

## Report of Professor Stephen Smallbone

**A. Executive Summary**

- 1 I have prepared this report at the instruction of Mr Roderick Best, General Counsel, Royal Commission into Institutional Responses to Child Sexual Abuse.
- 2 The report addresses a series of questions concerning the sexual abuse of children by Jonathon Lord during his employment with YMCA New South Wales.
- 3 I have described the characteristics of a child safe organisation, by way of outlining the key empirical dimensions of sexual abuse, how the problem may best be conceptualised, how child-related organisations may prevent sexual abuse from occurring in the first place, and how organisations should respond to sexual abuse if it does occur.
- 4 Based on documents made available to me, I have reported that during the period August 2009 to October 2011 YMCA New South Wales did not possess the characteristics of a child safe organisation. I have noted problems concerning recruitment, screening, induction, training, and supervision of staff.
- 5 I have reported that YMCA New South Wales responded promptly, properly and effectively to the initial allegations concerning Mr Lord.
- 6 I have reported that, following this initial positive response, YMCA New South Wales did not respond appropriately or with due care for affected children, parents, or staff. A key problem with its longer term response was that the YMCA is said to have been instructed by police to withhold all details about the Lord incidents, including from parents and staff. This caused serious distress for many people over a long period of time. It took far too long for affected parents to be properly informed, and for affected staff to be properly debriefed.
- 7 The YMCA has undertaken a great deal of work since the Lord incidents to review its child protection policies and procedures, however I have concluded that its present policies and procedures still do not meet best practice standards.
- 8 Finally, I have expressed concerns about the police practice of excluding parents from investigative interviews with their children.

**B. Introduction**

- 9 I am a psychologist and Professor in the School of Criminology and Criminal Justice at Griffith University.
- 10 I have prepared this report at the instruction of Mr Roderick Best, General Counsel, Royal Commission into Institutional Responses to Child Sexual Abuse. At Tab **1** of this report is a copy of my letter of instruction.
- 11 I have been provided with, and have read a copy of the *Expert Witness Code of Conduct* set out in Schedule 7 to the Uniform Civil Procedure Rules 2005 (NSW). I agree to be bound by the

code of conduct in presenting my evidence and opinion on this matter. At Tab 2 of this Report is a copy of the Expert Witness Code of Conduct to which I refer.

**C. Matters addressed in this report**

12 I have been asked to prepare a report addressing the following questions.

- 12.1 What are the characteristics of a child safe organisation?
- 12.2 To what extent did the YMCA NSW possess the characteristics of a child safe organisation in the period August 2009 to October 2011?
- 12.3 To what extent does YMCA NSW currently possess the characteristics of a child safe organisation?
- 12.4 What is best practice in recruiting and screening staff to work with children in before and after school care and/or vacation care? Has what constitutes best practice in this area changed since 2009? In addressing these questions please address the following sub issues:
  - (a) The basis upon which you identify what constitutes best practice in this area;
  - (b) Any special considerations that apply when recruiting staff to work with children in before and after school care and vacation care;
  - (c) Advertising and describing positions involving working with children in before and after school care and vacation care;
  - (d) Critically reading cvs and job applications of candidates seeking employment in before and after school care and/or vacation care and identifying and responding to "red flags" that may indicate a candidate might pose a risk to children;
  - (e) Interviewing candidates for employment in before and after school care and/or vacation care, including who should conduct the interview, questions that candidates should be asked and identifying and responding to "red flags" that may indicate a candidate might pose a risk to children;
  - (f) Checking references of applicants for employment in before and after school care and/or vacation care, including the identity and number of referees, the manner of conducting reference checks and questions that referees should be asked. Please comment specifically on whether a candidate's most current or most recent employer should be contacted and whether a previous child related employer of the candidate should be contacted.
- 12.5 To what extent did YMCA follow best practice in recruiting and screening Jonathan Lord in August 2009?

- 12.6 What is best practice in inducting and training staff employed to work with children in before and after school care and vacation care? Has what constitutes best practice in this area changed since 2009? In addressing these questions please address the following sub issues:
- (a) The basis upon which you identify what constitutes best practice in this area;
  - (b) Timing and content of induction;
  - (c) Content, method and frequency of training.
- 12.7 To what extent did YMCA NSW follow best practice in inducting and training staff employed to work with children in before and after school care and/or vacation care in the period August 2009 to October 2011?
- 12.8 What is best practice in supervising staff working with children in before and after school care and/or vacation care? Has what constitutes best practice in this area changed since 2009? In answering these questions, please address the basis upon which you identify what constitutes best practice in this area.
- 12.9 To what extent did YMCA NSW follow best practice in supervising Jonathan Lord and staff working with Jonathan Lord in the period August 2009 to October 2011?
- 12.10 What is best practice in promoting staff who work with children to supervisory positions in before and after school care and vacation care? Has what constitutes best practice in this area changed since 2009? In answering these questions, please address the basis upon which you identify what constitutes best practice in this area.
- 12.11 To what extent did YMCA follow best practice in promoting Jonathan Lord to the position of Childcare Supervisor in 2010 and to the position of Childcare Coordinator in 2011?
- 12.12 What is best practice in relation to how an organisation responds to an allegation of child sexual abuse against a staff member working with children within that organisation and has what constitutes best practice in this area changed since 2011? In answering these questions, please address the basis upon which you identify what constitutes best practice in this area.
- 12.13 To what extent did YMCA follow best practice in responding to allegations of child sexual abuse made against Jonathan Lord in September and October 2011?

**D. Documents and assumptions relied on**

- 13 I have relied on the following documentary material for the purposes of preparing this report:
- (a) Statement of Alicia Dellaca
  - (b) Statement of Danielle Ockwell

- (c) Statement of Michelle Bates
- (d) Statement of Sheree Ockwell
- (e) Statement of Carine Beer
- (f) Statement of Shannon Noble
- (g) Statement of Chloe Starr
- (h) Statement of Erin Turner
- (i) Statement of AN
- (j) Statement of AX
- (k) Statement of AS
- (l) Statement of AU
- (m) Statement of AZ
- (n) Statement of AT
- (o) Documents in the tender bundle

- 14 I have been asked to make the following assumptions in preparing this report:
- (a) That the factual matters set out in the above witness statements are true, and
  - (b) That the factual matters set out in the statement of facts at Tab 1 of the tender bundle, and the judgement at Tab 2 of the tender bundle, are true.

- 15 I have made those assumptions in preparing this report.

**E. Experience**

- 16 My formal qualifications are Bachelor of Arts (1988), Graduate Diploma of Psychology (1989), and Doctor of Philosophy (PhD) (1999). In addition, I have the following relevant experience, which I set out below.
- 17 I worked as a prison psychologist in Queensland from 1990 to 1997, specialising in the assessment and treatment of adult sexual offenders. In 1998 I joined Griffith University as a Lecturer in the School of Criminology and Criminal Justice. Since 2001 I have been the Director of Griffith Youth Forensic Service, which provides court-referred assessment and intervention services for youth sexual offenders and their families in Queensland. My research is concerned primarily with understanding and preventing sexual violence and abuse, and I have published about 60 books, chapters, journal articles and government reports on this topic. At Tab 3 of this report is my current curriculum vitae.

**F. Response to specific questions**

- 18 I set out my response to the *thirteen* specific questions asked of me below.

**Question 1: What are the characteristics of a child safe organisation?**

- 19 Creating a 'child safe' organisation begins with having a clear, evidence-informed conception of the potential risks to children in the specific organisational setting or settings, including accidental (e.g. illnesses and accidental injuries) and non-accidental threats (e.g. child maltreatment) to children's health, safety and wellbeing. With respect to sexual abuse, this requires knowledge of basic facts concerning the characteristics of sexual abusers and victims, and how, when and where sexual abuse tends to occur.
- 20 Accurate information about sexual (and other) abuse should be widely disseminated so as to inform all child-focused organisations. Organisations should in turn seek to acquire this information and disseminate the information (e.g. through policy documents and training materials) to all relevant persons, especially staff and volunteers. Where appropriate, organisations may also disseminate information to parents and other guardians. This should of course be done in a sensitive, matter-of-fact way.

*Empirical dimensions of sexual abuse*

- 21 Although there are no precise data on the true prevalence or incidence of child sexual abuse, available evidence indicates that most child sexual abuse occurs in domestic (family) settings. A smaller but significant proportion of incidents occurs in organisational settings (Smallbone, Marshall, & Wortley, 2008)
- 22 Sexual abusers are almost always adolescent or adult males. Official data and victimisation surveys together indicate that males are responsible for about 95% of sexual abuse incidents (Cortoni & Hanson, 2005), a rate of male over-representation that is considerably higher than for other types of crime.
- 23 Other than male gender, there are no defining demographic or psychological characteristics of sexual abusers. The age at which offenders first sexually abuse a child ranges from early adolescence to their 70s or even later (Smallbone & Wortley, 2004).
- 24 Adolescents (aged 12-18 years) are responsible for more than one third of known sexual abuse offences (offences involving victims aged under 16) (Finkelhor, Ormrod, & Chaffin, 2009).
- 25 Girls are about twice as likely as boys to be sexually abused (Finkelhor & Dziuba-Leatherman, 2001). Girls are more likely to be abused repeatedly, over an extended period, in domestic settings. Boys are more likely to be abused in nonfamilial (including organisational) settings, over shorter periods, and on fewer occasions. Nonfamilial offenders are more likely to be serial abusers, and are more likely to persist after they are caught.

- 26 The kinds of organisations that present the greatest risk of sexual abuse are those in which children (as potential victims) spend significant periods of time with unrelated adolescent or adult males (as potential offenders). These include schools, recreational settings, sport organisations, child care settings, pastoral care settings, and so on. These kinds of organisational settings are analogous in some important ways to domestic settings (where most sexual abuse occurs) – typically older males are in entrusted positions of care and authority with respect to children, often in roles involving physical or emotional intimacy with children (e.g. bathing, dressing, counselling, pastoral care).
- 27 Characteristics of some children can increase their vulnerability to sexual victimisation. These characteristics include loneliness, emotional neediness, problems at home, peer isolation, low confidence, and low self-esteem (Smallbone, et al. 2008). Nevertheless, all children possess vulnerabilities for sexual abuse by virtue of their age and dependent relationships with adults.
- 28 Sexual abuse is most likely to occur in places where risk of detection is low. However, an actual abuse incident can occur quickly (commonly 5 to 15 minutes), so does not always require a remote, out-of-the-way place (Smallbone & Wortley, 2000). Organisation-related abuse can happen away from the organisational setting itself – at camps, in a vehicle, or in the offender’s or victim’s home.

#### *Conceptualising the problem*

- 29 It is important to avoid stereotyped conceptions of the problem. Children are much more likely to be abused by someone they already have a close relationship with than by a stranger or distant acquaintance. It is possible that a determined serial abuser may surreptitiously seek employment or other involvement in a child-related organisation in order to create opportunities to abuse, but it is probably more likely that abuse-related motivations arise during the course of the potential abuser’s involvement with a particular child or children.
- 30 Sexual abuse can happen abruptly, but more often is preceded by a period of ‘grooming’. Abusers and victims often know one another for significant periods (a year or more is common) before the first abuse incident. Grooming typically involves a graduation from attention-giving and nonsexual touching to increasingly more intimate and intrusive behaviours. Much of this will appear ambiguous both to the victim and others who may observe it. However, observable behaviours may include creating ‘special’ relationships with

particular children, giving gifts or privileges, being overly affectionate, seeking to spend time with children outside the work role, or arranging to spend time alone with children.

- 31 The first-time abuser may not become conscious of sexual motivations until late in the 'grooming' process, sometimes just minutes before the first incident itself. Once the first abuse has occurred, grooming is likely to become more conscious and deliberate. Persistent abusers can become skilled in creating opportunities and avoiding detection.

#### *Prevention strategies*

- 32 Prevention strategies should be focused primarily on preventing abuse before it would otherwise occur, however it is also crucial to respond promptly and effectively if abuse does occur. Strategies should target (potential) offenders, (potential) victims, and relevant aspects of the physical and social environment.
- 33 Access to the setting should be controlled. Routine employment screening (e.g. Working with Children Checks) should be supplemented with careful reference checks. Direct questions should be asked of referees about any informal concerns about the behaviour of the applicant in previous roles and settings. Reference checks should focus particularly on any previous involvement in child-related activities.
- 34 Staff involved in recruitment should be alert to signs of unusual attitudes concerning children, for example if the applicant professes to have 'special relationships' with children, if they disagree with the need for rules about child protection, if they think certain rules should not apply to them, or if their desire to work with children seems focused on meeting their own psychological or emotional needs.
- 35 All staff should be provided with high-quality training aimed at establishing a clear and valid conception of sexual abuse and its dynamics. Staff should be engaged in a culture of extended guardianship where the responsibility for prevention is seen as an ordinary responsibility of all adults.
- 36 Rules about adult-child and child-child relationships should be unambiguous, widely disseminated, and supported by staff supervision and training. External training can provide an additional safeguard. A key focus for adults should be on maintaining clear and appropriate personal-professional boundaries. At the same time, severe rules prohibiting any physical contact or appropriate care behaviours should be avoided so as not to deprive children of healthy physical and emotional closeness with adults and peers.
- 37 Visitors to the organisational setting should be required to report to a designated place (e.g. administration office) and sign-in. For younger children a pick-up register should be

- maintained. In both cases identity checks should be conducted. Anyone loitering in or near the setting should be monitored and approached as appropriate.
- 38 The most suitable organisational environment is one with good natural surveillance, where routine movements of responsible adults provide comprehensive line-of-sight to all areas of the setting. Rooms should have large, unobstructed windows or observation panels. This includes sensitive places such as principals', chaplains' or counsellors' rooms. Special random checks can be undertaken for out-of-the-way places (e.g. dressing or first-aid rooms, or sporting grounds away from main buildings). Formal surveillance apparatus (e.g. CCTV) may be installed in places where natural surveillance cannot be ensured. An environmental audit should direct any required modifications to the physical environment.
- 39 Adults and children should be encouraged to raise even apparently trivial concerns. In the aftermath of abuse in organisations it is common to find a history of unreported small concerns, none of which alone indicated a serious problem. Implementing a system of confidential recording of these concerns may help to 'join the dots'. This system must guard against vexatious complaints or creating a culture of suspicion.
- 40 If abuse does occur, early detection is important to avoid compounding effects of repeated incidents. A clear policy is needed for responding to ambiguous reports, discovery, disclosure, allegations and police investigations. A graduated system of informing others, on a need-to-know basis, may be helpful.
- 41 Different organisations will have different capacities to provide support and services (e.g. counselling) to affected children, their parents, and staff. All organisations should have a clear policy about the kinds of support and services they will make available.

**Question 2: To what extent did YMCA NSW possess the characteristics of a child safe organisation in the period August 2009 to October 2011?**

- 42 Various YMCA policy documents applicable at the time of Mr Lord's employment and arrest touched on issues relevant to sexual abuse and other kinds of child maltreatment, though none dealt with this in any detailed or comprehensive way.
- 43 The Child Protection policy was perhaps the most relevant. This contained a basic definition of sexual abuse, together with descriptions of "three types of indicators of child sexual abuse". These descriptions were very similar to those listed for physical abuse. In fact indicator 3 - "emotional problems e.g. signs the child is depressed, reflections in the child's drawings"; and "the need the child has to deal with violent behaviour by mimicking it or expressing it in ways that are outside the normal boundaries of childhood aggression" – was

identical to indicator 3 for physical abuse. These descriptions are inaccurate and unhelpful - they seem focused on the most serious violent cases (which are rare) and do not account for the fact that in most instances such signs will not be present.

- 44 A notable feature of the Child Protection policy was its concern exclusively with responding to incidents after they have occurred (and even then only in a limited way). The policy did not deal at all with how sexual (or other) abuse occurs and how it may be prevented in the first place.
- 45 The Child Safe Code of Conduct applicable at the time of Mr Lord's employment did include a list of "DO NOT" behaviours, including "hold, kiss, cuddle or touch children in an inappropriate ... way", and "encourage meeting (a child) outside the program activity", both of which Mr Lord repeatedly did, sometimes with the knowledge of other staff and parents.
- 46 Other policies dealt with issues such as children sitting on staff's laps (prohibited under the 2009 revision of the Child Safe Code of Conduct) and staff using their mobile phones to photograph children (prohibited under the 2008 and subsequent Photography/Videoring Children within Centres policies). Both of these rules were repeatedly breached by Mr Lord, including on numerous occasions when relevant incidents were directly observed (but not challenged or reported) by others.
- 47 YMCA Australia's Safeguarding Children and Young People policy is the most detailed of its policy documents concerning sexual (and other) abuse. It contains numerous unambiguous statements concerning the condemnation of child abuse and the responsibilities of the YMCA and its staff to protect children in their care. It also contains an expanded (though still limited) section on the definition and indicators of sexual abuse. However the status of this policy is unclear – it is undated (though it notes 2006 as the time of review/endorsement). While there is some attention in this policy to prevention, this is still overshadowed by the much greater attention given to its reporting requirements concerning suspected or alleged abuse.
- 48 There seems to have been no policy to guide the YMCA's response to allegations of sexual abuse beyond its immediate reporting requirements. For example, there appears to have been no clear procedure for dealing with a police investigation, ensuring staff and parents were kept informed and were properly supported, ensuring that affected children and their parents were supported, and that appropriate services were made available.
- 49 The OSHC Parent Handbook applicable at the time of Mr Lord's employment included advice about how to provide 'customer feedback', but contained no information about child protection matters and no direction about the kinds of concerns that should be reported.

- 50 The effectiveness of relevant policies depends on their clarity, dissemination and compliance monitoring procedures, as well as on maintaining a culture in which all staff, volunteers, children and parents feel able to bring even small concerns to the attention of others. Various witness statements (A. Dellaca; D. Ockwell; M. Bates; S. Ockwell; C. Beer; S. Noble; C. Starr) indicate that staff were not aware of the detail of relevant policies, were unsure how to identify concerning incidents or behaviours, and were unsure how and to whom such concerns could or should be expressed.
- 51 I have not visited the sites where Mr Lord worked, and can therefore not comment on relevant features of the physical settings (e.g. natural surveillance features).

**Question 3: To what extent does YMCA NSW currently possess the characteristics of a child safe organisation?**

- 52 Numerous materials in the tender bundle indicate that the YMCA has tried to make significant improvements to its policies and procedures concerning sexual abuse since the Lord matters came to light.
- 53 On 20 June 2012 Ms Catherine Clements was appointed by the YMCA to the newly established position of Child Protection and Compliance Manager. The position was to oversee and coordinate the YMCA's policies and procedures concerning child protection. Ms Clements' appointment was terminated a little under six months later - on 2 November. The letter of termination does not provide any specific reasons for the termination of Ms Clements' appointment. It is not clear whether a further appointment has been made to this position.
- 54 Witness statements by current YMCA staff indicate that a much greater emphasis is now placed on awareness of and compliance with relevant policies, and that they have received more training relevant to child protection in the period since Mr Lord's arrest. However these same witness statements also indicate that staff remain overwhelmed by the complexity and volume of policy material. It would seem that a great deal of work remains to improve, simplify and more effectively disseminate relevant policy material.
- 55 It is still not clear whether YMCA staff have acquired a clear conception of sexual abuse, how, when, and where it is most likely to occur, and how it might be prevented from occurring.

**Question 4: What is best practice in recruiting and screening staff to work with children in before and after school care and/or vacation care? Has what constitutes best**

practice in this area changed since 2009? In addressing these questions please address the following sub issues:

- a) The basis upon which you identify what constitutes best practice in this area;
- b) Any special considerations that apply when recruiting staff to work with children in before and after school care and vacation care;
- c) Advertising and describing positions involving working with children in before and after school care and vacation care;
- d) Critically reading cvs and job applications of candidates seeking employment in before and after school care and/or vacation care and identifying and responding to "red flags" that may indicate a candidate might pose a risk to children;
- e) Interviewing candidates for employment in before and after school care and/or vacation care, including who should conduct the interview, questions that candidates should be asked and identifying and responding to "red flags" that may indicate a candidate might pose a risk to children;
- f) Checking references of applicants for employment in before and after school care and/or vacation care, including the identity and number of referees, the manner of conducting reference checks and questions that referees should be asked. Please comment specifically on whether a candidate's most current or most recent employer should be contacted and whether a previous child related employer of the candidate should be contacted.

56 I am not aware of any agreed best practice standards relating specifically to the recruitment and screening of staff to work in before and after school care and/or vacation care. However, general standards for recruiting and screening staff to work in child-related organisations would apply to these specific settings.

57 These general standards should nevertheless be considered with respect to the potential risks associated with the specific setting in which the applicant is required to work. For example, the age and gender mix and any particular vulnerabilities of children within the specific setting, as well as specific aspects of the employee's role, are all relevant and should guide recruitment and screening procedures. In general, a more stringent standard should be required in circumstances where children are especially vulnerable (e.g. because of age, emotional or behavioural problems, or disability) and/or when the employee's role involves work without direct supervision or exposure to intimate situations with children (e.g. bathing; dressing).

- 58 International developments in recruitment and screening practices for child-related employment have occurred incrementally. I am not aware of any specific discrete changes since 2009. However, more attention has been given to this topic in the international literature in recent years (e.g. Erooga, 2010; Kaufman, 2012)
- 59 My judgement about what constitutes best-practice standards is based on my own professional and research experience, as well as numerous edited and authored books on the topic, including Erooga (2012), Kaufman (2010), Smallbone, Marshall and Wortley (2008), and Wortley and Smallbone (2006).
- 60 The 'bottom line' standard for screening applicants to work with children is a formal Working with Children Check. However such checks provide a very limited degree of protection (they will obviously not, for example, detect relevant previous unreported or unrecorded incidents, and nor can they detect persons who have not yet offended but go on to do so for the first time during the course of their employment).
- 61 It is generally advised that routine background checks should be supplemented with careful reference checks and structured interviews. Selection interviews are suggested as an opportunity to provide clear information to applicants about the organisation's commitment to children's safety and its policies and procedures to prevent child abuse. In the UK, the NSPCC [National Society for the Prevention of Cruelty to Children] (Erooga, 2009) has developed a protocol for 'values-based interviewing' that aims to interrogate and test relevant attitudes and values concerning relationships with children.
- 62 Reference checks should involve direct conversations (e.g. by telephone) with at least two referees, and should focus where possible on the applicant's attitudes and behaviour in previous child-related roles. Priority should be given to reports of referees who are able to comment on the applicant's most recent child-related activities

**Question 5: To what extent did YMCA follow best practice in recruiting and screening Jonathan Lord in August 2009?**

- 63 The position description for Mr Lord's first job with the YMCA – casual Outside School Hours Care Assistant – included the requirement that applicants possess a Certificate III in Children's Services or equivalent qualification approved by licensing authorities. However it also allowed for equivalent "skills and experience". Mr Lord did not possess any formal qualification. This was a very junior position, and there seems to be nothing untoward in these circumstances

- with having recruited someone with no qualifications. This should, however, have flagged a special need to ensure that relevant in-house training was conducted.
- 64 There is no application letter in the documents made available to me, so there is no indication of how Mr Lord presented his case for employment in terms of the specific job requirements. Nor is there any indication of whether other applicants were considered, and if so how Mr Lord was selected relative to the merit of other applicants. Requiring applicants to respond to a specific set of selection criteria would be considered best practice.
- 65 Mr Lord's resume is very simple, but perhaps not unusual in this respect for a 22 year old with little work experience. His statement that his ambition was to "work with kids and help them to experience life, love and friendships in an environment ... (with) *no boundaries*" (emphasis added) was an opportunity to raise questions about his understanding of the importance of boundaries for children, and especially of his responsibilities for maintaining appropriate personal and professional boundaries. Such a statement should raise concerns.
- 66 Handwritten notes attached to his resume – "(first word illegible) studying childcare/pursue career in childcare" - indicate that Mr Lord was either presently enrolled or intended to enrol in a relevant course of study. Although he would later be promoted to co-ordinator and supervisor positions within the YMCA, this does not seem to have been followed up.
- 67 Only one reference check was conducted, with Mr Charlie Yankoot by Ms Jacqui Barnat on 21 August 2009. I understand that Mr Yankoot is Mr Lord's stepfather. This relationship should disqualify Mr Yankoot as a referee. The opportunity here was to check with someone specifically about Mr Lord's work with children. Information that, for example, Mr Lord had a 'special way' with, or showed 'special interests' in, children may itself have raised concerns about his motivations for working with children.
- 68 Best practice would require a written reference from Mr Lord's supervisor at the camp in the US, or at least further inquiries into this period with Mr Lord himself, since this had been his most recent experience in a child care role.
- 69 A compulsory 'Working with Children Check' appears to have been undertaken shortly after Mr Lord commenced employment with the YMCA. This check would not be expected to have detected the alleged incident at the US camp, and other incidents now known to have occurred prior to his YMCA employment had not yet come to light. This is a good example of why these standard checks should not be over-relied upon for the purposes of child-related employment.
- 70 Overall, the YMCA's recruitment and screening of Mr Lord fell a long way short of best practice standards.

**Question 6: What is best practice in inducting and training staff employed to work with children in before and after school care and vacation care? Has what constitutes best practice in this area changed since 2009? In addressing these questions please address the following sub issues:**

- a) The basis upon which you identify what constitutes best practice in this area;**
- b) Timing and content of induction;**
- c) Content, method and frequency of training.**

- 71 My general comments at paragraphs 49-52 above are applicable to the topic of staff induction and training.
- 72 Staff induction presents the first opportunity to ensure that staff begin child-related employment with a clear understanding of the organisation's attitudes and values, commitments, policies and procedures concerning child protection. This should occur as soon as is practicable after the appointment is made, and ideally before work with children commences.
- 73 Staff should be required to possess formal qualifications commensurate with their role and responsibilities, or should be expected to engage in relevant study so as to acquire such qualifications.
- 74 Child-related organisations should provide additional training relevant to child protection, ideally including training provided by expert external trainers. Training should aim to disseminate a clear evidence-informed conception of (in this case) sexual abuse, including the characteristics of abusers and victims, and how, when and where sexual abuse is more likely to occur.
- 75 I have no particular opinion on the timing or frequency of training. The aim should be to develop knowledge and competencies in how sexual abuse can be prevented, how risks can be identified, how concerns can be reported, and how to respond to discovery, disclosure, and allegations.

**Question 7: To what extent did YMCA NSW follow best practice in inducting and training staff employed to work with children in before and after school care and/or vacation care in the period August 2009 to October 2011?**

- 76 The YMCA Child Protection Policy applicable at the time of Mr Lord's employment indicated that staff "will undergo training in relation to child protection and notification". There is no

indication in the available documents that Mr Lord himself received any induction or undertook any training on these topics.

- 77 The only document to show that Mr Lord had read relevant policies was the Childcare Induction Checklist signed by Mr Lord's supervisor Jacqui Barnat (but not by Mr Lord himself), dated 20 May 2011 – almost two years after he had commenced employment with the YMCA.
- 78 Despite being given increasing levels of responsibility (as co-ordinator and then as supervisor), there appears to have been no follow up on Mr Lord's original intention to enrol in a formal course of study in childcare.
- 79 The potential effects of training or further education may have included alerting Mr Lord to the basic principles of child safety. He may well have formed the view that his sexual behaviour and related behaviour with children (e.g. showing favouritism; developing 'friendships') was not harmful, and this may have been challenged by formal training or education programs. Training of others, particularly his immediate co-workers, may have helped them to reconsider their responses to many of Mr Lord's abuse-related behaviours (making personal calls to children; seeing children outside the workplace; offering to babysit; taking pictures on his mobile phone; and so on).
- 80 Witness statements indicate that other YMCA staff working in similar roles, in similar settings and over the same period as Mr Lord likewise received little or no relevant training.

**Question 8: What is best practice in supervising staff working with children in before and after school care and/or vacation care? Has what constitutes best practice in this area changed since 2009? In answering these questions, please address the basis upon which you identify what constitutes best practice in this area.**

- 81 My general comments at paragraphs 49-52 above are applicable to the topic of staff supervision.
- 82 Supervision of staff in child-related organisations should include, but not be restricted to, formal hierarchical systems of line management. Best practice requires a widely shared, valid understanding of how abuse occurs, an extended network of guardianship, a culture in which responsible adults feel able to raise even small concerns, and procedures that allow for small pieces of relevant information to be 'joined up'. A clear set of rules and expectations needs to be established so that individuals associated with the organisation are not simply left to their own devices to recognise potential problems and to judge whether and how to voice concerns.

- 83 On the topic of staff supervision in child-related organisations, Kaufman, et al. (2006) advise that “organizational policies should detail not only how to supervise children in their care, but also how to monitor staff to ensure that agency policies are followed. Child protection policies should be shared with parents to increase the potential for identifying breaches in protocol and risks to their children” (p.132).

**Question 9: To what extent did YMCA NSW follow best practice in supervising Jonathan Lord and staff working with Jonathan Lord in the period August 2009 to October 2011?**

- 84 The documents made available for this report are replete with example after example of people noticing things they thought were unusual or about which they were concerned. Children received notes with Mr Lord’s personal telephone number, parents noticed unusual degrees of familiarity and favouritism shown by Mr Lord to their children, Mr Lord himself let a co-worker (Ms Ockwell) know he was seeing children outside the workplace, he left notes with children telling them he thinks they are “awesome” and will miss them, he told Ms Ockwell that he “loves” a particular boy, he called work to speak to children, he sent text messages to Ms Ockwell asking for her assistance to organise babysitting, he was observed by Ms Ockwell with a photograph of a child on his mobile phone, he told another co-worker (Ms Turner) that he had been ‘sacked’ from his position at a summer camp in the United States, he picked up children from after school care, and he offered to look after children during school holidays.
- 85 A formal system of supervision appears to have been in place, with regular meetings between Mr Lord and his direct supervisor Ms Barnat. It would of course be unlikely for Mr Lord himself to alert Ms Barnat to his abuse-related behaviours. Even so it seems surprising that Ms Barnat remained unaware of the long list of ambiguous and clearly concerning incidents. In hindsight this indicates a serious breakdown in communication between parents and Mr Lord’s supervisors, and also between staff and their supervisors.
- 86 The OSHC Parent Handbook applicable at the time of Mr Lord’s employment included advice about how to provide ‘customer feedback’, but contained no information about child protection matters and no direction about the kinds of concerns that should be reported. The revised version of this Handbook, applicable from 2012 after Mr Lord’s arrest (but labelled ‘1<sup>st</sup> edition’), does include a section on child protection (pp.9-10). This section includes a paragraph advising that “YMCA employees are unable to involve themselves with families they have met through the YMCA outside of the work environment” and gives a few examples of prohibited behaviours (e.g. babysitting; attending children’s activities). Parents are asked not

to request YMCA employees to work outside normal hours, pick up or drop off children, or meet them outside work hours, but are not told what to do if a staff person himself makes such a request (as Mr Lord repeatedly did). It does not provide any advice about how to identify or report relevant concerns.

- 87 Witness statements provide helpful insights into why co-workers and parents alike failed to pass on numerous unusual or concerning incidents – some liked Mr Lord and did not want to make trouble for him; some thought their concerns were not worth reporting; some were not clear about the rules in the first place. This particular aspect of the situation should have been one of the first to have been carefully reviewed and remedied in the aftermath of the allegations against Mr Lord.
- 88 As it happened, no-one seems to have raised any concerns until September 2011, when [REDACTED] raised the first allegations with YMCA Centre Manager Mr Demir and Children's Services Coordinator Ms Barnat about Mr Lord's sexual abuse of their son.

**Question 10: What is best practice in promoting staff who work with children to supervisory positions in before and after school care and vacation care? Has what constitutes best practice in this area changed since 2009? In answering these questions, please address the basis upon which you identify what constitutes best practice in this area.**

- 89 My general comments at paragraphs 49-52 are applicable to this question.
- 90 The only point I wish to add here is that requirements and expectations concerning formal qualifications and training, familiarity with policies and procedures, and line management supervision, should become more stringent as employees progress to higher levels of responsibility within the organisation.

**Question 11: To what extent did YMCA follow best practice in promoting Jonathan Lord to the position of Childcare Supervisor in 2010 and to the position of Childcare Coordinator in 2011?**

- 91 Requirements and expectations concerning Mr Lord's formal qualifications and training, familiarity with policies and procedures, and line management supervision do not appear to have become more stringent as he progressed to supervisory and coordinating roles. For example, although in his original interview he indicated that he was either presently enrolled or intended to enrol in a formal course in child care, this does not seem to have been followed up.

**Question 12: What is best practice in relation to how an organisation responds to an allegation of child sexual abuse against a staff member working with children within that organisation and has what constitutes best practice in this area changed since 2011? In answering these questions, please address the basis upon which you identify what constitutes best practice in this area.**

- 92 My comments at paragraphs 49-52 are applicable to this question.
- 93 Best practice requires organisations to quickly remove persons subject to a credible allegation of sexual abuse from any further opportunities to be in contact with children in the organisation's care. This should be done without prejudice as to the validity of the allegations, for example by continuing the accused person's employment on full pay but advising them not to come to work. Steps should be taken to ensure their safety and wellbeing. Once an allegation has been substantiated the employer may immediately terminate the person's employment.
- 94 Another immediate concern is to ensure the safety and welfare of the specific children involved, and to provide information and support to parents and staff. Organisations may form a management group to advise the CEO on a range of duty-of-care, policy, legal and public relations matters.
- 95 Organisational leaders and staff should cooperate fully with any police investigation. This includes providing all and any documents required.
- 96 Policies should be in place that specify how the organisation will provide support and appropriate services (e.g. debriefing; information sessions; counselling services) to affected or concerned parents, children, and staff.

**Question 13: To what extent did YMCA follow best practice in responding to allegations of child sexual abuse made against Jonathan Lord in September and October 2011?**

- 97 The immediate response to the first allegation presented to Ms Barnat and Mr Demir appears to have been handled very well. The allegation was presented at Caringbah YMCA after 5pm on Friday 30 September 2011 – the day before a long weekend. At this point all that was known was that a child had disclosed to his parents that John Lord had sexually molested him during an excursion earlier that day. The extent of Mr Lord's sexual offending was not yet known, and the allegation of the single incident had not yet been substantiated. Within about two hours Mr Demir had contacted Mr Lord to inform him that he was suspended on full pay.

- 98 There did seem to be some initial confusion about how and when Mr Lord should be contacted, and what should be said to him at this early stage. Mr Demir had in fact called Mr Lord soon after the [REDACTED] had left, explaining that an allegation of sexual abuse had been made, and asking him to come to the Centre to discuss the matter.
- 99 During their meeting with Ms Barnat and Mr Demir, [REDACTED] had informed them that they ([REDACTED]) were going directly to the police to report the matter. Some information later provided by the YMCA to parents and others incorrectly indicated that the YMCA itself had immediately reported to the matter to the police, but in fact it appears that police made contact with Mr Demir that evening after receiving the complaint from the [REDACTED]. By this stage Mr Lord had arrived at the Caringbah Centre after having been called by Mr Demir. Police apparently advised Mr Demir to say nothing about the allegations to Mr Lord. Mr Demir explained this to Mr Lord and advised him to go home and await further advice.
- 100 By the next working day (4 October), a letter had been written by Liam Whitely (YMCA Children's Services General Manager) informing Mr Lord that he had been suspended with pay. The same day, police issued an Apprehended Violence Order against Mr Lord. These two actions ensured that Mr Lord would have no further contact with children associated with the YMCA.
- 101 I have seen no documents from the police themselves that describe the exact advice police gave to the YMCA. YMCA documents indicate that they (the YMCA) were told not to give any details of the allegation to anyone – to Mr Lord, YMCA staff, parents associated with the YMCA, or anyone else. This seems to have caused a great deal of confusion and distress to many staff and parents over a period of many months.
- 102 One week after the first allegation had been made (7 October), Mr Whitely wrote to all Caringbah region staff advising that Mr Lord had taken leave of absence "for personal reasons" and that staff should have no contact with him.
- 103 The following week (12 October) YMCA instructed staff to sign a confidentiality agreement "so as not to hinder police investigations". It would later be discovered that some staff felt confused, upset and threatened by this.
- 104 The next day (13 October) parents and school principals were informed in writing that (unspecified) allegations had been made against a (unnamed) staff person, and that on police advice no details of this could be disclosed or discussed. The same day, police issued a media release concerning the alleged indecent assault of two children, and stating that the incidents involved a "Caringbah-based community organisation". The police media release presumably alerted relevant staff and parents, and seems to have led to even more confusion and distress

given that they were otherwise being told they could be given no detailed information. This must have put the YMCA in a very difficult position, and may well have caused widespread suspicion about why the YMCA seemed to be so guarded with respect to information about the matter.

- 105 Mr Lord was arrested and charged on 14 October.
- 106 According to a YMCA chronology of events (dated 23 November 2011), on 17 October YMCA staff met with police to “understand the implication of proceedings and decide the best way to move forward”. The document does not indicate who attended this meeting or what was said. It seems clear, though, that the YMCA proceeded on the understanding that they were not allowed to speak with Mr Lord, YMCA staff, parents or anyone else about any detail of the allegations. The same day (17 October) police issued another media release confirming that charges had been laid against an unnamed man. A big problem with this is that informal networks among staff, parents and others would no doubt have been abuzz with disjointed pieces of information, some of which may have been completely incorrect.
- 107 On 20 October the YMCA advised concerned parents to contact the Child Protection Helpline, and provided responses to questions that had been raised by parents.
- 108 The YMCA chronology of events (23 November 2011) indicates that a staff meeting was held at Caringbah YMCA on 27 October. There are no details of who attended or what was said.
- 109 Meanwhile, more allegations were progressively being made to police – by 31 October Mr Lord had been charged with sexual offences relating to eight separate boys.
- 110 On 23 and 24 November – eight weeks after the first allegation – the YMCA convened parent information sessions presented by the YMCA CEO and three YMCA managers. The second powerpoint slide emphasised that “this is the earliest possible opportunity, after discussion with NSW police, that we have been able to conduct a parent information night”. It is not clear in any of the available documents why the police did not allow such a meeting prior to this point, or indeed why it was now allowed. This may be an important issue for the Commission’s review of this case.
- 111 A letter to parents and families from Mr Whitely, dated 8 December 2011, indicates that the suppression order prohibiting the naming of Mr Lord and the YMCA had been lifted the previous day (7 December). The letter does not name Mr Lord.
- 112 The first YMCA document in which Mr Lord is named appears to be the letter to parents and families by Mr Whitely, dated 2 March 2012.
- 113 On 20 June 2012 Ms Catherine Clements was appointed by the YMCA to the newly established position of Child Protection and Compliance Manager. The position was to oversee and

- coordinate the YMCA's policies and procedures concerning child protection. Ms Clements' appointment was terminated a little under six months later - on 2 November. The letter of termination does not provide any specific reasons for the termination of Ms Clements' appointment. It is not clear whether a further appointment has been made to this position.
- 114 On 16 October 2012 – more than one year after the first allegation – the YMCA convened a debriefing session for staff involved in the Lord matters. The meeting was facilitated by Craig Hemsworth from the Australian Childhood Foundation. At Mr Hemsworth's suggestion, separate meetings were held for front-line staff (on 16 October) and managers (on 17 October). It is not clear why such a debriefing had not occurred earlier than this.
- 115 Notes from the 16 October meeting indicate that serious concerns were expressed by staff about the way the Lord matters had been handled. One staff person was described by the facilitator as "remains acutely distressed and is in need of urgent attention and support". Among the issues discussed were that staff felt that they had been 'kept in the dark', they felt guilty for not having 'picked up on' what Lord had been doing, could still not understand why they had to sign a confidentiality agreement, felt unprepared and unsupported in having to respond to parents' concerns, felt they were obliged to lie to parents and children, thought more senior staff should have been present at the Centre to support parents and staff, and were unsure whether the YMCA acknowledged or appreciated what they had been through and were still going through.
- 116 Notes from the 17 October meeting (with managers) indicate that this discussion was focused more on the status of policy and procedures, though there does seem to have been discussion about what more may have been done to support affected staff, including senior staff.
- 117 On 24 April 2013 – 19 months after the first allegation – the YMCA convened a Critical Incident Review facilitated by Dr Joe Tucci, CEO of the Australian Childhood Foundation. Attendees included the YMCA CEO Mr Hare and eight YMCA managers. No frontline staff from Caringbah were in attendance, although five of these provided written submissions. Much of the discussion appears to have been focused on the Caringbah staff concerns, which appear to have been represented at the review by Ms Barnat. Numerous suggestions for improvement were listed.
- 118 Many of the problems raised in the staff debriefing sessions and the critical incident review were associated with tensions about needing to be open and supportive of parents, staff and children on one hand, and the advice said to be given by police to 'not talk to anyone about details' on the other. This seems to be a critical issue for further investigation concerning the whole period following the first allegation concerning Mr Lord. In a document entitled

Caringbah team de-brief, dated 6 March 2013, it is noted that "A main learning point for the Y Management team, as guided by Craig Hemsworth, is that we do not have to follow the direction provided form (sic) the detective JIRT team and we can build a partnership to work with them to ensure all people, including our staff are considered through the process".

- 119 Given how much distress seems to have been caused by the directions said to have been given by police, it is surprising that police were apparently not involved in any of the debriefing or review discussions.

**G. Additional concerns**

- 120 The focus of this report has been on the YMCA as the organisation responsible for recruiting, inducting, training, and supervising Mr Lord and for responding to the initial and subsequent allegations concerning Mr Lord. I would like to make further comment on the responsibilities of the New South Wales police, whose actions were likely to have direct implications for the safety and well-being of affected children, parents, and staff in these matters.
- 121 I have already noted that the (apparent) instructions by police to the YMCA to withhold information caused very significant distress to many parents and staff over a long period of time. I stress here that I do not know whether the problem was with the actual instruction given by police or with the interpretation of that instruction by the YMCA. In either case I believe this needs to be clarified and rectified.
- 122 Witness statements by parents of affected children present mixed views about their contact with police, including a number of very positive comments. However, it seems that in all cases parents were either discouraged or not allowed to be present during the police interviews with their sons. I understand that the police may have some strategic purpose in interviewing these young boys without their parents being present. However I would like to note that, according to the parents' statements, in some cases this caused additional significant distress. In one case a parent ( AN ) stated that she "sat outside on the lounge and cried for two hours while they interviewed (her son)". AN goes on to say that "I have never been told the details of (her son's) interview with the police and what he said in the interview". Similarly, AX (whose son was also interviewed without her being present) has stated that "I really don't like that I didn't know at the time, and still don't know, what (her son) had said in his interview. I asked to know at the time and they said I wasn't allowed to know. I find it really hard that to this day I do not know about what really happened to my son ... I think I should be able to know that."

123 My substantive concern is that parents seem to have been excluded by police from critical information and events that concerned them and their sons. In some cases adverse psychological effects of sexual abuse may be associated just as much with the way significant others respond, as with the abuse incidents themselves. Children look to adults, and especially their parents, for reassurance and to guide their own understanding of how to respond. In the present case, parents are key to minimising any potential psychological harms for these children. In my view it is essential that parents are fully informed, included, and carefully assisted so that they are in the best position to minimise potential harms to their children.



Professor Stephen Smallbone

15 October 2013

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