

ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE**CASE STUDY 40****AUSTRALIAN DEFENCE FORCE****REPLY SUBMISSIONS ON BEHALF OF THE COMMONWEALTH****TABLE OF CONTENTS**

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INTRODUCTION

About this submission

1. These submissions are made on behalf of the Commonwealth of Australia (**Commonwealth**), and in particular the Department of Defence (**Defence**) (which, for the purpose of these submissions, includes the Australian Defence Force (**ADF**), the Australian Air Force Cadets (**AAFC**), the Australian Navy Cadets (**ANC**) and the Australian Army Cadets (**AAC**)) and the Department of Veterans' Affairs (**DVA**).
2. This response also includes submissions made on behalf of many of the institutional witnesses¹ who were called to appear before the Royal Commission from the institutions of Defence and DVA.
3. The Commonwealth acknowledges the importance of the work the Royal Commission into Institutional Responses to Child Sexual Abuse (**Royal Commission**) is undertaking and its work on Case Study 40 (**Defence Case Study**).
4. Defence again acknowledges the courage and the strength of the survivors who have come forward and told their story. Those stories are changing the ADF. Defence acknowledges that systems, policies and practices that were in place let people, particularly young people down.
5. Should any person require assistance arising from this Royal Commission, Defence and DVA have highlighted available assistance in the Commonwealth's Submissions dated 17 October 2016 (**the Commonwealth's submissions**).² The full apology made on behalf of Defence by Vice Admiral Raymond Griggs during the case study hearing is also set out in that submission.
6. Defence also confirms that Sexual Misconduct Prevention and Response Office (**SeMPRO**) support services are now available to ADF Cadets, ADF Cadets Officers and Instructors, registered volunteers and their families who have been impacted by sexual misconduct. Access to these services is available 24 hours a day, 7 days a week. SeMPRO can be contacted on 1800 SeMPRO (1800 736 776) or via email, sempro@defence.gov.au. More information in relation to this initiative can be found at **Attachment A**.

Structure of this submission

7. In these submissions, responses are made to matters raised in the following submissions provided by the other parties:
 - a. Mr Donaldson's response dated 14 October 2016³ (**Donaldson's submissions**);
 - b. Submissions on behalf of Mr Darryl James, Mr David Sparrboome, CJC and CJV undated⁴ (**Sdrinis Legal's submissions**);

¹ These submissions include the responses of Vice Admiral Raymond James Griggs, Rear Admiral Peter Sinclair, Geoffrey Curran, Laurence Watson, Alan McDonald, Terence Delahunty, Dennis Green, Darren Banfield, Sharon O'Donnell, Joseph Wayne Laycock, John Devereux, Jacqueline Hatch, Sean Watson, Craig Orme, Neil Bayles, Michael Lysewycz and Dale Watson. These submissions do not include the responses of Peter Ball, Carroll James, Christopher Adams, Todd Oakley, Adair Donaldson, CJJ and CJF, who were separately represented.

² SUBM.1040.005.0001.

³ SUBM.1040.001.0001.

⁴ SUBM.1040.002.0001.

- c. Submissions on behalf of CJA and Graeme Frazer dated 17 October 2016⁵ (**Shine Lawyers' submissions**);
- d. Submissions on behalf of CJE dated 17 October 2016⁶ (**Thompson's submissions**);
- e. Submissions on behalf of CJB, CJU and CJG undated⁷ (**O'Brien Solicitors' submissions**); and
- f. Submissions on behalf of Aaron Symonds dated 20 October 2016⁸ (**Benjamin's submissions**);

(Collectively, the **Reply submissions**).

- 8. The Reply submissions respond to matters raised in Counsel Assisting's Submissions dated 5 September 2016 (**Counsel Assisting's submissions**), and also raise other matters in relation to the Defence Case Study. Therefore, in responding to the Reply submissions, the same structure of Counsel Assisting's submissions is adopted, including use of the same heading numbering.
- 9. Where matters raised in the Reply submissions have already been responded to in the Commonwealth's submissions, references are made to the relevant parts or paragraphs of the Commonwealth's submissions.

RESPONSE TO SUBMISSIONS OF OTHER PARTIES

Part 2 – HMAS *Leeuwin*

- 10. Defence generally refers to and repeats paragraphs [37] to [89] of the Commonwealth's submissions in response to the Reply submissions.

2.2 Previous inquiries into HMAS *Leeuwin*

- 11. In paragraph [3.2] of Shine Lawyer's submissions, it is submitted that in addition to Counsel Assisting's proposed finding F4, another available finding is that the '*Navy chain of command was ineffectual in dealing with abuse at Leeuwin both before and after the Rapke report.*'
- 12. These matters have already been addressed in paragraphs [46] to [55], including proposed alternative finding F4, of the Commonwealth's submissions. Defence refers to and repeats those submissions.

2.3 The experiences of former recruits at HMAS *Leeuwin*

- 13. In paragraph [11] of O'Brien Solicitors' submissions, it is submitted that CJB's experiences at *Leeuwin* demonstrate the existence of widespread and very severe child sexual abuse. Defence accepts that CJB's experiences constituted severe abuse, including sexual abuse.
- 14. In contrast, it should be noted that in paragraphs [105] to [106] of Counsel Assisting's submissions, and paragraphs [46] to [54] of the Commonwealth's submissions,

⁵ SUBM.1040.004.0001.

⁶ SUBM.1040.006.0001.

⁷ SUBM.1040.007.0001.

⁸ SUBM.1040.008.0001.

incidents of child sexual abuse were significantly reduced after 1972. Indeed, CJB himself acknowledged the improved change in *Leeuwin*'s environment after 1972.⁹

15. As addressed at paragraph [62] of the Commonwealth's submissions reforms occurred immediately after the Rapke Report, with Commodore Doyle (on Mr Watson's evidence) making significant changes.¹⁰

2.4 The historical response to incidents of child sexual abuse at HMAS *Leeuwin*

16. In paragraph [14] of O'Brien Solicitors' submissions, CJB strongly supports Counsel Assisting's proposed finding F10, and proposes an additional finding in relation to the 'hierarchical authority structure' at *Leeuwin*.
17. These matters have already been addressed in paragraphs [56] to [72], including proposed alternative findings F8, F10 and F11, of the Commonwealth's submissions. Defence refers to and repeats those submissions.

Part 3 – The Army Apprentices School, Balcombe

18. Defence generally refers to and repeats paragraphs [90] to [109] of the Commonwealth's submissions in response to the Reply submissions.

3.3 Previous inquiries into the Army Apprentices School, Balcombe

19. At paragraph [22] of O'Brien Solicitors' submissions, CJU notes his support for Counsel Assisting's proposed findings F32 and F33, regarding the nature and extent of sexual abuse at Balcombe. Defence has already addressed those issues at paragraphs [96] to [103], including proposed alternative findings F32 and F33, of the Commonwealth's submissions. Defence refers to and repeats those submissions.
20. In addition, an 'additional available finding' is proposed by CJU. The proposed additional finding should not be made however, because:
 - a. it assumes that reports were made regarding instances of physical abuse and/or sexual abuse, when the evidence was that the majority of the survivors did not report physical abuse, let alone any sexual abuse;¹¹
 - b. it ignores the evidence of Mr McDonald (the only institutional witness called to give evidence at the Royal Commission in relation to Balcombe), that when reports of physical abuse were made, appropriate disciplinary action (i.e. discharge) was taken against perpetrators;¹² and
 - c. it makes a number of assertions which are overstated and not available on the evidence. The fact that the responses to actual reports of physical harm may have been inadequate on occasion is not a basis for asserting that staff were '*endorsing the behaviour*' or '*adding legitimacy to a culture of bastardisation*'.

⁹ Exhibit 40-0005, Statement of CJB, Case Study 40, STAT.0998.001.0001_R at 0006_R.

¹⁰ Transcript of L Watson, Case Study 40, 23 June 2016, 19509:44 to 19511:15.

¹¹ See Commonwealth's submissions at paragraphs [93] to [95].

¹² See for example, exhibit 40-0024, Case Study 40, DEF.002.001.0001_R and 0002_R, Transcript of A McDonald, Case Study 40, 24 June 2016 at 19603:6-10, 19623:4 to 19625:30.

3.4 The historical response to incidents of child sexual abuse at Balcombe

Awareness of the abuse at the time

21. At paragraph [6] of Sdrinis Legal's submissions, an additional two further findings are proposed.
22. Neither of those findings should be made. This is because there is limited evidence about the extent of sexual abuse which occurred at Balcombe.¹³
23. Further, neither finding should be adopted in any case as they are based upon interpretations of the evidence of Mr McDonald which are unfair, and were not put to him during his evidence. In particular, it was apparent that, due to the passage of time, Mr McDonald could not recall the events surrounding the discharge of the five apprentices.¹⁴ Additionally, there were other examples of responses made by Mr McDonald to reports of physical abuse,¹⁵ again which he could not recall.
24. Mr McDonald's imprecise recollection should not be used as a basis for any broader finding that the Army Command structure at Balcombe '*consistently failed*' to ensure there was a safe environment for apprentices, or that the failure of Senior Officers at Balcombe '*led directly*' to sexual and physical abuse occurring '*systematically*' during the 1970's and 1980's.
25. Further, to the extent that Sdrinis Legal's submission advocates for a finding to be made in relation to an alleged policy of 'hear nothing, see nothing and do nothing',¹⁶ those assertions appear to be rhetorical flourishes and may be treated as such.

Supervision of apprentices

26. At paragraph [10] of Sdrinis Legal's submissions, and paragraph [18] of O'Brien Solicitors' submissions, additional findings are proposed. Neither of the proposed findings should be made.
27. In the case of the additional finding proposed in O'Brien Solicitors' submissions, it should not be made because:
 - a. it assumes that reports were made regarding instances of physical abuse and/or sexual abuse, when the evidence was that the majority of the survivors did not report physical abuse, let alone any sexual abuse;¹⁷
 - b. it ignores the evidence of Mr McDonald, that when reports of physical abuse were made, appropriate disciplinary action (i.e. discharge) was taken against perpetrators;¹⁸
 - c. it ignores the evidence of Mr McDonald regarding the supervision that was in place;¹⁹ and

¹³ See paragraphs [96] to [100] of the Commonwealth's submissions.

¹⁴ Exhibit 40-0018, Statement of A McDonald, Case Study 40, STAT.1019.001.0001_R at 0008_R; Transcript of A McDonald, Case Study 40, 24 June 2016 at 19612:2-36 and 19623:4-12.

¹⁵ Exhibit 40-0024, Case Study 40, DEF.002.001.0001_R and 0002_R, Transcript of A McDonald, Case Study 40, 24 June 2016 at 19603:6-10, 19623:4 to 19625:30.

¹⁶ For example, paragraphs [1], [4] and [7] of Sdrinis Legal's submission, SUBM.0040.002.0001.

¹⁷ See Commonwealth's submissions at paragraphs [93] to [95].

¹⁸ See for example, exhibit 40-0024, Case Study 40, DEF.002.001.0001_R and 0002_R, Transcript of A McDonald, Case Study 40, 24 June 2016 at 19603:6-10, 19623:4 to 19625:30.

¹⁹ Exhibit 40-0018, Statement of A McDonald, Case Study 40, STAT.1019.001.0001_R at 0005_R; Transcript of A McDonald, Case Study 40, 24 June 2016 at 19607:29 to 19608:22.

- d. it makes a number of assertions which are overstated and not available on the evidence. The fact that responses to actual reports of physical harm may have been inadequate on occasion is not a basis for asserting that staff were *'perpetuating and legitimising a culture of bullying and abuse'*.
28. It should be noted that the submissions made on behalf of CJU at paragraphs [24], [25] and [28] of O'Brien Solicitors' submissions were not put to Mr McDonald during the course of his evidence.
29. Furthermore, the assertion made in paragraph [26] of O'Brien Solicitors' submission incorrectly characterises the evidence of Mr McDonald. Mr McDonald was not giving evidence as to how *'perpetrators would likely abuse victims'*. Rather, his evidence was in relation to the circumstances of one particular incident,²⁰ and cannot be used as a basis to make broader statements about the failure or not of management. This is particularly so when Mr McDonald's evidence was that it was likely steps were taken after the serious assault incident to prevent recurrences.²¹
30. Similarly, the assertions made in paragraph [28] of O'Brien Solicitors' submissions are based upon interpretations of the evidence of Mr McDonald which are unfair, and were not put to him during evidence. In particular, it was apparent that, due to the passage of time, Mr McDonald could not recall the specific 'crab night' referred to by CJU, nor what measures he may or may not have put in place, although his evidence was that he would not *'have just let it occur without having my staff be a part of an exercise to stop any infringements that might get out of hand'*.²² Mr McDonald's imprecise recollection about safeguards that may have been put in place, and acceptance of the existence of the event (but not any harm that may arise from it) should not be used as a basis for any broader finding of *'institutional blindness [which he] facilitated'*.
31. Similarly, the proposed finding suggested by Sdrinis Legal²³ should not be made for the same reasons as set out in paragraph [27] above.

Part 4 – The contemporary response to historical incidents of child sexual abuse at HMAS *Leeuwin* and Army Apprentices School, Balcombe

32. Defence generally refers to and repeats paragraphs [110] to [156] of the Commonwealth's submissions in response to the Reply submissions.

4.1 The response of the Department of Veterans' Affairs

33. A number of complaints are made in Shine Lawyers' submissions about the response of DVA to claims of abuse.²⁴ Many of those complaints were not the subject of examination during evidence at the Royal Commission. Nonetheless, DVA responds as follows:
- a. at paragraph [4.5] of Shine Lawyers' submissions it is asserted that claims are rejected because of the operation of Statements of Principles (**SOPs**) for those conditions. However, SOPs do not apply to *Safety, Rehabilitation and Compensation Act 1988 (Cth) (SRCA)* claims,²⁵ and many of the survivors who

²⁰ Namely, CJV's evidence about supervision, see Transcript of A McDonald, Case Study 40, 20 June 2016 at 19607:32 to 19608:22.

²¹ Transcript of A McDonald, Case Study 40, 24 June 2016 at 19614:29 -35; although it should be noted he could not now recall what those steps were – see 19612:36.

²² Transcript of A McDonald, Case Study 40, 24 June 2016 at 19618:23-27.

²³ Paragraph [10] of Sdrinis' Lawyers' submissions, SUBM.1040.002.0001.

²⁴ See generally, paragraphs [4.3] to [4.25] of Shine Lawyers' submissions, SUBM.1040.004.0001.

²⁵ Exhibit 40-0021, Statement of Neil Bayles, Case Study 40, STAT.1022.001.0001 at 0010 to 0011.

served at *Leeuwin* and/or Balcombe are covered by the SRCA only as they do not fulfil the operational service requirements of the *Veterans' Entitlements Act 1986* (Cth) (**VEA**) and/or the *Military Rehabilitation and Compensation Act 2004* (Cth) (**MRCA**);²⁶

- b. at paragraph [4.8] of Shine Lawyers' submissions it is asserted that no assistance is made available to survivors in navigating the claims process. This is, however, contrasted by the evidence of Mr Bayles, which was that there is a dedicated team (including a social worker) to assist abuse claimants.²⁷ DVA also refers to paragraphs [131] to [134] of the Commonwealth's submissions;
- c. at paragraphs [4.10] to [4.14] of Shine Lawyers' submissions a number of assertions are made about the difficulty of meeting DVA's evidential requirements, and contrasts are made between the approach of the Defence Abuse Response Taskforce (**DART**), as well as Defence generally. DVA refers to paragraphs [111] to [125] of the Commonwealth's submissions, which set out recent policy changes to the way in which DVA approaches evidentiary requirements for abuse victims. Further, it should be noted that the DART standard of proof was 'plausibility',²⁸ whereas DVA is required to meet a standard of either 'balance of probabilities' or 'reasonable hypothesis', both of which require stronger evidence than 'plausibility'.²⁹ Finally, DVA is constrained by the terms of the legislation which governs it, in determining whether compensation is available. Conversely, there is a degree of flexibility in negotiating settlements of common law claims;
- d. at paragraphs [4.18] to [4.22] of Shine Lawyers' submissions, the issue of compensation offsetting is raised. The issue of compensation offsetting is complex, and encompasses broader considerations than those referred to in the submission.³⁰ DVA otherwise refers to paragraphs [126] to [130] of the Commonwealth's submissions.

4.2 The approach of the Department of Defence to claims of abuse

34. At paragraphs [42] and [43] of O'Brien Solicitors' submissions, broad statements are made about the adequacy of Defence's response to survivors of child sexual abuse. It is not apparent from the submissions whether those criticisms are limited to the response of Defence, the response of the AAFC, or the response of DVA, or a combination of all three. Nor is the basis of some of the assertions apparent from the evidence before the Royal Commission.³¹
35. Absent any reference to the evidence actually before the Royal Commission, it is difficult to discern the context of these assertions, or any communications said to have occurred between survivors with Defence (or AAFC, or DVA).

²⁶ See generally, Exhibit 40-0021, Statement of Neil Bayles, Case Study 40, STAT.1022.001.0001 at 0005 to 0008 regarding the applicability of each of the SRCA and the MRCA.

²⁷ Exhibit 40-0021, Statement of Neil Bayles, Case Study 40, STAT.1022.001.0001 at 0013.

²⁸ DART.0006.001.0149 at 0189.

²⁹ Exhibit 40-0021, Statement of Neil Bayles, Case Study 40, STAT.1022.001.0001 at 0009.

³⁰ Exhibit 40-0021, Statement of Neil Bayles, Case Study 40, STAT.1022.001.0001 at 0017 to 0020.

³¹ For example, and without being exhaustive, at paragraph [42(a)] of O'Brien Solicitors' submissions it is asserted that survivors "*all experienced sexual abuse by those in positions of authority*", however that statement is not reflected by the evidence of the survivors during Case Study 40 – particularly those at *Leeuwin* and Balcombe, whose evidence was that their abuse was largely perpetrated by their contemporaries, not those in authority. Further, at paragraph [42(c)] of O'Brien Solicitors' submissions it is asserted that "*ongoing and severe sexual abuse occurred in the ADF and AAFC*", however that statement is not supported by the evidence before the Royal Commission – only two ADF institutions were examined, namely *Leeuwin* and Balcombe, and the findings in relation to those institutions cannot be extrapolated to a suggestion that severe sexual abuse occurred in Defence (for some undetermined period) as a whole. Similar comments can be made in response to the assertions in paragraph [42(d)] of O'Brien Solicitors' submissions.

36. Insofar as these submissions refer to the extent of abuse occurring at the identified institutions examined by the Royal Commission, Defence refers to paragraphs [46] to [89] of the Commonwealth's submissions in respect of *Leeuwin*, paragraphs [96] to [100] of the Commonwealth's submissions in respect of Balcombe, and paragraphs [169] to [179] of the Commonwealth's submissions in respect of ADF Cadets, including each of the proposed alternative and/or new findings made in those responses.
37. Insofar as these submissions refer to the response by Defence or DVA to compensation claims for abuse, DVA refers to paragraphs [110] to [141] of the Commonwealth submissions, and the submissions set out in paragraph [33] above, in respect of the response of DVA. Defence refers to paragraphs [142] to [156] and [265] to [269] of the Commonwealth's submissions, in respect of the response of Defence.
38. Defence and DVA otherwise refer to the Apology and Assistance sections of the Commonwealth's submissions.
39. At paragraphs [13] to [15] of Sdrinis Legal's submissions, various assertions are made about the operation of various limitations of actions legislation. Defence refers to and repeats paragraphs [151] to [152] of the Commonwealth's submissions in response to the Reply submissions.

Part 5 – The Australian Defence Force Cadets

40. Defence generally refers to and repeats paragraphs [157] to [207] of the Commonwealth's submissions in response to the Reply submissions.

5.4 Deficiencies in ADF Cadets policies since 2000

41. In paragraph [21] of Thompson's submissions, CJE asserts that '*there is still no effective ADF social media policy in place*'.
42. This assertion however, ignores the evidence before the Royal Commission regarding the social media policies already in place within AAFC. Mr Green's evidence was that he introduced a social media policy and training package on 11 February 2013.³² CJG's evidence was that she signed the policy in 2013-2014, and as a consequence deleted all AAFC staff as friends on her personal Facebook account.³³
43. Mr Green gave further evidence that by February 2014, he had approved the release of 13 chapters of the AAFC Manual of Management, which included chapters covering social media.³⁴
44. Presently, the social media policy for ADF Cadets is part of YOUTHPOLMAN Part 2, Chapter 5, *Social Media*.³⁵ Along with other chapters of Part 2, this policy is currently under review. Further, the standing instruction (AAFC SI (ADMIN) 13-2 – *Social Media*) has been revised for the AAFC. This document was published on 31 October 2016 and is attached at **Attachment B**.

³² Transcript of D Green, Case Study 40, 29 June 2016 at 19948:21 to 19949:8. This policy is contained in the AAFC Manual of Management, Volume Two, Part Five, Chapter 3 – *Social media policy* (26 November 2015), DEF.02.0021.003.0162.

³³ Exhibit 40-0030, Statement of CJG, Case Study 40, STAT.1009.001.0001_R at 0010_R.

³⁴ Exhibit 40-0037, Statement of Dennis Green, Case Study 40, STAT.1026.001.0001_R at 0003_R.

³⁵ YOUTHPOLMAN Part 2 is available online.

45. Additionally, Defence has a social media policy. A comprehensive general review of Defence wide social media policy was completed in 2011 and is available online.³⁶ Defence's current policy, DI(G) ADMIN 08-2 *Use of social media by Defence personnel*, has been in place since 2013.

5.6 The experiences of former cadets of the Australian Defence Force Cadets

The experience of Aaron Symonds

46. Defence refers to and repeats paragraphs [180] to [181] of the Commonwealth's submissions in relation to the AAFC investigation.
47. Paragraph [33] to [38] of Benjamin's submissions on behalf of Mr Symonds criticises the decision of Mr Devereux to inform Mr Oakley of the broad nature of the allegations made against him. As a matter of natural justice, Mr Oakley was entitled to be informed about the broad nature of the allegations made against him.³⁷ Further, the submissions assume that:
- a. Mr Oakley did not already know that any serious allegations made against him would be referred to the Queensland Police Service (**QPS**). This is despite the fact that Mr Oakley had received the *Safeguarding Children Awareness Program (SCAP)* training and training in relation to AAFC's other policies,³⁸ which required serious incidents to be reported to civilian police;³⁹ and
 - b. Mr Oakley had some knowledge of, or was otherwise aware of, QPS practice of making pretext calls.
48. Defence submits that these assumptions about Mr Oakley's knowledge are not supported by the evidence before the Royal Commission and cannot be made.
49. Further, paragraphs [19] to [23] of Benjamin's submissions, Mr Symonds raises concerns regarding the (then) AAFC behavioural policies. Defence notes that there have been significant reforms of those policies since Mr Symonds' time in the AAFC, and refers to Part 6 of the Commonwealth's submissions in response.

The matter of Christopher Adams

The awareness within AAFC of Mr Adams' inappropriate behaviour

50. In paragraphs [38] to [40] of O'Brien Solicitors' submissions, CJG supports Counsel Assisting's submissions in relation to the evidence of CJJ.
51. Those matters have already been addressed in paragraphs [182] to [203] of the Commonwealth's submissions, including proposed new findings F69 and F70. Defence refers to and repeats those submissions.

The AAFC conduct an Initial Assessment Report

52. In paragraph [13] of the Thompson's submissions on behalf of CJE, criticism is made of Mr Laycock's decision to appoint Ms O'Donnell to conduct the Initial Assessment Report (**IAR**). While Mr Laycock did not give oral evidence due to his unavailability at the time of the hearing, his evidence nonetheless was that he appointed Ms

³⁶ See paragraph [16] of the Commonwealth's submissions.

³⁷ Transcript of J Devereux, Case Study 40, 28 June 2016 at 19813:4-11.

³⁸ DEF.02.0014.010.0016 at 0017-0018.

³⁹ Exhibit 40-0043, Statement of Raymond Griggs, Case Study 40, STAT.1005.001.0001 at 0031 to 0032; Exhibit 40-0039, Statement of Terence Delahunty, Case Study 40, STAT.1010.001.001_R at 0002 to 0005.

O'Donnell to conduct the IAR because the incident had occurred at a promotion camp (which was her area of responsibility).⁴⁰ This decision is to be viewed in the context of the purpose of an IAR - namely, it was a preliminary fact finding task (designed to assist a superior to decide if further action or investigation is required) *not* to investigate the incident.⁴¹

53. It should be recalled that the impetus for the IAR was not a direct report by either CJE or CJG, but rather, an allegation made by a third party (CJQ) upon receiving a Facebook message from CJE.⁴²
54. Furthermore, Ms O'Donnell's evidence was that she had met both CJE and Adams during the September 2012 General Service Training Camp,⁴³ and was therefore (to some extent) known to those alleged to be involved in the allegations.
55. These matters, in particular the Commonwealth's submissions in support of the evidence of Ms O'Donnell, have otherwise been addressed in paragraphs [204] to [206] of the Commonwealth's submissions. Defence refers to and repeats those submissions.

Part 6 – Reform to the ADF Cadets

56. Finally, at paragraph [318] of the Commonwealth's submissions, it was noted Level 1 Awareness would soon commence. That training is now available [see **Attachment C**].
57. Level 1 Awareness is the first of the planned six levels of training that will constitute the Defence Youth Safety Training continuum.⁴⁴
58. Level 1 Awareness training corrects the deficiencies in the Safeguarding Children Awareness Program (**SCAP**) that were highlighted during the public hearing. As noted in paragraph [314] of the Commonwealth's submissions, SCAP will be replaced by Level 1 Awareness training and Level 2 Practitioner training.
59. As noted in paragraph [319] of the Commonwealth's submissions, ADF Cadets adult volunteers and cadets will continue to complete SCAP along with Level 1 Awareness training until Level 2 Practitioner training has been completed. Level 2 Practitioner training is currently under development.

Fiona McLeod SC

Lindy Barrett

4 November 2016

⁴⁰ Exhibit 40-0041, Statement of Joseph Wayne Laycock, Case Study 40, STAT.0018.001.0001_R at 0004_R.

⁴¹ Exhibit 40-0041, Statement of Joseph Wayne Laycock, Case Study 40, STAT.0018.001.0001_R at 0004_R; Exhibit 40-0036, Statement of Darren Banfield, Case Study 40, STAT.1017.001.0001_R at 0004_R.

⁴² Exhibit 40-0041, Statement of Joseph Wayne Laycock, Case Study 40, STAT.0018.001.0001_R at 0004_R; Exhibit 40-0036, Statement of Darren Banfield, Case Study 40, STAT.1017.001.0001_R at 0003_R; Exhibit 40-0035, Statement of Sharon O'Donnell, Case Study 40, STAT.1008.001.0001_R at 0007_R.

⁴³ Exhibit 40-0035, Statement of Sharon O'Donnell, Case Study 40, STAT.1008.001.0001_R at 0006_R.

⁴⁴ See Commonwealth's submissions at paragraphs [281] to [284].