

SUPPLEMENTARY REPORT OF PROFESSOR STEPHEN SMALLBONE

1. Further to my report of 15 October 2013, I have been asked by the Royal Commission to consider further documents and answer an additional question.
2. This supplementary report is made on the same basis as my previous report, and I consider that I continue to be bound by the same expert code of conduct referred to in that report.
3. In my report dated 15 October 2013, I had regard to the following documents:
 - a. Statement of Alicia Dellaca dated 26 September 2013;
 - b. Statement of Danielle Ockwell dated 24 September 2013;
 - c. Statement of Michelle Bates dated 23 September 2013;
 - d. Statement of Sheree Ockwell dated 4 October 2013;
 - e. Statement of Carine Beer dated 23 September 2013;
 - f. Statement of Shannon Noble dated 23 September 2013;
 - g. Statement of Chloe Starr dated 23 September 2013;
 - h. Statement of Erin Turner dated 2 October 2013;
 - i. Statement of AN dated 10 October 2013;
 - j. Statement of AX dated 11 October 2013;
 - k. Statement of AS dated 26 September 2013;
 - l. Statement of AU dated 30 September 2013;
 - m. Statement of AZ dated 23 September 2013;
 - n. Statement of AT dated 4 October 2013;
 - o. The documents set out in **Annexure A** [*Being index to expert's bundle of documents*];
 - p. The documents set out in **Annexure B** [*Being table of additional documents*]; and
 - q. The YMCA policy documents set out in **Annexure C** [*Being initial policy folder index*].
4. For the purposes of this further report, I referred to the following documents in addition to the documents outlined in paragraph 3 above:
 - a. The documents contained in tabs 81 (document YMCA.9301.01003.0268), and 102 (document YMCA.8000.001.0114_R);
 - b. The documents contained in a folder described as "YMCA NSW Children's Services Policies A-Z" (Exhibit 2-0017); and
 - c. The statement of Ruth Callaghan dated 21 October 2013 (excluding its annexures).
5. I have assumed that the matters set out in those documents are true.

6. The matter I have been asked to address in this supplementary report is whether any of the documents referred to in paragraph 4 of this report change the opinions that I expressed in my report dated 15 October 2013.

Cross-referencing errors in my report dated 15 October 2013

7. At paragraph 71 of the 15 October report I referred to my earlier comments at paragraphs 49-52. That reference should be to paragraphs 56-59.
8. At paragraph 81 of the 15 October report I referred to my earlier comments at paragraphs 49-52. That reference should be to paragraphs 56-59.
9. At paragraph 89 of the 15 October report I referred to my earlier comments at paragraphs 49-52. That reference should be to paragraphs 56-59.
10. At paragraph 92 of the 15 October report I referred to my earlier comments at paragraphs 49-52. That reference should be to paragraphs 56-59.

Responses to new material

Statement of Ruth Callaghan

11. I have examined the statement of Ruth Callaghan, General Manager, Early Childhood Education and Care Directorate, NSW Department of Education and Communities, dated 21 October 2013. Ms Callaghan's statement indicates that YMCA NSW operates 85 approved Outside School Hours Care (OSHC) or vacation care services, and an additional five that are currently being assessed for approval.
12. YMCA Caringbah OSHC service was approved on 24 December 2012. A site visit conducted by the Directorate on 30 May 2013 identified areas of non-compliance relating to emergency and evacuation procedures, staff records, Working with Children Check, display of service approval, and staff access to National Law and National Regulations. All areas of non-compliance were considered rectified by 25 June 2013.
13. An assessment of YMCA Caringbah OSHC conducted by the Directorate on 20 and 21 August 2013 determined an overall rating of "Working towards National Quality Standard" – point 2 of a rating scale ranging from 1 (significant improvement required) to 5 (excellent).
14. YMCA Laguna Street Public School OSHC service (Laguna Street) was approved on 28 March 2013. The Directorate is yet to assess and rate Laguna Street, but Ms Callaghan notes that appropriate

checks were conducted and relevant documentation received, in line with legislative requirements, prior to its approval.

15. YMCA Our Lady of Fatima OSHC was approved on 9 September 2013. No assessment and rating has yet been conducted for this service, but relevant checks and documentation were in order prior to the service approval.
16. YMCA St Patrick's OSHC was approved on 27 March 2013. No assessment and rating has yet been conducted for this service, but relevant checks and documentation were in order prior to service approval.
17. In my opinion, Ms Callaghan's statement indicates that YMCA NSW is committed to meeting its formal regulatory requirements, including requirements concerning child protection. However the Directorate assessment of Caringbah OSHC in particular indicates that as recently as August 2013 this service did not yet meet the National Quality Standard.
18. My examination of Ms Callaghan's statement does not change the opinions I expressed in my report of 15 October 2013.

Current YMCA Policies

19. The YMCA NSW Children's Services Policies folder contains 83 separate policies. Thirty-three of these policies touch on issues relevant to preventing and responding to sexual abuse. These are:
 - Accidents, incidents, injuries, trauma and illness (including death of a child)
 - Anti-bullying
 - Child protection
 - Childsafe code of conduct
 - Collecting children: Absent children
 - Collecting children: From school
 - Collecting children: Missing children
 - Communication
 - Complaints procedures
 - Computer games, mobile phones and electronic devices
 - Computers and the Internet
 - Critical incidents
 - Dropping off and picking up
 - Duty of care

- Educators training and development
 - Excursions
 - Governance and management
 - Indoor environment
 - Lockdown
 - Maintenance of records
 - Outdoor environment
 - Participation and access of children with additional needs
 - Positive guidance of children's behaviour
 - Runaways
 - Safe environment
 - Safeguarding children and young people
 - Staff induction
 - Staff recruitment
 - Staff workplace practices
 - Staff workplace relations
 - Transportation: Centre and public vehicles
 - Videos, DVDs and films, and
 - Volunteers, students and visitors
20. At paragraph 54 of my 15 October report I noted that witness statements by current YMCA staff indicate that staff remain overwhelmed by the volume and complexity of policy material, including policy material relevant to child protection. Looking at its full range of policies, it is clear that the provision of children's services requires YMCA NSW to cover an extensive array of issues. This in itself does not change any of the opinions expressed in my 15 October report.
21. Sexual abuse is directly considered in two policy documents – the Child Protection policy, and the Safeguarding Children and Young People policy.
22. At paragraph 43 of my 15 October report I observed that the descriptions of indicators of sexual abuse in the Child Protection policy were inaccurate and unhelpful. These same descriptions are used in the current Child Protection policy. I remain of the opinion that these descriptions are inaccurate and unhelpful.
23. The current Child Protection policy includes additional material, namely "Other points of concern in relation to sexual abuse" and "Indicators of sexual abuse in parents, caregivers and anyone else

associated with a child". In my opinion best practice standards would require additional contextual detail concerning the characteristics of sexual abusers, characteristics of victims, and how, when, and where sexual abuse tends to occur, by explaining that sexual abuse can occur without any of the listed indicators, and most importantly by explaining how sexual abuse might be prevented.

24. At paragraph 47 of my 15 October report I observed that the Safeguarding Children and Young People policy was the most detailed of YMCA's policy documents concerning sexual (and other) abuse. In that report I stated that the status of that policy was unclear. Having examined the current policy folder, I now understand that the Safeguarding Children and Young People policy is a current policy.
25. The current Safeguarding Children and Young People policy is "also referred to as the Child Protection policy" (policy cover page). I expect this would be confusing to staff and volunteers, since there is a separate and very different policy also entitled 'Child Protection policy'.
26. The Safeguarding Children and Young People policy is in my view the best place to deal comprehensively with policies and procedures concerning sexual abuse other kinds of child maltreatment. In my opinion, with regard specifically to preventing and responding to sexual abuse, best practice standards would require:
 - 26.1. A clear, succinct, evidence-informed description of what is known about the characteristics of sexual abusers, the characteristics of victims (including individual-, family-, and peer-, and organisational-level vulnerabilities), and how, when, and where sexual abuse tends to occur; a specific, more detailed focus on sexual abuse in organisational settings; and advice drawing attention to and correcting unhelpful stereotypes about sex offenders so that personnel understand that an otherwise 'ordinary' person may sexually abuse.
 - 26.2. Advice about how organisations can reduce risks for sexual abuse through physical design and use of spaces, monitoring routine activities of adults and children, and establishing a culture of extended guardianship whereby the prevention of sexual abuse is seen as an ordinary responsibility of all adults within the organisation.
 - 26.3. In addition to explaining mandatory reporting requirements, encouraging and supporting adults and children to report lower-threshold concerns, and establishing a system whereby such concerns can be confidentially recorded so as to 'join-up' relevant information. As it stands, reporting requirements begin with "reasonable grounds to suspect a child at risk of harm" (p.10). Personnel should be instructed not to wait until there is a firm suspicion, because problematic behaviour (e.g. grooming behaviour) may be observable long before

forming a clear suspicion. A clear lesson from the Jonathon Lord incidents is that personnel should not be left to their own devices to decide whether or not, and how, to report small concerns.

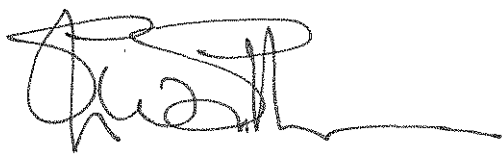
- 26.4. Removal of all ambiguity from code of conduct and other behavioural requirements. For example, the instruction not to “cuddle, kiss, hug or touch children in *an inappropriate manner*” (my emphasis) (p.13) still allows cuddling, kissing and touching (which in my opinion may not in itself be problematic), but leaves the judgement about appropriateness to the actor and observer.
- 26.5. Including in the Recruitment Screening section advice concerning the limits of recruitment screening for detecting active or potential abusers. This may be good place to restate that sexual abusers may be otherwise ordinary people. Otherwise the recruitment screening policy does in my opinion meet best practice standards. It illustrates how, if such practices had been followed at the time, the YMCA may have declined to employ Jonathon Lord.
- 26.6. Including a section dealing with how managers, supervisors and staff are to respond to children, parents and other staff in the event of an initial disclosure, discovery or allegation of sexual abuse, how they are to respond to a police investigation and, following a confirmed incident, how the organisation will support and keep informed all concerned parties. The new sections on roles and responsibilities (pp.27-35) is a significant improvement, but further improvements may be made by explaining *how* these roles and responsibilities should be executed.
27. YMCA NSW’s current policies, and the Safeguarding Children and Young People policy in particular, in my opinion indicate that the YMCA has made significant efforts to improve its child protection policies and procedures. I believe substantial further improvements, as suggested at paragraphs 26.1 – 26.6, would bring these policies and procedures closer to international best practice standards. In this respect the opinions expressed in my previous report have not changed.

Additional comments

28. At paragraph 53 of my 15 October report I stated that I was not aware of any specific reason for the termination of Ms Catherine Clement’s appointment as YMCA NSW Child Protection and Compliance Manager. I now understand that YMCA has given reasons for the termination of this appointment. I am no longer of the opinion that Ms Clement’s dismissal is of relevance to the question of whether YMCA NSW is now a ‘child safe organisation’. I do, however, believe that

appointing someone with the requisite knowledge, skills and experience to such a position would strengthen YMCA NSW's raft of child protection measures.

29. It is generally recognised that child protection in organisations is strengthened by the organisation being open and accountable to external scrutiny (e.g. Wortley & Smallbone, 2006). Various YMCA documents, including its Safeguarding Children and Young People policy (policy principles, p.3), indicate that YMCA has been accredited by the Australian Childhood Foundation (ACF) under ACF's Safeguarding Children program. In my opinion this indicates that YMCA has taken steps to improve its child protection policies and procedures beyond simply meeting its standard regulatory requirements.
30. Notwithstanding my comments at paragraph 29, I am unclear of the basis of ACF's accreditation of the YMCA. According to the ACF website, under this scheme "accreditation is achieved following the submission of a final report by the Safeguarding Children consultant for consideration by the Independent Audit Panel of the Australian Childhood Foundation". The process is said to "take between 4-7 months", and to involve "provid(ing) advice about meeting key milestones". Fourteen YMCA branches, including YMCA Sydney, are presently listed on the ACF website as being accredited under this scheme. I have no knowledge of this scheme, and have seen no documentation showing how and on what basis YMCA has been accredited. Specifically, I have not seen any of ACF's Safeguarding Children consultant's reports on YMCA services, any material relating to deliberations by ACF's Independent Audit Panel, or any document outlining ACF's advice to the YMCA about meeting key milestones.



Professor Stephen Smallbone

27 October 2013