



Royal Commission into
Institutional Responses to
Child Sexual Abuse

11 October 2013

Professor Stephen Smallbone
Griffith Youth Forensic Service
Mt Gravatt Campus, Griffith University

BY EMAIL: [REDACTED]

Dear Professor Smallbone

RE: Public hearing on institutional responses to the conduct of Jonathan Lord

1. The Royal Commission has been established to inquire into child sexual abuse in an institutional context. Details of the relevant Letters Patent, including the terms of reference of the Royal Commission, can be found at: <http://www.childabuseroyalcommission.gov.au/LettersPatent>.
2. The Royal Commission will hold a public hearing in Sydney commencing on Monday 21 October 2012.
3. The public hearing will look at a number of matters concerning Jonathan Luke Lord, formerly a child care worker employed by YMCA NSW, who is now incarcerated following his conviction for offences concerning his sexual abuse of prepubescent male children.
4. The scope and purpose of the public hearing is to inquire into:
 - a. The circumstances in which Jonathan Lord was employed by YMCA NSW;
 - b. The policies and procedures in place at YMCA NSW including for training and supervision of staff;
 - c. The responses of YMCA NSW to allegations made in 2011 that Jonathan Lord sexually abused children in the care of YMCA NSW;
 - d. The response of police to allegations made in 2011 that Jonathan Lord sexually abused children in the care of YMCA NSW and in other circumstances; and
 - e. Any related matters.
5. The Royal Commission wishes to engage you to prepare an expert report relating to the characteristics of a child safe organisation and the policies and practices of YMCA NSW. The report is likely to be tendered in evidence at the Public Hearing. Accordingly, please prepare your report having regard to the Expert Witness Code of Conduct set out in Schedule 7 to the Uniform Civil Procedure Rules 2005 (NSW) (a copy of which is **enclosed** with this letter). Please acknowledge in your report that you have read and agree to be bound by the Code.

6. In particular, please include in your report a detailed CV and also an executive summary of your views at the beginning of the report.

BACKGROUND

7. The National Council of the YMCAs of Australia (YMCA Australia) is a federation of 30 Member Associations across Australia, one of which is the YMCA NSW.
8. YMCA NSW is a not for profit charity.
9. YMCA NSW is governed by a voluntary Board of Directors elected by its members.
10. YMCA NSW has seven core service areas:
 - a. Health & Wellbeing
 - b. Sport & Recreation
 - c. Aquatics
 - d. Youth Services
 - e. Children's Services
 - f. Camping & Outdoor Education
 - g. Accommodation
11. YMCA Caringbah is a branch of YMCA NSW. YMCA Caringbah is located at 5 Jacaranda Rd, Caringbah.
12. YMCA Caringbah runs five before and after school care centres in the Caringbah region, out of the following locations:
 - a. St Patrick's Sutherland Catholic School
 - b. 5 Jacaranda Rd Caringbah (which is opposite Our Lady of Fatima Catholic School)
 - c. Caringbah Public School
 - d. Lilli Pilli Public School
 - e. Laguna Street Public School
13. As part of the out of school care program operated by YMCA NSW in the Caringbah region, children are picked up by a YMCA NSW operated bus from 3 additional local schools (St Aloysius Cronulla, St Francis De Sale and Buraneer Bay Public School) and brought to one of the above centres.
14. YMCA NSW also runs two vacation care programs in the Caringbah region out of the St Patrick's and Laguna Street centres during school holidays.
15. YMCA NSW also runs a crèche at the recreation centre at 5 Jacaranda Rd Caringbah.

16. The five Before and After School care centres in the Caringbah region provide childcare from 7am to 9am and from 3pm to 5pm. At each centre there are two staff members present during those hours, a Centre Coordinator and a Child Care Assistant.
17. The roles of Childcare Coordinator and Childcare Assistant at each centre are generally filled by permanent part time staff members. In addition, there are some casuals workers employed by YMCA NSW who fill in gaps when permanent staff are on leave or otherwise unavailable.
18. The Centre Coordinator is more senior than the assistant.
19. The Childcare Coordinator is responsible for implementing YMCA NSW's before and after school care program and the operation of the centre.
20. The Child care assistant is responsible for assisting the coordinator/supervisor with the implementation of the before and after school care program and the operation of the centre.
21. The Centre Coordinators report to and are supervised by the Children's Services Coordinator. The Child Care Assistants also report to the Children's Services Coordinator, through the Centre Coordinators.
22. Jonathon Luke Lord was employed by YMCA NSW as a casual childcare assistant in August 2009. He was subsequently appointed to the position of Centre Coordinator in 2010.
23. Between August 2009 and September 2011 Lord worked at various of the five before and after school care centres operated by YMCA NSW in the Caringbah region and in vacation care.
24. On 23 August 2012, Jonathan Luke Lord pleaded guilty to 2 counts of aggravated sexual intercourse with a child under 10 years and to 11 counts of indecent assault of a child under 16 years. His 12 victims were aged between 6 and 10 at the time of offending. Primarily these victims were children sourced by Jonathan Lord from the before and after school care, and vacation care programs, operated by the YMCA NSW in the Caringbah region.
25. On 18 January 2013 Jonathan Lord was sentenced to imprisonment for 10 years with and overall non-parole period of 6 years. He will first be eligible for parole on 23 October 2017. At the time he was sentenced he was 26 years old.
26. I outline below the matters on which the Royal Commission seeks your opinion, and the assumptions you are asked to make for the purposes of your opinion.
27. You will also be provided with electronic access to witness statements and a tender bundle of material to be used in the public hearing. You are entitled to look at and rely upon all of the witness statements and material in the tender bundle in forming your opinion.

GENERAL ASSUMPTIONS

28. In providing your opinion on the matters listed below, I ask you to adopt the following assumptions.
29. The factual matters set out in the following witness statements are true:
 - a. Alicia Dellaca
 - b. Danielle Ockwell
 - c. Michelle Bates

- d. Sheree Ockwell
- e. Carine Beer
- f. Shannon Noble
- g. Chloe Starr
- h. Erin Turner
- i. AN
- j. AX
- k. AS
- l. AU
- m. AZ
- n. AT

- 30. The factual matters set out in the statement of facts at Tab 1 of the tender bundle ("TB") and the judgment at Tab 2 of the TB are true.
- 31. The document at Tab 8 of the TB contains an accurate record of Lord's employment history with YMCA NSW.
- 32. At all relevant times during Lord's employment with YMCA NSW, Jacqui Barnat was the Children's Services Coordinator.
- 33. Ms Barnat was responsible for the recruitment of Jonathan Lord.
- 34. Lord was verbally recommended to Ms Barnat for the position of Child Care Assistant by Asher Starr, a current staff member of the YMCA, who was a family friend of Mr Lord's.
- 35. Lord provided a CV to Jacqui Barnat (Tab 9 TB).
- 36. Ms Barnat interviewed Lord for the position of casual Child Care Assistant in 2009 together with the Recreation Manager at the time.
- 37. The YMCA Safeguarding Children and Young people policy (Australia) (Tab 171 TB) was in force at the relevant time. Page 18 of that document deals with 'Recruitment and Selection Procedures'.
- 38. Ms Barnat was not aware at the time that she recruited Jonathan Lord that there was any policy in force in relation to the recruitment of children's services staff or that she was required to follow the procedures set out on page 18 of the YMCA Safeguarding Children and Young people policy (Australia).
- 39. Ms Barnat did not make any inquiries as to whether there was any relevant policy in place prior to recruiting Jonathan Lord.

40. Ms Barnat has not received any formal training from the YMCA or any other organisation in relation to recruiting staff to work with children in before and after school care and/or vacation care.
41. Ms Barnat's only training in relation to recruitment of staff to work with children in before and after school care and/or vacation care has been 'on the job training' at YMCA NSW, based on interactions with other managers and observing another manager during a recruitment process.
42. Ms Barnat followed what she considered to be best practice at the time in relation to the recruitment of Jonathan Lord. Her understanding at the time was that it was best practice to obtain two references, one professional reference and one personal reference, of the applicant's choosing.
43. Ms Barnat considered Mr Lord's referral by Asher Starr to be a sufficient 'personal reference' and did not conduct any formal personal reference check. Ms Barnat did not make any written record of what Asher Starr told her about Mr Lord.
44. Prior to applying for employment at the YMCA, for a short period in 2009 Mr Lord worked at YMCA Camp Silver Beach, a holiday camp for children, located in Virginia in the United States of America.
45. Mr Lord's employment with YMCA Camp Silver Beach was terminated, due to behaviour with an 8 year old that was regarded as 'questionable' by his employer. Mr Lord was found by another employee alone with an 8 year old camper inside a cabin with the lights off and the door closed, in breach of YMCA Camp Silver Beach rules. The employee who found them alleged both Mr Lord and the camper were in the bathroom together. A report of YMCA Camp Silver Beach in relation to the incident records that "there was always something a little weird about their [Mr Lord's and the camper's] relationship to everyone that saw it. Nothing big had happened in front of any one leadership staff member's eyes but when we all got together and started talking, things began to unfold that painted a very bad picture."
46. Mr Lord's CV recorded his employment with YMCA Camp Silver Beach in the following terms "This year I flew to America to work at a summer camp as a Cabin Counsellor in Virginia. Sadly I had to come home early because of a personal family matter" (Tab 9 TB).
47. The "summer camp ... in Virginia" was most the most recent employer recorded on Mr Lord's CV.
48. The "summer camp... in Virginia" was the only previous child related employer recorded on Mr Lord's CV.
49. Ms Barnat did not ask Jonathan Lord for the contact details of the summer camp in Virginia referred to on his CV and did not contact YMCA Camp Silver Beach to obtain a reference for Mr Lord.
50. Jonathan Lord verbally volunteered "Charlie Yankos" as a reference in relation to "work experience".
51. Charlie Yankos is Jonathan Lord's stepfather.
52. At all relevant times, Charlie Yankos worked as a real estate agent.
53. Ms Barnat wrote the name "Charlie Yankost" and a telephone number on Lord's CV.

54. Jacqui Barnat obtained a telephone reference from Charlie Yankos on 21 August 2009. Sheree Ockwell was also present while the telephone reference was obtained.
55. Sheree Ockwell was the Centre Coordinator of the Lilli Pilli Centre at the relevant time and had not received any training from the YMCA or any other organisation in relation to conducting reference checks or recruiting staff to work with children. Conducting reference checks was not part of her usual duties and she had no prior experience in conducting reference checks other than in the circumstances set out in paragraphs 16 and 17 of her statement.
56. Ms Barnat did not ask Mr Yankos whether he had any personal relationship with Jonathan Lord.
57. Lord completed a trial shift in after school care on 20th August 2009, prior to any reference checks or the working with children check being carried out.
58. Lord commenced employment as a casual child care assistant on 25 August 2009, prior to a working with children check having been carried out.
59. Lord consented to a working with children check being carried out on 25 August 2009.
60. YMCA NSW requested a working with children check be carried out in relation to Mr Lord on 15 September 2009, 3 weeks after Lord commenced employment.
61. Lord was cleared to work with children by the Department of Sport and Recreation in September 2009.
62. In February 2010, Lord was appointed to the position of permanent part time Centre Coordinator at YMCA NSW's St Patricks before and after school care centre.
63. On 8 November 2010 Lord was appointed to the position of part time Childcare Supervisor.
64. In early 2011 Lord became the Centre Coordinator at the Caringbah before and after school care Centre.
65. A handwritten notation on Mr Lord's CV states "uni studying childcare/pursue career in childcare". Other than that handwritten note, YMCA NSW does not hold any records of Mr Lord undertaking or completing a course of study in childcare at any university or TAFE.
66. There is no record of Lord having received and signed a "Code of Conduct" when he commenced his employment in August 2009 or subsequently.
67. There is no record of Lord having received an induction when he commenced his employment in August 2009.
68. Jonathan Lord completed a "Childcare induction checklist" on 30 May 2011 (Tab 35 TB). The column on that form headed 'Signed by Supervisor' contains Jonathan Lord's signature. Jonathan Lord has also signed the form at the bottom of the last page in the space for "Supervisors signature". Ms Barnat has signed the form at the bottom of the last page, under Mr Lord's signature. Ms Barnat has not otherwise signed the form.
69. Lord and children's services staff who worked with Lord in the period from 1 August 2009 to 30 September 2011 did not receive any child protection training from the YMCA during that period.
70. In her 2011 performance appraisal with Ms Barnat, Danielle Ockwell requested child protection training. She was not provided with any child protection in response to this request.

71. YMCA NSW held a child care training day in January 2009 (see Tabs 6 and 7 TB), which included a session on child protection. According to YMCA NSW no childcare staff from the Caringbah region attended that training day.
72. On 18 July 2011 YMCA NSW held a "Centre Coordinator Training Day" (see Tab 37 TB). The training was for Centre Coordinators only. Session Three from 12-1.30 addressed "Duty of Care/Staff Code of Conduct". Session Four from 2 – 2.45 addressed "Policy Review/Staff Code of Conduct". According to YMCA NSW, neither Lord nor any other Child Care Coordinator from the Caringbah region attended that training day.
73. At all times during his employment by YMCA NSW Lord was directly supervised by Ms Barnat, Children's Services Coordinator.
74. At all relevant times, Ms Barnat's office was physically located at 5 Jacaranda Rd Caringbah.
75. At all relevant times, Ms Barnat was responsible for the supervision of all children's services staff working at the five before and after school care centres operated by the YMCA NSW in the Caringbah region, including the children's services staff working at the four centres located off site.
76. In the period in which Mr Lord was the Centre Coordinator of the Caringbah Centre (located off site), Ms Barnat conducted at least 2 site visits each term to the Caringbah Centre.
77. In the period in which Mr Lord was the Centre Coordinator of the Caringbah Centre (located off site), Lord provided Ms Barnat with written fortnightly centre reports.
78. Ms Barnat held vacation care meetings twice a term with all vacation care staff in the Caringbah region, including Lord.
79. Ms Barnat held Centre Coordinator meetings once a term with the Centre Coordinators of the 5 Before and After School Care Centres operated by YMCA NSW in the Caringbah Region, including Lord.
80. On occasions, Ms Barnat would hold an informal "weekly catch up" with Mr Lord during the period in which he was the Centre Coordinator of the Caringbah Centre. On four occasions a written record was made of these "catch ups".
81. A policy manual is kept at each of the five before and after school care centres operated by YMCA NSW in the Caringbah region. The 'policy manual' is a folder containing all of the YMCA NSW policies that apply to children's services.
82. Twice a year, each centre's policy manual is taken to a centralised location and updated to include any new or amended policies. This is done by someone other than the children's services staff. The updated policy manuals are then returned to each centre.
83. There is no system for bringing new or updated policies to the attention of children's services staff or for identifying which policies have been added or updated.
84. On 20 June 2012 Ms Catherine Clements was appointed by YMCA NSW to the newly established position of Child Protection and Compliance Manager. Her duties included to coordinate and monitor the implementation of the YMCA NSW's policies and procedures concerning child protection (see Tab 92 TB).
85. Ms Clements appointment was terminated on 2 November 2012. No further appointment has been made to this position.

86. You may also assume those matters outlined in the Background section of this letter.

SCOPE OF THE REPORT

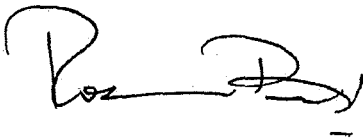
87. I seek your expert opinion on the following matters.
88. What are the characteristics of a child safe organisation?
89. To what extent did the YMCA NSW possess the characteristics of a child safe organisation in the period August 2009 to October 2011?
90. To what extent does YMCA NSW currently possess the characteristics of a child safe organisation?
91. 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.
92. To what extent did YMCA follow best practice in recruiting and screening Jonathan Lord in August 2009?
93. 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.

94. 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?
95. 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.
96. 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?
97. What is best practice in promoting staff who work with children to supervisory positions 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.
98. 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?
99. 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.
100. 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?

Thank you for your assistance

Yours sincerely



Roderick Best

General Counsel