0152 at 0152.

579 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0152 at 0152.  
580 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0152 at 0153.  
581 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0152 at 0153.  
582 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0152 at 0153.  
583 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0152 at 0152–0153; Exhibit 40-0027,  
Case Study 40, DEF.02.0021.003.0014 at 0017–0020.  
584 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0014 at 0015.  
585 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0152 at 0153.  
586 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0152 at 0153.  
587 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0152 at 0153–0154.  
588 Transcript of R Griggs, Case Study 40, 30 June 2016 at 20044:47–20045:6.  
589 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0149 at 0149.  
590 Transcript of D Green, Case Study 40, 29 June 2016 at 19957:41–19958:19.  
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592 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0492\_R at 0494\_R–0495\_R; Exhibit 40-0027,  
Case Study 40, DEF.02.0006.001.0517 at 0517.  
593 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.0517 at 0517.  
594 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1601 at 1602–1603; Exhibit 40-0027, Case Study 40,  
DEF.02.0006.001.1656; Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1645.  
595 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1656 at 1656.  
596 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1601 at 1602.  
597 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1601 at 1602.  
598 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1601 at 1602.  
599 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1645 at 1646.  
600 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1645 at 1647.  
601 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1656 at 1658.  
602 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1656 at 1658.  
603 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1645 at 1647.  
604 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1645 at 1648.  
605 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1645 at 1648.  
606 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1645 at 1649.  
607 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1645 at 1649.  
608 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1645 at 1650.  
609 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1645 at 1651.  
610 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1645 at 1651.  
611 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1656 at 1659.  
612 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0023 at 0023.  
613 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0023 at 0023–0024; Exhibit 40-0027, Case Study 40,  
DEF.02.0006.001.1645 at 1648.  
614 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0023 at 0024.  
615 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1645 at 1653.  
616 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1645 at 1653.  
617 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1645 at 1653.  
618 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1656 at 1658; Exhibit 40-0027, Case Study 40,  
DEF.02.0006.001.1645 at 1648.  
619 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1645 at 1651.  
620 Exhibit 40-0027, Case Study 40, DEF.02.0006.001.1656 at 1658.  
621 Transcript of D Green, Case Study 40, 29 June 2016 at 19922:42–19923:12.  
622 Transcript of D Green, Case Study 40, 29 June 2016 at 19923:1–12.  
623 Transcript of D Green, Case Study 40, 29 June 2016 at 19923:14–26.  
624 Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001, para 166.  
625 Transcript of C James, Case Study 40, 26 August 2016 at 20754:35–20755:15.

- 626 Transcript of C James, Case Study 40, 26 August 2016 at 20755:17–38; Transcript of D Watson, Case Study 40, 29 June 2016 at 19963:17–44, 19964:8–14.
- 627 Submissions of Carroll James, Case Study 40, SUBM.1040.012.0001, para 8.
- 628 Exhibit 40-0026, 'Statement of S Campbell', Case Study 40, STAT.0999.001.0001 at 0001.
- 629 Exhibit 40-0026, 'Statement of S Campbell', Case Study 40, STAT.0999.001.0001 at 0001–0002.
- 630 Exhibit 40-0026, 'Statement of S Campbell', Case Study 40, STAT.0999.001.0001 at 0002.
- 631 Exhibit 40-0026, 'Statement of S Campbell', Case Study 40, STAT.0999.001.0001 at 0002.
- 632 Exhibit 40-0026, 'Statement of S Campbell', Case Study 40, STAT.0999.001.0001 at 0002.
- 633 Exhibit 40-0026, 'Statement of S Campbell', Case Study 40, STAT.0999.001.0001 at 0002.
- 634 Exhibit 40-0026, 'Statement of S Campbell', Case Study 40, STAT.0999.001.0001 at 0002.
- 635 Exhibit 40-0026, 'Statement of S Campbell', Case Study 40, STAT.0999.001.0001 at 0002.
- 636 Exhibit 40-0026, 'Statement of S Campbell', Case Study 40, STAT.0999.001.0001 at 0002–0003.
- 637 Exhibit 40-0026, 'Statement of S Campbell', Case Study 40, STAT.0999.001.0001 at 0002–0003.
- 638 Exhibit 40-0026, 'Statement of S Campbell', Case Study 40, STAT.0999.001.0001 at 0003.
- 639 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0032\_R.
- 640 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0005\_R; Transcript of C James, Case Study 40, 26 August 2016 at 20760:43–20761:30, 20762:7–33.
- 641 Transcript of C James, Case Study 40, 26 August 2016 at 20761:32–20762:33; Exhibit 40-38, Case Study 40, DEF.02.0015.001.0049 at 0063.
- 642 Exhibit 40-0047, Case Study 40, IND.0537.001.0001\_R at 0037\_R.
- 643 Exhibit 40-0047, Case Study 40, IND.0537.001.0001\_R at 0037\_R; Transcript of C James, Case Study 40, 26 August 2016 at 20772:38–20773:4.
- 644 Transcript of C James, Case Study 40, 26 August 2016 at 20772:38–20773:25, Exhibit 40-0045, Case Study 40, IND.0520.001.0001\_R at 0001\_R.
- 645 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0006\_R; Exhibit 40-0045, Case Study 40, IND.0520.001.0001\_R at 0001\_R; Transcript of C James, Case Study 40, 26 August 2016 at 20762:35–43, 20773:10–32.
- 646 Transcript of C James, Case Study 40, 26 August 2016 at 20763:27–37.
- 647 Transcript of C James, Case Study 40, 26 August 2016 at 20773:10–32.
- 648 Transcript of C James, Case Study 40, 26 August 2016 at 20773:27–20774:17.
- 649 Transcript of C James, Case Study 40, 26 August 2016 at 20774:13–22, 20775:11–16.
- 650 Transcript of C James, Case Study 40, 26 August 2016 at 20774:24–46.
- 651 Transcript of C James, Case Study 40, 26 August 2016 at 20833:43–47.
- 652 Transcript of C James, Case Study 40, 26 August 2016 at 20834:5–11.
- 653 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0006\_R; Transcript of C James, Case Study 40, 26 August 2016 at 20772:2–26; Exhibit 40-0038, Case Study 40, DEF.02.0015.001.0049 at 0050; Transcript of D Watson, Case Study 40, 29 June 2016 at 19969:35–41.
- 654 Transcript of C James, Case Study 40, 26 August 2016 at 20755:17–38.
- 655 Transcript of C James, Case Study 40, 26 August 2016 at 20755:17–38.
- 656 Transcript of C James, Case Study 40, 26 August 2016 at 20755:40–46.
- 657 Transcript of C James, Case Study 40, 26 August 2016 at 20763:5–17.
- 658 Transcript of D Watson, Case Study 40, 29 June 2016 at 19968:32–19969:3.
- 659 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0006\_R.
- 660 Transcript of D Watson, Case Study 40, 29 June 2016 at 19970:9–37.
- 661 Transcript of D Watson, Case Study 40, 29 June 2016 at 19972:2–36.
- 662 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0031\_R.
- 663 Exhibit 40-0038, Case Study 40, DEF.02.0015.001.0049 at 0070.
- 664 Exhibit 40-0045, Case Study 40, IND.0520.001.0001\_R at 0001\_R.
- 665 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0006\_R–0007\_R.
- 666 Transcript of C James, Case Study 40, 26 August 2016 at 20780:1–17.
- 667 Transcript of C James, Case Study 40, 26 August 2016 at 20780:19–46.
- 668 Transcript of C James, Case Study 40, 26 August 2016 at 20780:19–46.

669 Exhibit 40-0045, Case Study 40, IND.0520.001.0001\_R at 0002\_R.  
670 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0007\_R; Transcript of C James, Case Study 40, 26 August 2016 at 20781:7–12.  
671 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0007\_R.  
672 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0007\_R.  
673 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0038\_R–0040\_R.  
674 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0003.  
675 Transcript of S Campbell, Case Study 40, 27 June 2016 at 19741:24–36.  
676 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0004; Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0007\_R, 0040\_R.  
677 Exhibit 40-0045, Case Study 40, IND.0520.001.0001\_R at 0002\_R.  
678 Transcript of C James, Case Study 40, 26 August 2016 at 20783:34–20784:26  
679 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0007\_R–0008\_R.  
680 Transcript of C James, Case Study 40, 26 August 2016 at 20786:2–47.  
681 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0002\_R–0003\_R.  
682 Supplementary Submissions in reply on behalf of C James, Case Study 40, SUBM.1040.013.0001 at 0009; Transcript of C James, Case Study 40, 26 June 2016 at 20787:32–36.  
683 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0008\_R–0009\_R; Transcript of C James, Case Study 40, 26 August 2016 at 20786:2–4.  
684 Exhibit 40-0045, Case Study 40, IND.0520.001.0001\_R at 0002\_R; Transcript of C James, Case Study 40, 26 August 2016 at 20786:45–47, 20806:23–29.  
685 Transcript of C James, Case Study 40, 26 August 2016 at 20806:31–20807:32, 20828:5–12.  
686 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0009\_R; Transcript of C James, Case Study 40, 26 August 2016 at 20759:10–21, 20787:2–7.  
687 Transcript of C James, Case Study 40, 26 August 2016 at 20788:2–44.  
688 Transcript of C James, Case Study 40, 26 August 2016 at 20788:19–20.  
689 Transcript of C James, Case Study 40, 26 August 2016 at 20788:37–44.  
690 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0009\_R; Exhibit 40-0045, Case Study 40, IND.0520.001.0001\_R at 0002\_R; Transcript of C James, Case Study 40, 26 August 2016 at 20835:25–29.  
691 Transcript of C James, Case Study 40, 26 August 2016 at 20835:11–29.  
692 Transcript of C James, Case Study 40, 26 August 2016 at 20812:18–30.  
693 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0009\_R; Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0004.  
694 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0004; Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0009\_R.  
695 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0004.  
696 Transcript of C James, Case Study 40, 26 August 2016 at 20758:26–35.  
697 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0010\_R.  
698 Exhibit 40-0047, Case Study 40, IND.0537.001.0001\_R at 0049\_R.  
699 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0010\_R, 0042\_R.  
700 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0010\_R.  
701 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0005.  
702 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0005.  
703 Transcript of C James, Case Study 40, 26 August 2016 at 20812:41–20813:22, 20823:17–36.  
704 Transcript of D Watson, Case Study 40, 29 June 2016 at 19980:20–19981:30.  
705 Transcript of D Watson, Case Study 40, 29 June 2016 at 19981:46–19982:33.  
706 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0011\_R.  
707 Transcript of D Watson, Case Study 40, 29 June 2016 at 19976:10–18.  
708 Exhibit 40-0038, Case Study 40, DEF.02.0015.001.0049 at 0051.  
709 Transcript of D Watson, Case Study 40, 29 June 2016 at 19972:42–19973:12; Exhibit 40-0038, Case Study 40, DEF.02.0015.001.0049 at 0051.  
710 Transcript of D Watson, Case Study 40, 29 June 2016 at 19971:9–12, 19972:2–14.

- 711 Transcript of D Watson, Case Study 40, 29 June 2016 at 19973:14–26; Exhibit 40-0038, Case Study 40, DEF.02.0015.001.0049 at 0051.
- 712 Transcript of D Watson, Case Study 40, 29 June 2016 at 19971:14–35.
- 713 Transcript of D Watson, Case Study 40, 29 June 2016 at 19971:37–19972:8, 19973:21–26.
- 714 Transcript of D Watson, Case Study 40, 29 June 2016 at 19971:37–42, 19974:2–4.
- 715 Transcript of D Watson, Case Study 40, 29 June 2016 at 19973:28–43, 19974:12–28.
- 716 Transcript of D Watson, Case Study 40, 29 June 2016 at 19974:35–19975:6.
- 717 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0011\_R; Transcript of D Watson, Case Study 40, 29 June 2016 at 19976:46–19977:15.
- 718 Exhibit 40-0038, Case Study 40, DEF.02.0015.001.0049 at 0052.
- 719 Submissions of Carroll James, Case Study 40, SUBM.1040.012.0001, paras 11, 13, 18, 45.
- 720 Supplementary Reply Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.015.0001, [17].
- 721 Transcript of D Watson, Case Study 40, 29 June 2016 at 19987:32–42; Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0012\_R.
- 722 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0005.
- 723 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0005.
- 724 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0012\_R.
- 725 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0012\_R.
- 726 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0005–0006.
- 727 Transcript of S Campbell, Case Study 40, 27 June 2016 at 19745:11–17.
- 728 Transcript of C James, Case Study 40, 26 August 2016 at 20793:35–42.
- 729 Transcript of C James, Case Study 40, 26 August 2016 at 20794:1–7, 20797:6–14; Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0012\_R.
- 730 Transcript of C James, Case Study 40, 26 August 2016 at 20794:9–13.
- 731 Transcript of C James, Case Study 40, 26 August 2016 at 20795:2–21.
- 732 Transcript of C James, Case Study 40, 26 August 2016 at 20795:2–21.
- 733 Transcript of D Watson, Case Study 40, 29 June 2016 at 19986:38–19987:9.
- 734 Exhibit 40-0038, Case Study 40, DEF.02.0015.001.0049.
- 735 Exhibit 40-0038, Case Study 40, DEF.02.0015.001.0049 at 0052.
- 736 Transcript of C James, Case Study 40, 26 August 2016 at 20800:36–20801:3.
- 737 Transcript of D Watson, Case Study 40, 29 June 2016 at 19977:17–35.
- 738 Transcript of D Watson, Case Study 40, 29 June 2016 at 19977:37–45.
- 739 Transcript of D Watson, Case Study 40, 29 June 2016 at 19978:42–19979:19.
- 740 Transcript of D Watson, Case Study 40, 29 June 2016 at 19970:29–19970:37
- 741 Transcript of C James, Case Study 40, 26 August 2016 at 20799:2–20800:23.
- 742 Transcript of C James, Case Study 40, 26 August 2016 at 20790:2–40.
- 743 Exhibit 40-0045, Case Study 40, IND.0520.001.0001\_R 0003\_R.
- 744 Transcript of C James, Case Study 40, 26 August 2016 at 20790:42–20791:2.
- 745 Transcript of C James, Case Study 40, 26 August 2016 at 20791:4–10.
- 746 Exhibit 40-0051, Case Study 40, IND.0580.001.0001\_R.
- 747 Transcript of C James, Case Study 40, 26 August 2016 at 20829:12–29.
- 748 Transcript of C James, Case Study 40, 26 August 2016 at 20829:12–29.
- 749 Transcript of C James, Case Study 40, 26 August 2016 at 20829:36–41.
- 750 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0005.
- 751 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0005.
- 752 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0006; Transcript of S Campbell, Case Study 40, 27 June 2016 at 19736:35–44.
- 753 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0006; Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R.
- 754 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0043\_R–0044\_R.
- 755 Exhibit 40-0027, Case Study 40, DEF.02.0015.001.0001\_R at 0021\_R.

- 756 Transcript of C James, Case Study 40, 26 August 2016 at 20820:39–47.
- 757 Exhibit 40-0048, Case Study 40, IND.0576.001.0001\_R at 0001\_R.
- 758 Exhibit 40-0048, Case Study 40, IND.0576.001.0001\_R at 0003\_R–0004\_R.
- 759 Transcript of C James, Case Study 40, 26 August 2016 at 20821:19–27.
- 760 Exhibit 40-0050, Case Study 40, IND.0579.001.0001.
- 761 Exhibit 40-0049, Case Study 40, IND.0575.001.0001.
- 762 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0007.
- 763 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0007.
- 764 Transcript of S Campbell, Case Study 40, 27 June 2016 at 19746:25–40.
- 765 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0007.
- 766 Exhibit 40-0027, Case Study 40, WEB.0144.001.0001.
- 767 Exhibit 40-0027, Case Study 40, WEB.0144.001.0001 at 0007.
- 768 Exhibit 40-0027, Case Study 40, WEB.0144.001.0001 at 0013–0014.
- 769 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0007.
- 770 Australian Human Rights Commission, *HREOC report No 29*, Sydney, 2005.
- 771 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0008.
- 772 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0008.
- 773 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0008.
- 774 Exhibit 40-0026, ‘Statement of S Campbell’, Case Study 40, STAT.0999.001.0001 at 0008–0009.
- 775 Exhibit 40-0028, ‘Statement of CJD’, Case Study 40, STAT.1004.001.0001\_R at 0001\_R–0002\_R.
- 776 Exhibit 40-0028, ‘Statement of CJD’, Case Study 40, STAT.1004.001.0001\_R at 0002\_R–0003\_R, 0005\_R.
- 777 Exhibit 40-0028, ‘Statement of CJD’, Case Study 40, STAT.1004.001.0001\_R at 0003\_R.
- 778 Exhibit 40-0028, ‘Statement of CJD’, Case Study 40, STAT.1004.001.0001\_R at 0003\_R–0004\_R.
- 779 Exhibit 40-0028, ‘Statement of CJD’, Case Study 40, STAT.1004.001.0001\_R at 0005\_R–0007\_R.
- 780 Exhibit 40-0028, ‘Statement of CJD’, Case Study 40, STAT.1004.001.0001\_R at 0008\_R.
- 781 Exhibit 40-0028, ‘Statement of CJD’, Case Study 40, STAT.1004.001.0001\_R at 0002\_R, 0008\_R.
- 782 Exhibit 40-0028, ‘Statement of CJD’, Case Study 40, STAT.1004.001.0001\_R at 0008\_R–0009\_R.
- 783 Transcript of CJD, Case Study 40, 27 June 2016 at 19756:26–33.
- 784 Exhibit 40-0028, ‘Statement of CJD’, Case Study 40, STAT.1004.001.0001\_R at 0002\_R.
- 785 Exhibit 40-0028, ‘Statement of CJD’, Case Study 40, STAT.1004.001.0001\_R at 0010\_R.
- 786 Exhibit 40-0028, ‘Statement of CJD’, Case Study 40, STAT.1004.001.0001\_R at 0009\_R.
- 787 Exhibit 40-0028, ‘Statement of CJD’, Case Study 40, STAT.1004.001.0001\_R at 0009\_R–0010\_R.
- 788 Exhibit 40-0029, ‘Statement of A Symonds’, Case Study 40, STAT.0997.001.0001 at 0001–0002.
- 789 Exhibit 40-0029, ‘Statement of A Symonds’, Case Study 40, STAT.0997.001.0001 at 0002.
- 790 Exhibit 40-0029, ‘Statement of A Symonds’, Case Study 40, STAT.0997.001.0001 at 0002–0003.
- 791 Exhibit 40-0029, ‘Statement of A Symonds’, Case Study 40, STAT.0997.001.0001 at 0003.
- 792 Exhibit 40-0029, ‘Statement of A Symonds’, Case Study 40, STAT.0997.001.0001 at 0003.
- 793 Exhibit 40-0029, ‘Statement of A Symonds’, Case Study 40, STAT.0997.001.0001 at 0004.
- 794 Transcript of A Symonds, Case Study 40, 27 June 2016 at 19765:6–9.
- 795 Exhibit 40-0029, ‘Statement of A Symonds’, Case Study 40, STAT.0997.001.0001 at 0005.
- 796 Exhibit 40-0029, ‘Statement of A Symonds’, Case Study 40, STAT.0997.001.0001 at 0005.
- 797 Exhibit 40-0029, ‘Statement of A Symonds’, Case Study 40, STAT.0997.001.0001 at 0006.
- 798 Exhibit 40-0029, ‘Statement of A Symonds’, Case Study 40, STAT.0997.001.0001 at 0005–0006.
- 799 Exhibit 40-0033, ‘Statement of J Devereux’, Case Study 40, STAT.1015.001.0001\_R at 0003\_R–0004\_R;  
Exhibit 40-0029, ‘Statement of A Symonds’, Case Study 40, STAT.0997.001.0001 at 0006; Exhibit 40-0027,  
Case Study 40, DEF.02.0014.010.0026\_R.
- 800 Transcript of J Devereux, Case Study 40, 28 June 2016 at 19815:10–17, 19823:37–43, 19824:34–45;  
Exhibit 40-0033, ‘Statement of J Devereux’, Case Study 40, STAT.1015.001.0001\_R at 0004\_R; Exhibit 40-  
0027, Case Study 40, STAT.1015.001.0041\_R; Exhibit 40-0027, Case Study 40, DEF.02.0014.010.0026\_R.
- 801 Exhibit 40-0027, Case Study 40, DEF.02.0014.010.0026\_R at 0028\_R; Transcript of J Devereux, Case Study 40,  
28 June 2016 at 19808:13–22.
- 802 Transcript of J Devereux, Case Study 40, 28 June 2016 at 19815:10–17.

- 803 Exhibit 40-0033, 'Statement of J Devereux', Case Study 40, STAT.1015.001.0001\_R at 0004\_R;  
Exhibit 40-0027, Case Study 40, STAT.1015.001.0041\_R.
- 804 Transcript of J Devereux, Case Study 40, 28 June 2016 at 19810:33–19811:24.
- 805 Exhibit 40-0033, 'Statement of J Devereux', Case Study 40, STAT.1015.001.0001\_R at 0005\_R–0006\_R.
- 806 Transcript of J Devereux, Case Study 40, 28 June 2016 at 19809:13–26.
- 807 Exhibit 40-0033, 'Statement of J Devereux', Case Study 40, STAT.1015.001.0001\_R at 0005\_R; Transcript of  
J Devereux, Case Study 40, 28 June 2016 at 19815:4–8.
- 808 Exhibit 40-0033, 'Statement of J Devereux', Case Study 40, STAT.1015.001.0001\_R at 0005\_R, 0007\_R;  
Transcript of J Devereux, Case Study 40, 28 June 2016 at 19815:45–19816:8.
- 809 Transcript of J Devereux, Case Study 40, 28 June 2016 at 19815:45–19816:8; Exhibit 40-0039, 'Statement  
of T Delahunty', Case Study 40, STAT.1010.001.0001\_R at 0005\_R; Exhibit 40-0027, Case Study 40,  
DEF.02.0014.010.0034\_R at 0034\_R–0035\_R.
- 810 Exhibit 40-0033, 'Statement of J Devereux', Case Study 40, STAT.1015.001.0001\_R at 0004\_R, 0008\_R;  
Exhibit 40-0039, 'Statement of T Delahunty', Case Study 40, STAT.1010.001.0001\_R at 0006\_R.
- 811 Exhibit 40-0029, 'Statement of A Symonds', Case Study 40, STAT.0997.001.0001 at 0007.
- 812 Submissions of Aaron Symonds, Case Study 40, SUBM.1040.008.0001, paras 35–36.
- 813 Reply Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.009.0001,  
paras 47–48.
- 814 Exhibit 40-0039, 'Statement of T Delahunty', Case Study 40, STAT.1010.001.0001\_R at 0006\_R;  
Exhibit 40-0027, Case Study 40, DEF.02.0014.010.0024\_R.
- 815 Exhibit 40-0029, 'Statement of A Symonds', Case Study 40, STAT.0997.001.0001 at 0007.
- 816 Exhibit 40-0039, 'Statement of T Delahunty', Case Study 40, STAT.1010.001.0001\_R at 0006\_R;  
Exhibit 40-0027, Case Study 40, DEF.02.0014.010.0024\_R at 0024\_R.
- 817 Transcript of T Delahunty, Case Study 40, 29 June 2016 at 19999:5–12.
- 818 Exhibit 40-0039, 'Statement of T Delahunty', Case Study 40, STAT.1010.001.0001\_R at 0006\_R.
- 819 Transcript of T Delahunty, Case Study 40, 29 June 2016 at 20001:37–39, 20002:25–27.
- 820 Transcript of T Delahunty, Case Study 40, 29 June 2016 at 19999:14–18.
- 821 Transcript of J Devereux, Case Study 40, 28 June 2016 at 19817:37–19818:7.
- 822 Transcript of J Devereux, Case Study 40, 28 June 2016 at 19818:9–19819:19; Exhibit 40-0027, Case Study 40,  
DEF.02.0014.010.0029\_R at 0030\_R.
- 823 Transcript of J Devereux, Case Study 40, 28 June 2016 at 19818:33–19819:19.
- 824 Transcript of T Delahunty, Case Study 40, 29 June 2016 at 19999:20–20000:7.
- 825 Transcript of T Delahunty, Case Study 40, 29 June 2016 at 20000:3–20001:11.
- 826 Exhibit 40-0039, 'Statement of T Delahunty', Case Study 40, STAT.1010.001.0001\_R at 0006\_R;  
Exhibit 40-0027, Case Study 40, DEF.02.0014.010.0016 at 0016.
- 827 Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001,  
paras 180–181.
- 828 Exhibit 40-0029, 'Statement of A Symonds', Case Study 40, STAT.0997.001.0001 at 0007.
- 829 Exhibit 40-0029, 'Statement of A Symonds', Case Study 40, STAT.0997.001.0001 at 0007.
- 830 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0001\_R; Exhibit 40-0031,  
'Statement of CJE', Case Study 40, STAT.1006.001.0001\_R at 0001\_R.
- 831 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0001\_R; Exhibit 40-0031,  
'Statement of CJE', Case Study 40, STAT.1006.001.0001\_R at 0001\_R.
- 832 Exhibit 40-0031, 'Statement of CJE', Case Study 40, STAT.1006.001.0001\_R at 0001\_R.
- 833 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0003\_R.
- 834 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0004\_R; Exhibit 40-0031,  
'Statement of CJE', Case Study 40, STAT.1006.001.0001\_R at 0003\_R.
- 835 Exhibit 40-0031, 'Statement of CJE', Case Study 40, STAT.1006.001.0001\_R at 0003\_R; Exhibit 40-0030,  
'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0004\_R.
- 836 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0004\_R.
- 837 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0004\_R–0005\_R;  
Exhibit 40-0031, 'Statement of CJE', Case Study 40, STAT.1006.001.0001\_R at 0003\_R.

- 838 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0005\_R; Exhibit 40-0031, 'Statement of CJG', Case Study 40, STAT.1006.001.0001\_R at 0004\_R.
- 839 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0005\_R.
- 840 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0006\_R.
- 841 Exhibit 40-0031, 'Statement of CJG', Case Study 40, STAT.1006.001.0001\_R at 0005\_R.
- 842 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0006\_R; Exhibit 40-0031, 'Statement of CJG', Case Study 40, STAT.1006.001.0001\_R at 0005\_R.
- 843 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0005\_R.
- 844 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0006\_R; Exhibit 40-0031, 'Statement of CJG', Case Study 40, STAT.1006.001.0001\_R at 0005\_R.
- 845 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0006\_R.
- 846 Exhibit 40-0031, 'Statement of CJG', Case Study 40, STAT.1006.001.0001\_R at 0005\_R–0006\_R.
- 847 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0007\_R.
- 848 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0007\_R–0008\_R.
- 849 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0008\_R.
- 850 Exhibit 40-0032, 'Statement of CJG', Case Study 40, STAT.0996.001.0001\_R at 0001\_R–0002\_R; Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0005\_R–0006\_R.
- 851 Transcript of CJG, Case Study 40, 27 June 2016 at 19797:24–45, 19798:40–19799:11.
- 852 Exhibit 40-0032, 'Statement of CJG', Case Study 40, STAT.0996.001.0001\_R at 0003\_R.
- 853 Exhibit 40-0032, 'Statement of CJG', Case Study 40, STAT.0996.001.0001\_R at 0002\_R.
- 854 Exhibit 40-0032, 'Statement of CJG', Case Study 40, STAT.0996.001.0001\_R at 0003\_R; Transcript of CJG, Case Study 40, 27 June 2016 at 19798:12–19799:19.
- 855 Transcript of CJG, Case Study 40, 27 June 2016 at 19799:9–11.
- 856 Exhibit 40-0032, 'Statement of CJG', Case Study 40, STAT.0996.001.0001\_R at 0003\_R–0004\_R.
- 857 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0005\_R.
- 858 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0006\_R.
- 859 Transcript of S O'Donnell, Case Study 40, 28 June 2016 at 19858:45–19859:5.
- 860 Transcript of S O'Donnell, Case Study 40, 28 June 2016 at 19857:30–19858:15.
- 861 Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001, paras 184–201.
- 862 Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001, para 201.
- 863 Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001, para 202.
- 864 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0003\_R.
- 865 Exhibit 40-0031, 'Statement of CJG', Case Study 40, STAT.1006.001.0001\_R at 0005\_R–0006\_R.
- 866 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0006\_R–0007\_R.
- 867 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0008\_R.
- 868 Exhibit 40-0031, 'Statement of CJG', Case Study 40, STAT.1006.001.0001\_R at 0006\_R; Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0007\_R.
- 869 Exhibit 40-0027, Case Study 40, DEF.02.0016.001.0010\_R at 0010\_R; Exhibit 40-0041, 'Statement of J Laycock', Case Study 40, STAT.1018.001.0001\_R at 0004\_R; Exhibit 40-0027, Case Study 40, DEF.02.0004.004.0424\_R at 0424\_R.
- 870 Exhibit 40-0036, 'Statement of D Banfield', Case Study 40, STAT.1017.001.0001\_R at 0003\_R.
- 871 Transcript of D Banfield, Case Study 40, 28 June 2016 at 19896:9–39; Transcript of D Green, Case Study 40, 29 June 2016 at 19930:36–42.
- 872 Transcript of S O'Donnell, Case Study 40, 28 June 2016 at 19856:41–19857:16; Exhibit 40-0035, 'Statement of S O'Donnell', Case Study 40, STAT.1008.001.0001\_R at 0006\_R–0007\_R.
- 873 Exhibit 40-0035, 'Statement of S O'Donnell', Case Study 40, STAT.1008.001.0001\_R at 0007\_R; Exhibit 40-0036, 'Statement of D Banfield', Case Study 40, STAT.1017.001.0001\_R at 0004\_R.
- 874 Transcript of D Banfield, Case Study 40, 28 June 2016 at 19897:9–20.
- 875 Transcript of D Banfield, Case Study 40, 28 June 2016 at 19915:7–14.
- 876 Exhibit 40-0035, 'Statement of S O'Donnell', Case Study 40, STAT.1008.001.0001\_R at 0007\_R–0008\_R; Exhibit 40-0036, 'Statement of D Banfield', Case Study 40, STAT.1017.001.0001\_R at 0004\_R; Exhibit 40-0027, Case Study 40, DEF.02.0004.004.0130\_R.

- 877 Exhibit 40-0035, 'Statement of S O'Donnell', Case Study 40, STAT.1008.001.0001\_R at 0007\_R.  
 878 Exhibit 40-0031, 'Statement of CJG', Case Study 40, STAT.1006.001.0001\_R at 0006\_R-0007\_R.  
 879 Exhibit 40-0036, 'Statement of D Banfield', Case Study 40, STAT.1017.001.0001\_R at 0005\_R; Exhibit 40-0035, 'Statement of S O'Donnell', Case Study 40, STAT.1008.001.0001\_R at 0008\_R.  
 880 Exhibit 40-0035, 'Statement of S O'Donnell', Case Study 40, STAT.1008.001.0001\_R at 0008\_R.  
 881 Exhibit 40-0035, 'Statement of S O'Donnell', Case Study 40, STAT.1008.001.0001\_R at 0009\_R; Exhibit 40-0036, 'Statement of D Banfield', Case Study 40, STAT.1017.001.0001\_R at 0004\_R.  
 882 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0009\_R.  
 883 Transcript of S O'Donnell, Case Study 40, 28 June 2016 at 19882:35-45; Transcript of D Banfield, Case Study 40, 28 June 2016 at 19897:30-40.  
 884 Transcript of S O'Donnell, Case Study 40, 28 June 2016 at 19881:42-19882:33.  
 885 Transcript of S O'Donnell, Case Study 40, 28 June 2016 at 19883:3-12, 19884:25-36.  
 886 Transcript of D Banfield, Case Study 40, 28 June 2016 at 19898:4-15, 19898:43-45.  
 887 Transcript of D Banfield, Case Study 40, 28 June 2016 at 19900:42-19901:19.  
 888 Transcript of D Banfield, Case Study 40, 28 June 2016 at 19915:32-36.  
 889 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0009\_R.  
 890 Exhibit 40-0031, 'Statement of CJG', Case Study 40, STAT.1006.001.0001\_R at 0007\_R.  
 891 Exhibit 40-0031, 'Statement of CJG', Case Study 40, STAT.1006.001.0001\_R at 0007\_R.  
 892 Exhibit 40-0031, 'Statement of CJG', Case Study 40, STAT.1006.001.0001\_R at 0012\_R.  
 893 Submissions on behalf of the Commonwealth of Australia, Case Study 40, SUBM.1040.005.0001, paras 204-206.  
 894 Exhibit 40-0027, Case Study 40, DEF.02.0004.004.0424\_R at 0425\_R; Exhibit 40-0035, 'Statement of S O'Donnell', Case Study 40, STAT.1008.001.0001\_R at 0009\_R; Exhibit 40-0036, 'Statement of D Banfield', Case Study 40, STAT.1017.001.0001\_R at 0005\_R.  
 895 Exhibit 40-0041, 'Statement of J Laycock', Case Study 40, STAT.1018.001.0001\_R at 0005\_R; Exhibit 40-0036, 'Statement of D Banfield', Case Study 40, STAT.1017.001.0001\_R at 0005\_R; Exhibit 40-0027, Case Study 40, DEF.02.0016.001.0004\_R at 0004\_R.  
 896 Exhibit 40-0027, Case Study 40, DEF.02.0016.001.0004\_R at 0005\_R.  
 897 Exhibit 40-0041, 'Statement of J Laycock', Case Study 40, STAT.1018.001.0001\_R at 0005\_R; Exhibit 40-0027, Case Study 40, STAT.1018.001.0011\_R at 0011\_R; Transcript of D Green, Case Study 40, 29 June 2016 at 19932:35-19933:5.  
 898 Exhibit 40-0036, 'Statement of D Banfield', Case Study 40, STAT.1017.001.0001\_R at 0006\_R.  
 899 Exhibit 40-0036, 'Statement of D Banfield', Case Study 40, STAT.1017.001.0001\_R at 0006\_R.  
 900 Exhibit 40-0036, 'Statement of D Banfield', Case Study 40, STAT.1017.001.0001\_R at 0006\_R.  
 901 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0009\_R-0010\_R; Exhibit 40-0027, Case Study 40, STAT.1026.001.0063\_R at 0063\_R.  
 902 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0010\_R.  
 903 Exhibit 40-0037, 'Statement of D Green', Case Study 40, STAT.1026.001.0001\_R at 0007\_R.  
 904 Exhibit 40-0037, 'Statement of D Green', Case Study 40, STAT.1026.001.0001\_R at 0007\_R.  
 905 Exhibit 40-0036, 'Statement of D Banfield', Case Study 40, STAT.1017.001.0001\_R at 0007\_R; Exhibit 40-0027, Case Study 40, STAT.1017.001.0014\_R at 0014\_R; Exhibit 40-0041, 'Statement of J Laycock', Case Study 40, STAT.1018.001.0001\_R at 0006\_R.  
 906 Exhibit 40-0036, 'Statement of D Banfield', Case Study 40, STAT.1017.001.0001\_R at 0007\_R; Exhibit 40-0027, Case Study 40, DEF.02.0016.001.0001\_R at 0002\_R.  
 907 Exhibit 40-0041, 'Statement of J Laycock', Case Study 40, STAT.1018.001.0001\_R at 0006\_R-0007\_R; Exhibit 40-0037, 'Statement of D Green', Case Study 40, STAT.1026.001.0001\_R at 0011\_R; Exhibit 40-0027, Case Study 40, DEF.02.0016.001.0001\_R at 0002\_R; Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0010\_R.  
 908 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0010\_R; Exhibit 40-0027, Case Study 40, IND.0434.001.0009\_R at 0009\_R; Exhibit 40-0036, 'Statement of D Banfield', Case Study 40, STAT.1017.001.0001\_R at 0007\_R; Exhibit 40-0027, Case Study 40, STAT.1017.001.0015\_R at 0015\_R; Exhibit 40-0027, Case Study 40, STAT.1017.001.0016\_R at 0016\_R.

- 909 Exhibit 40-0041, 'Statement of J Laycock', Case Study 40, STAT.1018.001.0001\_R at 0006\_R-0007\_R.  
 910 Exhibit 40-0041, 'Statement of J Laycock', Case Study 40, STAT.1018.001.0001\_R at 0006\_R-0007\_R;  
 Transcript of D Green, Case Study 40, 29 June 2016 at 19935:46-19936:31; Exhibit 40-0027, Case Study 40,  
 STAT.1026.001.0085\_R at 0085-0086\_R.
- 911 Exhibit 40-0041, 'Statement of J Laycock', Case Study 40, STAT.1018.001.0001\_R at 0007\_R.  
 912 Transcript of D Green, Case Study 40, 29 June 2016 at 19936:33-19937:18.  
 913 Exhibit 40-0041, 'Statement of J Laycock', Case Study 40, STAT.1018.001.0001\_R at 0007\_R; Exhibit 40-0027,  
 Case Study 40, DEF.02.0008.018.0100\_R at 0101\_R.
- 914 Transcript of D Green, Case Study 40, 29 June 2016 at 19938:18-41.  
 915 Exhibit 40-0037, 'Statement of D Green', Case Study 40, STAT.1026.001.0001\_R at 0024\_R; Exhibit 40-0027,  
 Case Study 40, DEF.02.0004.004.0977\_R at 0978\_R.
- 916 Transcript of D Green, Case Study 40, 29 June 2016 at 19938:18-47.  
 917 Transcript of D Green, Case Study 40, 29 June 2016 at 19939:1-36.  
 918 Exhibit 40-0037, 'Statement of D Green', Case Study 40, STAT.1026.001.0001\_R at 0034\_R.
- 919 Exhibit 40-0031, 'Statement of CJE', Case Study 40, STAT.1006.001.0001\_R at 0007\_R.  
 920 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0011\_R.  
 921 Exhibit 40-0031, 'Statement of CJE', Case Study 40, STAT.1006.001.0001\_R at 0007\_R; Transcript of CJG,  
 Case Study 40, 27 June 2016 at 19778:34-19779:3.
- 922 Exhibit 40-0041, 'Statement of J Laycock', Case Study 40, STAT.1018.001.0001\_R at 0007\_R-0008\_R;  
 Exhibit 40-0027, Case Study 40, DEF.02.0004.004.0538 at 0538.
- 923 Exhibit 40-0031, 'Statement of CJE', Case Study 40, STAT.1006.001.0001\_R at 0007\_R, 0009\_R.  
 924 Transcript of D Green, Case Study 40, 29 June 2016 at 19952:6-19953:13; Exhibit 40-0037, 'Statement of D  
 Green', Case Study 40, STAT.1026.001.0001\_R at 0042\_R.
- 925 Transcript of D Green, Case Study 40, 29 June 2016 at 19953:3-13; Exhibit 40-0041, 'Statement of J Laycock',  
 Case Study 40, STAT.1018.001.0001\_R at 0007\_R; Exhibit 40-0037, 'Statement of D Green', Case Study 40,  
 STAT.1026.001.0001\_R at 0023\_R.
- 926 Exhibit 40-0037, 'Statement of D Green', Case Study 40, STAT.1026.001.0001\_R at 0023\_R.  
 927 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0013\_R.  
 928 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0013\_R; Transcript of CJG,  
 Case Study 40, 27 June 2016 at 19777:18-23.
- 929 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0013\_R; Exhibit 40-0027,  
 Case Study 40, IND.0434.001.0003\_R at 0003\_R.
- 930 Transcript of R Griggs, Case Study 40, 30 June 2016 at 20059:36-47, 20070:19-22.  
 931 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0012\_R; Exhibit 40-0031,  
 'Statement of CJE', Case Study 40, STAT.1006.001.0001\_R at 0010\_R.
- 932 Exhibit 40-0027, Case Study 40, DEF.02.0004.004.1677; Transcript of D Green, Case Study 40, 29 June 2016  
 at 19962:27-31.
- 933 Exhibit 40-0027, Case Study 40, NSW.2087.001.0001\_R at 0001\_R; Exhibit 40-0030, 'Statement of CJG',  
 Case Study 40, STAT.1009.001.0001\_R at 0012\_R.
- 934 Exhibit 40-0031, 'Statement of CJE', Case Study 40, STAT.1006.001.0001\_R at 0010\_R; Exhibit 40-0027,  
 Case Study 40, NSW.2087.001.0001\_R at 0008\_R.
- 935 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0012\_R.  
 936 Transcript of CJE, Case Study 40, 27 June 2016 at 19788:18-19.  
 937 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0012\_R; Exhibit 40-0031,  
 'Statement of CJE', Case Study 40, STAT.1006.001.0001\_R at 0010\_R.
- 938 Exhibit 40-0027, Case Study 40, DEF.02.0004.004.0291 at 0291.  
 939 Exhibit 40-0037, 'Statement of D Green', Case Study 40, STAT.1026.001.0001\_R at 0041\_R.  
 940 Exhibit 40-0031, 'Statement of CJE', Case Study 40, STAT.1006.001.0001\_R at 0008\_R-0011\_R.  
 941 Exhibit 40-0031, 'Statement of CJE', Case Study 40, STAT.1006.001.0001\_R at 0011\_R.  
 942 Transcript of D Banfield, Case Study 40, 28 June 2016 at 19909:31-19910:47; Exhibit 40-0027,  
 Case Study 40, STAT.1017.001.0015\_R at 0015\_R.
- 943 Exhibit 40-0030, 'Statement of CJG', Case Study 40, STAT.1009.001.0001\_R at 0013\_R-0014\_R.

- 944 Exhibit 40-0031, 'Statement of CJF', Case Study 40, STAT.1006.001.0001\_R at 0011\_R.  
 945 Exhibit 40-0031, 'Statement of CJF', Case Study 40, STAT.1006.001.0001\_R at 0011\_R.  
 946 *Crimes Act 1900* (ACT) s 55.  
 947 *Crimes Act 1900* (NSW) s 66C.  
 948 *Criminal Code 1899* (Qld) s 215.  
 949 *Criminal Code Act* (NT) s 127.  
 950 *Crimes Act 1958* (Vic) s 45.  
 951 *Criminal Code Act Compilation Act 1913* (WA) s 321.  
 952 *Criminal Code Act 1924* (Tas) s 124; *Criminal Law Consolidation Act* (SA) s 49.  
 953 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0032.  
 954 Exhibit 40-0027, Case Study 40, DEF.02.0022.002.0032; Transcript of R Griggs, Case Study 40, 30 June 2016 at 20049:11–18.  
 955 Exhibit 40-0027, Case Study 40, DEF.02.0022.002.0001; Transcript of R Griggs, Case Study 40, 30 June 2016 at 20049:39–44.  
 956 Exhibit 40-0027, Case Study 40, DEF.02.0022.002.0005.  
 957 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0032 at 0059; Exhibit 40-0027, Case Study 40, DEF.02.0022.002.0001 at 0002; Exhibit 40-0027, Case Study 40, DEF.02.0022.002.0032 at 0033; Exhibit 40-0027, Case Study 40, DEF.02.0022.002.0005 at 0016.  
 958 Transcript of R Griggs, Case Study 40, 30 June 2016 at 20047:23–20050:26.  
 959 Exhibit 40-0027, Case Study 40, DEF.02.0018.001.0001\_E at 0203\_E–0206\_E.  
 960 Exhibit 40-0027, Case Study 40, DEF.02.0018.001.0569 at 0569.  
 961 Transcript of R Griggs, Case Study 40, 30 June 2016 at 20051:22–33.  
 962 Exhibit 40-0027, Case Study 40, DEF.02.0022.002.0036.  
 963 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0014.  
 964 Exhibit 40-0027, Case Study 40, DEF.02.0022.003.0067\_E.  
 965 Exhibit 40-0027, Case Study 40, STAT.1010.001.0028.  
 966 Exhibit 40-0027, Case Study 40, DEF.02.0022.002.0036 at 0041; Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0014 at 0019.  
 967 Transcript of T Delahunty, Case Study 40, 29 June 2016 at 20007:32–20009:23.  
 968 Exhibit 40-0027, Case Study 40, DEF.02.0021.003.0014 at 0019.  
 969 Transcript of T Delahunty, Case Study 40, 29 June 2016 at 20009:11–14.  
 970 Transcript of T Delahunty, Case Study 40, 29 June 2016 at 20004:10–20005:7; Exhibit 40-0027, Case Study 40, DEF.02.0022.003.0151\_E at 0151\_E–0152\_E.  
 971 Exhibit 40-0027, Case Study 40, STAT.1010.001.0028 at 0032.  
 972 Transcript of T Delahunty, Case Study 40, 29 June 2016 at 20005:41–20006:8.  
 973 Transcript of T Delahunty, Case Study 40, 29 June 2016 at 20006:10–14.  
 974 *Crimes Act 1900* (ACT) ss 55A, 61A; *Crimes Act 1900* (NSW) s 73; *Criminal Code Act 1983* (NT) s 128; *Criminal Law Consolidation Act 1935* (SA) s 49; *Crimes Act 1958* (Vic) ss 48, 49; *Criminal Code Act Compilation Act 1913* (WA) s 322.  
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