



## Scouts Australia NSW

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Allison Inglis  
HBM Lawyers  
PO Box 82 Toowong  
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Dear Allison,

### **Legal Services to Scouts NSW for the Coordination and Management of Abuse Cases**

#### **Purpose**

1. Scouts Australia NSW (**Scouts NSW**) seeks to engage HBM Lawyers to provide legal services for the coordination and management of historical and contemporary abuse cases. This letter provides relevant background information and indicative scope of work.

#### **Background**

2. Over the past 18 months, Scouts Australia NSW has received 43 contacts regarding historic child sexual abuse matters from survivors, law firms, and the police.
3. Although Scouts NSW has a process for the management of contemporary matters, the organisation has not established a strong process to manage historic matters and has hitherto lacked sufficient capacity and expertise within its staff structure.
4. Scouts Australia NSW seeks to establish a framework that will allow the effective management of historical matters and support survivors and through an empathetic, pastoral and consistent approach. Scouts NSW is committed to a victim focused approach to survivors of Child Sexual Abuse.

### **Current Status**

5. All queries raised with Scouts by the police have been attended to and requested information has been provided to the best of the organisations ability based on searches of records and other information.
6. In instances where a survivor has made direct contact and they have been amenable to it, their stories have been listened to and notes have been taken. Where Scouts have been able to provide information about the alleged perpetrator this has been provided. Likewise, the organisation has offered to advise current processes relating to child protection. In every case, the survivor has been encouraged to report the matter to the police.
7. For matters raised with Scouts by legal representatives of a survivor, contact has been made with the firm to try and establish the intent of the communication. For each of these contacts, a file has been created containing all documents and correspondence on the matters raised. There are two matters currently on foot where Scouts NSW has instructed lawyers. These are:
  - i. One historic matter where Scouts NSW is acting as a prudent uninsured (Murphy's Lawyers acting for Scouts NSW).
  - ii. One contemporary matter. Scouts NSW insurers are managing the matter.
8. There are approximately 15 other matters that will likely require some degree of legal support ranging from mediation to litigation in the near future.

### **Insurance Coverage**

9. Scouts NSW has worked diligently to identify the organisation's insurers from its earliest known policy however there remain a number of years where the coverage is uncertain and/or in dispute with relevant insurers. Ongoing legal engagement with the insurers will be required to ensure all avenues for insurance cover have been exhausted. Additionally:

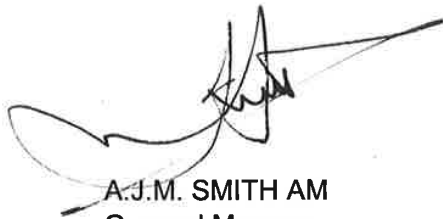
- i. There is a risk that for some policy years, the cap on claims will be exceeded. For some, a single claim will do this.
  - ii. There are approximately 5 -6 consecutive years where the Association insured under a blanket scheme managed by four insurance companies who shared the risk. One of these companies was HIH.
10. For matters where there is no clear policy number or where the cap has been exceeded, Scouts NSW will need to act as prudent uninsured.

#### **Scope of Legal Support**

11. The support requested of HBM Lawyers is as follows:
  - a. Coordinate the management of all historic abuse matters and contemporary matters that may arise.
  - b. Conduct an analysis of the contact that has been made to Scouts from survivors directly or through legal firms over the last 18 months to assess their status and make recommendations relating to:
    - i. Settlement or litigation
    - ii. Restorative engagement (direct personal discussion) by a senior representative of Scouts NSW
    - iii. Verbal and or written apology by a senior representative of Scouts NSW
  - c. Engage with relevant insurers and their lawyers about policy and coverage issues, to ensure all avenues for insurance cover have been exhausted.
  - d. Act for Scouts NSW in historic matters that move into litigation or mediation where coverage under a policy is not (yet) available (because coverage limits have been exceeded, or the insurer has not confirmed indemnity or has not agreed to take conduct of the matter under the policy) including in actions where necessary against insurers.

- e. Liaise with Scouts NSW, Survivors' Representatives, and Insurers to resolve claims.
- f. Liaise with survivors where lawyers have not been assigned.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'A.J.M. Smith', with a long horizontal stroke extending to the right.

A.J.M. SMITH AM  
General Manager  
29 August 2016