



Executive Council of Australian Jewry

STATEMENT BY ECAJ PRESIDENT ANTON BLOCK TO THE ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE – CASE 53 SYDNEY 23 MARCH 2017

1. The Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) was established by the former Labor government under Prime Minister Julia Gillard in 2012. The Royal Commission was publicly welcomed by the ECAJ in a Media statement which was acknowledged by the Attorney General on 20 December 2012. The ECAJ also lodged a submission on 29 November 2012 with the Royal Commission in response to the government's Consultation Paper on the Establishment of the Royal Commission, which included input from Dr Cathy Kezelman, President of Adults Surviving Child Abuse.
2. The Royal Commission has heard harrowing stories by survivors of child sexual abuse in various institutions across Australian society over many decades and has exposed the covering up of those crimes by the institutions in question.
3. During the two weeks in February 2015, the focus of the Royal Commission turned to Case number 22 - the response of Yeshivah Melbourne and Yeshiva Bondi to allegations of child sexual abuse. It is fair to say that the evidence revealed that there had been a culture within the Yeshivah Centre community in Melbourne and to some extent in Sydney, to cover up, or not to advise the authorities about, instances of child sexual abuse at the school and the Centre which had been reported to persons in those institutions and to ostracise those who went to the authorities, and their families. Worse, in Melbourne these practices were given a supposedly religious justification – the concept of *mesirah*, in which Jews do not report on one another to secular authorities. Worse still were comments made by certain rabbis in the course of the proceedings which were widely seen as part of the mind-set that underpinned this culture.
4. Since allegations of child sex abuse in any Jewish organisation first became public in July 2011, the ECAJ has produced a succession of statements – through media releases, informal media statements and two major submissions to the Victorian and Federal governments – supporting, and urging support for, child abuse survivors and their families, and condemning child abusers and those who protect them, through cover-ups and ostracism of whistle blowers. These have all been reported in the *Australian Jewish News* and the online publication, *Jwire*, as well as on the ECAJ website and social media. The subject has been a regular item, since 2011, on the agenda of ECAJ Committee of Management meetings which are held approximately quarterly as extracts from the relevant Minutes confirm. Copies of all these documents were produced to the Royal Commission in Case 22.

5. Further, the Jewish Community Council of Victoria (a key ECAJ Constituent) has made great efforts to educate rabbinical and lay leaders, and the wider Jewish community about these issues. It established a Child Protection Reference Group which, since 2013, has conducted a series of workshops as part of its Child protection Training Program for Jewish organisations, delivered by child protection expert Katherine Levi, who has 20 years of experience working with youth at risk.
6. These programs have been very well attended each year. In addition, the JCCV's Child Protection Reference Group will now consider next steps in light of what has emerged from the Royal Commission. The JCCV is to be commended for its lead role in this area. Jewish organisations in Victoria from across the religious spectrum which do not usually cooperate with one another, including Adass and Progressive Jewish organisations, have been doing so in this JCCV program which is indeed a welcome development, especially in light of the shocking findings and the award of damages including exemplary damages, by the Victorian Supreme Court, concerning the serious criminal offences of Adass Yisrael School's former school principal Malka Leifer (who awaits extradition from Israel) and the covering up of those matters by Adass.
7. The NSW Jewish Board of Deputies (also a key ECAJ Constituent) has, since 2015, conducted a similar, and highly successful program in Sydney, which has been organised by its Social Justice Committee under the chairmanship of Professor Bettina Cass AO.
8. The ECAJ has co-operated closely with the Royal Commission since it was established in 2012. We have attended briefing sessions and communicated the outcomes to the community through media releases and articles in the *Australian Jewish News* and *JWire*. The ECAJ produced some 25 documents to the Royal Commission in accordance with a Summons to Produce documents, some of which are included in the Commission's Exhibits List.
9. On 2 September 2014, the then ECAJ President, Robert Goot AM SC, attended a 'Private Roundtable' of Faith-based Organisations, chaired by the Hon Justice Peter McClellan AM and Commissioner Robert Fitzgerald AM. The broad topics for discussion focused on approaches to reforms - distinguishing past abuse and future abuse and options for civil litigation reforms. On 8 September 2014, Mr Goot circulated a Memo to the following organisations in the Jewish community:
 1. Australian Council of Jewish Schools;
 2. Board of Progressive Jewish Education;
 3. United Jewish Education Board;
 4. Academy BJE;
 5. Council of Orthodox Synagogues of Australia;
 6. Organisation of Rabbis of Australasia;
 7. Union for Progressive Judaism;
 8. Council of Progressive Rabbis;
 9. Maccabi Australia Inc.
10. The memo noted the decentralised structure of the Jewish community and sought the assistance of the above organisations in enabling the ECAJ to in effect conduct an 'audit'

confirming *inter alia* that their respective member organisations have in place: (i) a current Child Protection Policy/Plan, compliant with relevant State legislation; (ii) procedures to ensure that it meets its legislative obligations in terms of child protection; and (iii) current insurance covering the risk of a claim for child sexual abuse. The responses in each case, were in the affirmative.

11. On 7 January 2015, the ECAJ's Executive Director, Peter Wertheim AM, met with Counsel Assisting the Commission, Maria Gerace, and another Royal Commission lawyer, Anne Saab, at their request. They sought information about the religious make-up of the Jewish community, and about communal governance. We readily supplied all the information they sought and believe that the information we provided informed some of the questioning during the proceedings.
12. During the proceedings, the ECAJ issued two media releases. The first of these was issued on 6 February 2015. Its purpose was to address the concept of *mesirah* and ostracism which had featured in the early part of the hearing. This concept was developed in pre-modern times to defend Jewish communities from massacres, torture and persecution at the hands of autocratic and abusive governments. As several rabbis made clear in their evidence, this concept can have no legitimate application in contemporary Australia and other democratic countries governed by the rule of law, in which religious and other freedoms are protected.
13. The ECAJ's 6 February 2015 statement, was not intended to be definitive, because its earlier statements had made it abundantly clear where the ECAJ stood on the key issues around supporting, and urging the community to support, child sex abuse survivors and their families, and calling for all reports of child abuse to be notified to the police and other authorities without delay.
14. The ECAJ issued a second statement issued on 9 February 2015, which addressed the evidence given by Rabbi Yosef Feldman. Two days later The Yeshiva Centre announced that it had accepted his resignation as a Director on its Board of Management, which included his administrative responsibilities. Rabbi Yosef Feldman subsequently instituted defamation proceedings in the Supreme Court of NSW against the ECAJ, its then President Robert Goot AM SC and Executive Director, Peter Wertheim AM. On 2 March 2017, at a court-appointed mediation, the parties reached a mutually satisfactory non-financial settlement of the litigation. The only public statement made by the ECAJ was as follows:

Feldman v ECAJ, Goot & Wertheim NSWSC 2016/40435

Last Thursday the parties met in formal court appointed mediation. The parties have reached a mutually satisfactory non-financial settlement of the litigation. The organisation and the individual defendants on the one hand, and Rabbi Yosef Feldman on the other, bear no ill will to each other into the future.

15. One important by-product of the conduct of the ECAJ, the Jewish Community Council of Victoria and the NSW Jewish Board of Deputies in relation to this issue over the last five years, has been to dissociate the community from the kind of thinking which produced the

culture of cover-ups and ostracism, and the rabbis and lay leaders behind those phenomena, which had been exposed by the Royal Commission.

16. In addition, the Royal Commission itself appeared to note the fundamental difference in policies and perspectives between the communal lay leadership bodies and some of the rabbinate. This emerged most clearly in the following passage at the end of the questioning of Don Wolf on 10 February 2015. Until December 2014, Don Wolf had been Chair of the Committee of Management of the Yeshivah Centre:

COMMISSIONER FITZGERALD: Can I just ask one very quick question. As chair of the management committee was there a policy in place or a practice in place in the Yeshivah Centre in relation to belonging to or being members of Other associations? So am I correct that the Yeshivah Centre was never a member of the Executive Council of Australian Jewry?

A. Yes.

COMMISSIONER FITZGERALD: Was the Yeshivah Centre ever a Member of the Council of Orthodox Synagogues?

A. No.

COMMISSIONER FITZGERALD: Was it ever a member of JCCV?

A. No.

COMMISSIONER FITZGERALD: Was there a policy in place that precluded or caused the organisation not to be members of those peak bodies?

A. *I think it's always been Rabbi Groner opinion that Yeshivah should retain its independence because it is a very Orthodox congregation. Its views may not always be the same as these other bodies. I think in fact we pay contributions to some of them and help fund them. But I don't think we ever took up a full membership.*

COMMISSIONER FITZGERALD: In short, there was a policy established by Rabbi Groner which continued on and continues on to this day?

A. Yes.

COMMISSIONER FITZGERALD: Thank you.

17. The testimony that emerged from the Royal Commission has confirmed the devastating long-term effects of child abuse on survivors and those who are close to them, and how those effects have been compounded by institutional attempts to cover up, minimise or fail to acknowledge instances of abuse, and by blaming and ostracising the victims, their families and supporters. The only morally and legally acceptable approach to child abuse is one of zero tolerance.
18. In separate proceedings, on 16 September 2015, the Victorian Supreme Court handed down its judgment in the case of *Hadassah Ehrlich v Malka Leifer and Adass Israel School*

Inc. The plaintiff, Hadassa Ehrlich, claimed that between 2003 and 2006, she was sexually abused by the then headmistress of the School, Mrs Malka Leifer. Ms Ehrlich brought civil proceedings against the school and Mrs Leifer in which Ms Ehrlich claimed that as a consequence of that sexual abuse she sustained severe psychiatric injury. She claimed damages for this injury and the consequent losses. She also claimed aggravated and exemplary damages against both Ms Leifer and the School.

19. The Victorian Supreme Court found in favour of Ms Ehrlich against the School. It found that the School was both directly liable and vicariously liable for the abuse by Ms Leifer.
20. The complete judgment can be read at <http://www.austlii.edu.au/au/cases/vic/VSC/2015/499.html>. It is a hopeful sign for the future of Adass that, as noted above, it has been participating in the JCCV's Child Protection Policy & Procedures Training program.
21. The ECAJ circulated a summary of the judgment to Jewish communal institutions around Australia advising those responsible for the running of all institutions in the Jewish community in which children are cared for, to read the judgment very carefully and ensure that a strict zero tolerance policy, is maintained and enforced so as to prevent incidents of child abuse and to ensure that reports of such incidents are immediately made to the authorities.

Anton Block
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Executive Council of Australian Jewry
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