

JOINT STATEMENT TO THE ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE: CASE STUDY 56

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Contents

Stuart McMillan	2
Colleen Geyer	2
Introductory comments	3
Case Study 56	4
Question 1	5
The Uniting Church in Australia	5
Uniting Church structure defined in the Basis of Union	7
Members and adherents of the Church	9
The Assembly	9
Assembly bodies	11
Uniting Aboriginal and Islander Christian Congress	12
Frontier Services	12
Uniting World	14
UnitingCare Australia	15
Synods	16
Affiliated entities and institutions with Church Synods	18
Presbyteries	19
Congregations	20
Question 2	21
Unincorporated associations	21
Incorporated associations	22
Question 3	22
Legal	22
Property Trusts	23

Governance.....	25
Administration.....	26
Financial.....	27
Question 9.....	28
Question 10.....	29
Further information to be provided.....	29

1. This statement sets out the evidence that we will give to the Royal Commission into Institutional Responses to Child Sexual Abuse (**Royal Commission**). This statement is true and correct to the best of our knowledge and belief. Our statement addresses the following matters:

Stuart McMillan

2. I am the President of the Uniting Church in Australia Assembly (**the Assembly**). I am the third lay person in the history of the Uniting Church in Australia (**the Church**) to be elected President of the Assembly. I succeeded Rev Prof Andrew Dutney.
3. Before being installed as President on 12 July 2015, I served as the Moderator of the Northern Synod based in Darwin. I have been a member of the Assembly Standing Committee (**ASC**) since July 2005.
4. My previous roles include General Manager of the Arnhem Land Progress Association, work as a Consultant for the Aboriginal Resource and Development Services Inc (**ARDS**), and as the Pastor, Living Water Church in the Northern Synod.

Colleen Geyer

5. I am the General Secretary of the Assembly.
6. I have worked for the Church and its agencies since 1995. I have held a range of positions at a state and national level of the Church, including Director of Mission at UnitingCare Queensland, Director of Mission at BlueCare, Associate Director at

UnitingCare Australia, Registrar of Coolamon College and National Consultant for the Assembly Gospel and Gender Unit.

7. My work includes strengthening the Church's commitment to working ecumenically and to foster understanding between churches. I have been a member of the Roman Catholic/Uniting Church National Dialogue, the Christian World Service Coordinator with Queensland Churches Together, and a member of the Queensland Churches Together Indigenous Peoples Partnership.

Introductory comments

8. On 18 November 2012, the Assembly appointed a National Engagement and Response Task Group (**the National Task Group**) to the Royal Commission.
9. In early 2013, the National Task Group commissioned a 'Statement of Uniting Church Values' to guide the Church's response in various frameworks, which declares our readiness to uphold Christian principles through our full and honest co-operation with the Royal Commission. It states as follows:

The Uniting Church believes that God has given us the gift of the Spirit to "constantly correct that which is erroneous" in our life (Basis of Union, Para 18). Therefore, we will not hide from the truth, however painful that may be, and we will seek, with compassion and humility, to address whatever issues and challenges may emerge for us. We will say "sorry" to anyone who was sexually abused when in our care and, in consultation with those so affected, actively seek for ways to make amends for what happened in the past and identify how we can best offer support into the future. In all of this we are guided by the Word of God, remembering the teaching of the Apostle Paul: "Whatever is true, whatever is honourable, whatever is just, whatever is pure, whatever is pleasing, whatever is commendable... think about these things" (Philippians 4:8).

From the beginning of our life together as the people of God within the Uniting Church in Australia, we have sought through prayer, and a spirit of consensus, to discern what it means to confess Jesus as Lord and Head over all things (Basis of Union, Para 3). At the time of Inauguration, the Assembly spoke to the nation in a statement that has guided and encouraged us ever since to be a church that honours Christ in all that we say and do. The statement declared, in part, that "we affirm our eagerness to uphold basic Christian values and principles, such as the importance of every human being, the need for integrity in public life, and the proclamation of truth and justice... We pledge ourselves to seek the correction of injustices wherever they occur". (Statement to the Nation, National Assembly, June 1977).

To adopt such a stance in the life of our nation means that we must be willing to examine our own motives and behaviour and be open to accept the close scrutiny of others. In that regard the Uniting Church welcomes the decision of the Federal Government to establish a Royal Commission on the sexual abuse of children in both public and church institutions, and pledges itself to cooperate fully and honestly with the process the Commission will implement. The sexual abuse of children is criminal behaviour that is totally abhorrent and unacceptable.¹

10. The National Task Group has provided prayers in relation to the Royal Commission.²

11. In March 2013, the ASC issued the following statement, which also appears in the Church's response to the Royal Commission's Issues Paper 6 – Redress Schemes:

We will say "sorry" to anyone who was sexually abused when in our care and, in consultation with those so affected, actively seek ways to make amendments for what happened in the past and identify how we can best offer support into the future... [W]e must be willing to examine our own motives and behaviours and be open to accept the close scrutiny of others.³

Case Study 56

12. On 3 November 2016, the Royal Commission announced that it will conduct further public hearings into certain institutions which have already been the subject of a case study or which have been identified to the Royal Commission as relevant for the purpose of its final hearings into faith based institutions.

13. On 7 December 2016, Mr McMillan received correspondence from Mr Tony Giugni, of the Office of the Solicitor Assisting from the Royal Commission requesting a written response to 18 topics identified in Annexure A of the letter. This joint statement will respond to topics 1, 2, 3, 9 and 10 and the questions raised in the Royal Commission's letter.

14. In providing this response, we refer to evidence provided to the Royal Commission in previous case studies concerning the Church, in the particular:

¹ <http://assembly.uca.org.au/rcvalues>

² <http://assembly.uca.org.au/resources/royalcommission>

³ <http://www.childabuseroyalcommission.gov.au/submissions/752/issues-paper-6>

- (a) Case Study 23 – Exhibit 23-048, Statement of Rev Andrew Williams⁴ and attachments; Exhibit 23-0049 Statement of John Oldmeadow and attachment; and Exhibits 23-0030 and 23-0031 Statements of James Mein AM;
 - (b) Case Study 24 – public hearing concerning out of home care, and evidence of Rev Dr Keith Garner, CEO/Superintendent of Wesley Mission and Mr Rob Evers, CEO of Wesley Mission Victoria;
 - (c) Case Study 25 – Evidence of Rev Prof Dutney, the President of the Uniting Church Assembly and Ms Anne Cross CEO of UnitingCare Queensland;⁵ and
 - (d) Case Study 45 – public hearing concerning Shalom Christian College, Townsville.
15. For convenience some of the evidence given on behalf of the Church in previous case studies that address the questions raised by the Royal Commission in the letter dated 7 December 2016 may be repeated in this statement or referred to where appropriate.

Question 1

The current structure of governance within the Uniting Church in Australia, including the relationships and lines of reporting/authority between the National Assembly, the synods, presbyteries and local churches

16. We refer to the evidence provided to the Royal Commission by the Rev Andrew Williams, General Secretary of the Uniting Church in Australia NSW/ACT Synod in Case Study 23 which addressed this issue in some detail. The following repeats that evidence and provides relevant updates Rev Williams' evidence addressing the current Church structure and entities.

The Uniting Church in Australia

17. On 22 June 1977, the Uniting Church in Australia was inaugurated by a union of the Congregational Union of Australia, the Methodist Church of Australasia and the

⁴ STAT.0481.001.0001

⁵ Transcript Day 130, Case Study 25 at pages 13622 to 13631 (25 March 2015)

Presbyterian Church of Australia (**the 3 churches**). The Church is the first church to be created in and for Australia.

18. The Church is presently the third largest Christian denomination in Australia. Throughout Australia there are around 1,065,000⁶ members and adherents.
19. The Church is a diverse and wide spread organisation with inter-related national, state, regional and local structures. The Church is incorporated by Acts of Parliament in each State and Territory, and its legal structure (The Uniting Church in Australia Property Trust) similarly is a State/Territory entity administered by each State/Territory Synod. By way of example, a copy of the *Uniting Church in Australia Act 1977* for New South Wales is was provided to the Royal Commission as part of Exhibit 23-048 UCA.400.002.0435.
20. The incorporation of the Enabling Acts across jurisdictions inevitably creates variance within the individual legislation. There is significant consistency across the Enabling Acts, with the significant elements of the Enabling Acts being constant across jurisdictions. There are minor differences to be seen within the legislation, for example Western Australia's inclusion of incorporation (Part VI *Uniting Church in Australia Act 1976* (WA)⁷) or Queensland's Savings provision (s.4 *Uniting Church in Australia Act 1977* (QLD)⁸). These Enabling Acts are provided at UCA.1000.001.0041 and UCA.1000.001.0001 respectively.
21. The legal status of the Church is an unincorporated association of individual members.
22. The Church is governed by a number of non-hierarchical inter-related councils that each has responsibility for various functions or roles within the Church. The key structures of the Church are local suburban Congregations, regional Presbyteries, Synods with state wide responsibilities and Assembly which has national responsibilities. The role of each of these will be addressed in further detail below.

⁶ According to the 2013 Uniting Church Census of Congregations and Ministers by Ruth Powell, Miram Pepper, Nicole Hancock, Sam Sterland and Claudia Mollidor, dated March 2014

⁷ *Uniting Church in Australia Act 1976* (WA)

⁸ *Uniting Church in Australia Act 1977* (QLD)

23. For decades, the Church has established and maintained institutions that provide both residential and non-residential services to children such as schools, university colleges, hospitals, children's homes, out-of-home care and child care centres.
24. The origins and contemporary roles of institutions in the church and community is based on theological and missiological rationales. These pastoral activities of the Church are generally carried out through institutions of the Synods, such as schools and agencies, and hence, fall under the control of the respective Synod bodies.⁹
25. Prior to the inauguration, the 3 churches had approved a *Basis of Union* as the basis on which the union would occur. The *Basis of Union* is a foundational document which continues to guide the Church. The *Basis of Union* is a schedule in the various State Acts and Territory Ordinances (see Schedule 2 of the *Uniting Church in Australia Act 1977 NSW*). The original basis of union documents included in Exhibit 23-048 at UCA.400.002.0001 the 1992 edition is at UCA.400.002.0013.
26. In addition to the *Uniting Church in Australia Act 1977* and the *Basis of Union*, the other key documents which address the Church's structure, governance and the status are the Constitution of the Uniting Church in Australia, including the Preamble. A copy was provided as part of Exhibit 23-048, UCA.400.003.0212. Further the Regulations of the Uniting Church in Australia, the most recent version promulgated in September 2015, is provided at UCA.1000.001.0086

Uniting Church structure defined in the Basis of Union

27. Clause 15 of the *Basis of Union* sets out the structure and governance of the Church. It provides for the Church to be governed through inter-related councils as follows:
- (a) The Assembly (the national council)
 - (b) The Synods (the regional councils)
 - (c) The Presbyteries (the district councils)
 - (d) The Congregation (congregational councils) and The Elders' or Leaders' Meeting (the council within a congregation or group of congregations)

⁹ Regulation 3.7.4.7

28. The non-hierarchical inter-related structure of the Church sees each council having overlapping tasks and responsibilities that it is responsible for within the Church. Each council can provide services to children.
29. Clause 15 of the *Basis of Union* outlines the framework in which these inter-related councils will operate, it provides:

The Uniting Church recognises that the responsibility for government in the Church belongs to the people of God by virtue of the gifts and tasks which God has laid upon them. The Uniting Church therefore so organises its life that locally, regionally and nationally government will be entrusted to representatives, men and women, bearing the gifts and graces with which God has endowed them for the building up of the Church. The Uniting Church is governed by a series of inter-related councils, each of which has its tasks and responsibilities in relation both to the Church and the world.

The Uniting Church acknowledges that Christ alone is supreme in his Church, and that he may speak to it through any of its councils. It is the task of every council to wait upon God's Word, and to obey God's will in the matters allocated to its oversight. Each council will recognise the limits of its own authority and give heed to other councils of the Church, so that the whole body of believers may be united by mutual submission in the service of the Gospel.

30. The form of government of the Church is unlike that of other churches, including its own predecessor denominations. Three particular features are noteworthy:
- (a) it is a non-hierarchical form of governance - meaning that rather than power being vested in an individual, for example a bishop, the episcopacy is vested in the council;
 - (b) decisions taken in one council may bind the whole Church (e.g. the decision of a presbytery to ordain a person must be accepted by the whole Church) notwithstanding that in some areas more than one Council can make some aspect of the decision (e.g. property dealings); and
 - (c) decisions are made by councils not individuals. The councils operate under the consensus decision-making procedures outlined in the Church's "Manual for Meetings" provided at UCA.1000.001.0280. The theological rationale behind this is about trying to hear the Spirit of God through the gathered community rather than through individuals.

Members and adherents of the Church

31. Everyone is welcome to participate in the Church. Members of the Church are baptised persons recognised by the Church Council as being within the pastoral responsibility of the Church. This includes members of the 3 churches and congregations that united under the *Basis of Union*, except those who declined to be members of the Church.
32. Membership also includes any person who becomes a member in accordance with the procedures of the Church, set out in the Constitution and Regulations, which fall under three categories: baptised members, confirmed members and members-in-association. Membership is recorded on the relevant membership roll kept by the Church Council of each Congregation.
33. Adherents are not members of the Church, but are those who regularly attend the services of worship and share in the life of the congregation. The main difference between members and adherents is that adherents may attend and speak at meetings of the congregation but not in the determination of items of business. Adherents also include persons who are not baptised whereas members must be baptised.
34. The role of the laity is valued in the Church, recognising that ministry is a function of the whole church and all members. However, certain specific roles or "specified ministries" are defined. Of these, the role of elder, lay pastor and pastor are open to lay members.
35. There are two orders of ordained ministry in the Church; these are Ministers of the Word and Deacons. In situations where it is not possible or desired to have an ordained minister, a lay pastor (which grew out of the Methodist local preacher tradition), pastor or lay ministry teams may minister, particularly in rural areas.

The Assembly

36. The Assembly is the national council of the Church chaired by the President with the General Secretary being the Executive Officer.

37. Institutions associated with, and/or indirectly or directly relating, to the Assembly that provide services to children include Assembly bodies and national activities. Assembly bodies include UnitingWorld and Frontier Services which are governed by a National Committees (**UnitingWorld**) and a national Board (**Frontier Services**). National activities include the National Christian Youth Convention (**NCYC**) which is a gathering of thousands of young people, some under the age of 18, held in a different state every two to three years and managed by the respective Synod.
38. From the time of its inauguration the Assembly has had determining responsibility for matters of doctrine, worship, government and discipline, and makes the guiding decisions on the tasks and authority to be exercised by other councils.
39. In its exercise of the responsibility for government, and empowered by the *Uniting Church in Australia Act 1977* to adopt a Constitution consistent with the *Basis of Union*, the inaugural Assembly approved a Constitution for the Church.
40. Subsequent meetings of the Assembly have approved amendments to the Constitution, but to take effect such amendments must be approved by a majority of the Synods and two-thirds of the Presbyteries.
41. Further, in its exercise of responsibility for government the Assembly has approved *Regulations* which govern the ways in which the tasks entrusted to each council are to be exercised.
42. The Constitution and Regulations of the Church constitute a compact or contract between each of the Church's members that operate to both define and regulate the rights and responsibilities of the members.
43. The Assembly meets once in each three years. A Standing Committee elected by members of each Assembly meets three times per year and has the authority of the Assembly between meetings of the Assembly.
44. Each ordinary meeting of the Assembly elects a President-elect who takes up office as President at the following general Assembly meeting. Mr McMillan is the current

President. The duties of the President are “*to give spiritual leadership and encouragement to the Church generally, to represent the Church as appropriate, to give counsel as occasion requires and to do such other things as may be requested or advised by the Assembly*”. (Regulation 3.6.4.2). Whilst the President has considerable moral and relational influence, the position has limited formal powers.

45. The Assembly also elects a General Secretary. This is a full time position and there is no maximum tenure. Ms Colleen Geyer holds this position.
46. The duties of the General Secretary, as executive officer of the Assembly, are to give general leadership to the Church, to ensure execution of Assembly policy, to co-ordinate Assembly activities, to oversee the management of Assembly staff, and to do such other things as the Assembly may require (Regulation 3.6.4.4 (b)).
47. UCA Assembly Ltd A.C.N 000 007 447 (**UCAAL**) is the legal entity used by the Assembly to hold the legal title to assets beneficially held for the Assembly. UCAAL is a corporation under the *Corporations Act*. UCAAL may enter contracts as nominee for the Assembly from time to time. UCAAL differs significantly from the legal entities of the Synods which are statutory corporations.
48. UCAAL is registered as a charity with the Australian Charities and Not-for-Profits Commission.

Assembly bodies

49. The Regulations of the Church provide that the Assembly may:
 - (c) establish[ing] such councils or other bodies as it sees fit for:
 - (i) the fulfilment of the mission of the Church;
 - (ii) the management and administration of the Church;
 - (iii) such other purposes as the Assembly may consider appropriate;
 as such, the Assembly has deemed to establish the following bodies (Regulation 3.1.6 (c)).

Uniting Aboriginal and Islander Christian Congress

50. The Congress was established in 1985, with responsibility for oversight of the Church's life and mission with and for the Aboriginal and Islander Peoples of Australia.
51. The Congress is governed by its National Conference which meets no less frequently than once every four years (Regulation 3.2.3 (a)). In between meetings of the Conference, the National Committee meets twice each year to continue the national leadership of Congress, to enact resolutions made by the National Conference, and to make determinations on present matters affecting the life of Congress and its members. The National Committee comprises National Officers and an Elder and Chairperson from each Region.¹⁰
52. A Regional Committee of Congress has been established in each Synod, and in the Synod of Victoria and Tasmania there is one for each of the two States involved.
53. Clause 49 (a) of the Constitution provides:
A Synod may at the request of a Regional Committee of the Uniting Aboriginal and Islander Christian Congress prescribe that the Regional Committee may have and exercise all or specific rights, powers, duties and responsibilities of a Presbytery under this Constitution and the Regulations ... for the purpose of fulfilling any responsibility of the Regional Committee for Uniting Church work with Aboriginal and Islander people within the bounds of the Synod.
54. This provision expresses the Assembly's commitment to enter into an ever deepening covenantal relationship with the Congress [Constitution Preamble 10].

Frontier Services

55. Frontier Services was established¹¹ in 1912 by the then Presbyterian Church in the form of the Australian Inland Mission, under the direction of Rev John Flynn.
56. Rev John Flynn, had a vision to establish a "mantle of safety" so people could build sustainable communities despite the hardships of Outback life. This vision resulted in

¹⁰ <https://uaicc.org.au/about/structure-governance/>

¹¹ <https://frontierservices.org/about-us/our-history>

medical care, spiritual care and communication networks being developed throughout the ‘outback’ of Australia.

57. When the Church was established in 1977, the inland missions of the Presbyterian, Congregational and Methodist Churches were combined to form Frontier Services. Over the 40 years since union, the functions of Frontier Services have changed but the commitment to the people of Australia has not. Its purpose remains “to offer service and ministry in the name of Christ to the people of remote Australia through Compassionate Care, justice, and nurture of Spirit”
58. Frontier Services is a national charity working on behalf of people in remote areas, which cover 85% of Australia. Its primary purpose is to raise funds in order to support the Uniting Church in Australia, through its network of Patrol Ministers, in their pastoral work with Indigenous communities, isolated properties, mining sites and other remotely located communities.
59. Frontier Services also provides drought relief and other forms of practical community support through its volunteer assistance program known as “Outback Links”.
60. Frontier Services is a Public Benevolent Institution, and operates under a constitution. Subject to Clause 6 of the Constitution (“The control of Frontier Services is subject to the authority of the Assembly of the Uniting Church in Australia”), the governance of Frontier Services will be provided by the Board which will consist of up to seven (7) persons, inclusive of a chairperson appointed by the Assembly. The National Director of Frontier Services will attend all Board meetings but not have voting rights. The General Secretary of the National Assembly will attend in an ex-officio capacity to advise and counsel the Board and in all instances allow a direct link between the Assembly and the Assembly Standing Committee and the Board and will not carry voting rights. (Clause 7, Frontier Services Constitution). The current constitution for Frontier Services is provided at UCA.1000.001.0347.

Uniting World

61. UnitingWorld began its history¹² in the 19th Century in the work of the Overseas Missions Boards (agencies) of the preceding churches of the Uniting Church in Australia (Presbyterian Church of Australia, Methodist Church of Australasia, and the Congregational Union of Australia). At that time the various Mission Boards began pioneering work in the areas of health and education. In the 20th Century the work undertaken in the area of aid and development began to include vocational training and other work related to the development of communities.
62. At the time of Church Union the organisation responsible for relations and work with the partner churches of the Church was the Commission for World Mission.
63. In July 2000 the Assembly meeting of the Church approved the establishment of Uniting Church Overseas Aid (UCOA) – as a separate aid and development agency of the Church. This led to the establishment of a separate agency with its own governing committee.
64. One of the issues faced was that UCOA related to the same partner churches as did the Uniting International Mission (UIM - the national agency responsible for international relations with partner churches and church related programs).
65. The Assembly Standing Committee of the Uniting Church in March 2003 in its desire to maintain the separation of the work of UCOA while maintaining an overall integration of the relationships of the Uniting Church with its partner churches resolved to make UCOA an autonomous division within UIM. The Assembly Standing Committee approved a separate Mandate and appointed a separate National Committee to govern the work of UCOA. Separate financial and other systems were also implemented.
66. In February 2009 the name Uniting International Mission was changed to UnitingWorld. The work of UCOA was contained in the name of Uniting World Relief and Development under the same mandate and the separate governance of the National

¹² <http://www.unitingworld.org.au/about/relief-and-development/brief-history/>

Committee. The change of name did not change the structural separation of the Relief and Development Unit from the other areas of work of UnitingWorld.

67. In its current form, UnitingWorld operates in two distinct program areas. The first is Church Connections. UnitingWorld is an expression of the Church in Australia's commitment to international partnership. *Church Connections* is a significant part of this commitment, enabling Australians to collaborate with our partner churches in their life and witness so together they take part in God's transforming work in the world. The second distinct program of work is Relief and Development. The Relief and Development Unit of UnitingWorld supports overseas partners as they enable marginalised communities to live healthy and well-resourced lives.
68. The Church Connections and Relief and Development Units of UnitingWorld are governed by National Committees appointed by and accountable to the Assembly Standing Committee of the Church. Chairs are appointed by the Assembly that meets every three years. National Committee members are selected because of their governance skills in relation the Unit's areas of operation. The National Committees set and monitor strategic plans and directions, governance policies, best practice, reviews of policies and assessment of other accountabilities. The current UnitingWorld Relief and Development Mandate is provided at UCA.1000.001.0333 and the current Mandate for the Church Connections Unit is provided at UCA.1000.001.0342.

UnitingCare Australia

69. UnitingCare Australia¹³ is the national body for the UnitingCare National Network, one of the largest providers of community services in Australia. UnitingCare Australia works with and on behalf of the UnitingCare Network to advocate for policies and programs that will improve people's quality of life. UnitingCare Australia is committed to speaking with and on behalf of those who are the most vulnerable and disadvantaged, for the common good.
70. UnitingCare Australia's key responsibilities are to:

¹³ <http://www.unitingcare.org.au/about-us>

- Encourage theological reflection on the Church's community services work.
- Advocate to Government and within the Church and community those policies and practices which enhance the dignity of people, especially those who are most disadvantaged and marginalised.
- Enable exchange of information across Synods and Church service providers.
- Seek to enhance the quality of community service provision by the Church.
- Represent the views of the Church service providers to governments.
- Work as appropriate with other churches and peak organisations in the community services sector.
- Act on requests and referrals from Synods and the Assembly.

71. UnitingCare Australia does not have operational or governance oversight for any of the community service agencies of the Church, which generally rests at the Synod level.

72. The UnitingCare National Committee is the key governance body of UnitingCare Australia. The National Committee is appointed by, and reports to, the ASC.

73. The role and responsibilities of the National Committee as delegated by the Assembly are to:

- develop and ensure the implementation of strategic directions for UnitingCare Australia
- discern and determine key priorities
- give oversight to the work of UnitingCare Australia, including the National Office and national working groups and networks

74. The Mandate for UnitingCare Australia is provided at UCA.1000.001.0344

Synods

75. The Church has six synods across Australia¹⁴ which are loosely (not precisely) correlated to State and Territory boundaries. Each Synod is responsible for the general

¹⁴ The bounds of a synod does not correlate exactly to state or territory boundaries. For example several congregations and other Uniting Church entities on the northern side of the River Murray are in the State of

governance of the Church's mission within its geographic bounds. Each Synod establishes and oversees committees and agencies as may be necessary to enable it to carry out those responsibilities.¹⁵

76. The Constitution of the Church provides as follows:

“...the Synod shall have general oversight, direction and administration of the Church's worship, witness and service within its bounds. It shall exercise executive, administrative, pastoral and disciplinary functions over the Presbyteries within its bounds, shall be the council to hear and deal with appeals and requests from Presbyteries and shall establish and maintain such boards, institutions, committees and agencies as are appropriate to the furtherance of its responsibilities...”

(Constitution 32).

77. The membership of the Synod in session consists of such number as The Synod shall determine up to a maximum of 500 (Regulation 3.3.7). The Synods meet every 12-18 months, depending on local determination.

78. In between meetings of the Synod in session, the Synod Standing Committee is empowered to act on behalf of The Synod in respect of any of the responsibilities of The Synod except such as The Synod may determine (Regulation 3.7.4.1(d)).

79. Each Synod elects a Moderator.¹⁶ The Moderator-elect is elected, as required by the Moderator's term in each Synod, and takes up office as Moderator at the following Synod meeting. The Moderator usually holds the position for a term of three years. Both lay and ordained persons are eligible for election. The Moderator has a pastoral and advisory leadership role in their synod. The Moderator has considerable moral and relational influence, but limited formal powers with respect to the day to day administration or governance of the relevant Synod.

80. Each Synod appoints a General Secretary. Regulation 3.6.3.4 describes the role as follows:

NSW but within the Synod of Victoria and Tasmania. Similarly the Kimberly region and much of northern Western Australia is in the Northern Synod

¹⁵ Regulation 3.7.4.7

¹⁶ <http://nswact.uca.org.au/about-us/moderator/>

(a) *The Secretary of the Synod shall be the executive officer of the Synod; with executive leadership, pastoral and advisory roles; and be responsible for:*

- (i) ensuring execution of Synod policy;*
- (ii) coordinating Synod activities;*
- (iii) overseeing the management of Synod staff;*
- (iv) acting as liaison officer of the Synod with the Presbyteries and other bodies within the bounds;*
- (v) providing all necessary reports and information as may be required by the Assembly; and*
- (vi) such other things as the Synod may require;*

(b) the Secretary of the Synod is a member ex-officio of all Synod bodies.

81. Although variation exists, the broad categories of institution offering services to children are:

- *Agency:* community service program provider. Agencies provide many services to children, youth and the wider community. This network of community service agencies (predominantly Uniting Care and Uniting) operates across Australia and facilitates a range of services including youth counselling, drug and alcohol counselling, early childhood services, integrated family support and kinship care programs, Child First services, crisis intervention including out-of-home care and work through schools. The network includes both unincorporated and incorporated agencies. Each of these agencies is governed by a Board.
- *Schools:* Church affiliated schools, both incorporated and unincorporated,¹⁷ operate throughout metropolitan and regional Australia. Each of these schools is governed by a School Council/Board.
- *Camping:* Church Camping operates from seven locations in regional Victoria providing campsite accommodation, and camping and wilderness programs. Other camping programs operate in different regions.

Affiliated entities and institutions with Church Synods

¹⁷ Incorporated: See for example Penleigh and Essendon Grammar School. Unincorporated: See for example Knox Grammar.

82. In summary, the total number of entities and institutions affiliated with Church Synods across Australia as at January 2016 is as follows:

Number of affiliated Institutions	Northern Synod	Synod of QLD	Synod of NSW/ACT	Synod of VIC/TAS	Synod of SA	Synod of WA
Agency	2	324	64	51	17	15
School	3	16	11	16	9	9
Camping	1	2	5	5	7	1
Other	1	0	2	8	3	0

83. For the purpose of preparing this statement and in the time available, we have described the affiliates by these categories. If the Royal Commission requires any further detail or information about these entities, please advise us of the information required and the level of detail required.

Presbyteries

84. Each Synod determines the number and bounds of Presbyteries; and exercises oversight in relation to their operational functions, including disciplinary functions. There are 34 Presbyteries across Australia: 14 in New South Wales and the Australian Capital Territory; 8 in Victoria & Tasmania; 8 in Queensland; 2 in Northern Synod and 1 in each of Western Australia and South Australia.
85. Presbyteries, the regional council, consists of ministers and church members, are appointed to oversee ministers, Congregations and local agencies (excluding agencies which are directly responsible to the Synod or the Assembly).
86. Presbyteries exercise such oversight as is necessary to the life and mission of the Church in the area committed to it. This oversight extends to both ministers and congregations. Presbyteries also have a responsibility to promote the wider aspects of the Church, including setting up agencies where appropriate.
87. The term “oversight”, as it is used in the Basis of Union with reference to several councils. In his Commentary on the Basis of Union, the Rev Dr Davis McCaughey, the inaugural President of the UCA explained that the Greek word “episcopos” means oversight. He wrote, “*the UCA is episcopal in order: the functions often performed in*

other Episcopal churches such as the Anglican, Roman Catholic and Orthodox Churches by individual bishops are exercised by a council in the UCA. They include supremely what the apostle Paul called “the daily pressure of anxiety for all the churches” (2 Corinthians 11:28)] (McCaughey, J.D., Commentary on the Basis of Union, p 91)

88. Each Presbytery elects a Chairperson. Either lay or ordained persons may fill this office. The duties of a Chairperson are primarily to constitute, preside over and generally direct the business of the meetings of the Presbytery, and to exercise pastoral oversight.
89. Presbytery led services to children can include camps and youth and children’s ministry and related activities. Presbytery committees with oversight of events for children are considered to have the same obligations as those described for Church Councils.

Congregations

90. Members and adherents worship together in a congregation. The primary expression of the corporate life of the Church is the congregation. (Constitution 22)
91. There are approximately 2078 congregations, preaching places and faith communities of the Church throughout Australia. Some are large with several hundred members others are very small. Many different languages are used in worship in the Church each week. Some congregations are grouped together for the better exercise of their mission.
92. Each congregation or group of congregations has a Church Council. The Church Council gives priority in its life to building up the congregation in faith and love, sustaining its members in hope, and leading the congregation to a fuller participation in Christ’s mission in the world.
93. Many but not all congregations have children attend worship. Based upon the 2013 Census¹⁸ 12,546 children attended worship services nationally within the Uniting

¹⁸ P.77, 2013 UCA Census. Note: Child was defined as a person aged under 15 years of age.

Church. There are congregations within the Church that do not have children present. The greatest proportion of congregations without children are rural congregations and/or those based in the Synods of Victoria and Tasmania, South Australia and Western Australia.¹⁹

94. Less than a fifth of congregations offer services to children in the form of youth groups, kids club, crèche, messy church, young adult activities and Sunday School.²⁰ A small number of congregations operate congregation led community services agencies that are governed by the Church Council of the congregation.
95. The Church Council is responsible for the oversight of all activities with children within the congregation, and consistent with Synod Policies, will oversee a local structure which is appropriate for the congregation size, taking into account availability of suitable leaders, local need and demographic.

Question 2

The manner in which schools, community services including youth services or youth groups or any other institutions associated with the Uniting Church, are permitted to claim an association with the Uniting Church

96. Regulation 3.4.7.4 contemplates a spectrum of institutions that may be associated with the Church. Institutions can include unincorporated or incorporated bodies²¹. The spectrum of relationships between the Church and institutions is wide-ranging. At one end the Church, through its respective Synod, is able to “*determine what institutions shall be continued, established, conducted or discontinued*”²², incorporate bodies²³ or authorise an affiliation or membership²⁴ relationship between the Synod and another body.

Unincorporated associations

¹⁹ P.23, 2013 UCA Census

²⁰ P.31, 2013 UCA Census

²¹ Regulation 3.4.7.4(a)(i)

²² Regulation 3.4.7.4(b)(ii)

²³ Regulation 3.4.7.4(c)

²⁴ Regulation 3.4.7.4(b)(ii)

97. An unincorporated association is able to claim an association with the Church as it is either established or maintained by the unincorporated association that is the Church.²⁵
98. Unincorporated associations do not have a legal existence of their own. An unincorporated association derives authority from the Church through the internal management processes of the Church and its relationship with a property trust is determined by its place within the internal organisation of the Church. As a result, these bodies “do not have a legal existence of their own and come under the umbrella of a *Property Trust*”²⁶. Unincorporated associations “are regarded as bodies undertaking activities as part of the Synod”²⁷.

Incorporated associations

99. The association between the Synod and separately incorporated institutions is essentially bi-dimensional. This association has both a pastoral and a governance dimension. The pastoral dimension is established through the common Ethos and shared mission. The governance dimension is relevant in so far as detailed in the constitution of the institution.

Question 3

The current legal, financial, administrative and governance relationships between the organisations identified in response to question 2 and the Uniting Church

Legal

100. As noted at paragraph 17 above, the Church was inaugurated on 22 June 1977 by a union of the Presbyterian, Methodist and Congregational Churches. The union was made possible by enabling legislation, the *Uniting Church in Australia Acts* which were passed by all State and Territory parliaments. This legislation enshrined (in a schedule to the relevant Acts) a basis of union previously agreed by the three uniting churches as

²⁵ Regulation 3.4.7.4

²⁶ At Paragraph 1.2 of “*Guidelines for members of boards, committees and councils of organisations associated with the Uniting Church*”. Uniting Church in Australia Synod of Victoria and Tasmania. 3rd Edition. 2002. See also Regulation 3.4.7.4(f)

²⁷ At Paragraph 1.2 of “*Guidelines for members of boards, committees and councils of organisations associated with the Uniting Church*”. op. cit.,

the framework upon which their union would occur. This Basis of Union provides the structure of governance of the *UCA* and remains its central foundational document.²⁸

Other key documents on structure and governance issues are the national constitution (*Constitution*) and its regulations (*Regulations*).²⁹

101. The formation, responsibilities, membership and other matters relating to the Synod are set out in Clauses 31-37 of the Constitution. Clause 32(c) provides that subject to the direction of the Assembly, Synod has the power to “...*establish and maintain such boards, institutions, committees and agencies as are appropriate to the furtherance of its responsibilities...*”.
102. Synod committees (including its Standing Committee), boards and other bodies are governed by Regulation 3.7.4. General authority is prescribed to a Synod over its institutions by Regulation 3.7.4.7. Institutions are defined as “*any body whether incorporated or unincorporated established by or on behalf of the Church or any of the uniting churches or in which the Church participates for a religious, educational, charitable, commercial or other purpose*” (Regulation 3.7.4.7).

Property Trusts

103. The Property Trusts are constituted as a corporation by the enabling legislation, holds trust property in trust for the Church³⁰ and subject to the trust to the Church and to any other trust affecting the property holds, manages, administers, and otherwise deals with trust property in accordance with the regulations, directions and resolutions of the Assembly.³¹
104. Subject to any express trusts and to any regulations of the Assembly, a property trust may, for the benefit of the Church or for the purposes of the religious, social, educational or charitable work of the Church, guarantee the payment of moneys

²⁸ See *Attorney-General (NSW) v Grant* (1976) 135 CLR 587 at 600 per Gibbs J. The judgment is instructive as to the status of the basis of the union of the UCA

²⁹ The *Constitution* and *Regulations* of the *UCA* constitute a compact or contract between each of the Church members and operate to define and regulate the rights and responsibilities of the members.

³⁰ This is the legislative expression of Clause 50 of the Constitution.

³¹ This is the legislative expression of Clause 52 of the Constitution.

borrowed by an organisation or institution which forms part of, or is connected, with the church.³²

105. When the Enabling Acts passed by the State and Territory parliaments in 1977 they provided for functions of the Church property trusts and for the vesting of certain property in those trusts.
106. The Property Trusts are made possible by Clause 51 of the Constitution, which is constituted in the enabling legislation providing for a body corporate (*Property Trust*) in whom legal title to all church property is vested. Similarly, to the Enabling Acts, Property Trust Acts were passed by the State and Territory Parliaments.
107. Regulation 3.7.4.6 gives the Synod power to establish a body or bodies to, inter alia, invest and manage funds on behalf of the Synod or on behalf of any Presbytery, Congregation or other body within the bounds of the Synod.
108. Regulation 3.8.6 provides that Congregations, Church Councils, Presbyteries, Synods, the Assembly or other bodies may establish funds to provide for the proper discharge of their purposes, responsibilities and objects, and they shall respectively be managed and administered by such persons or bodies and in such manner as the Church Council (or Church Councils working collaboratively), Presbytery, Synod or Assembly may determine.
109. The responsibility for their activities, extend to authorising separate incorporation, vesting of property in the relevant property trust and overseeing as necessary to ensure accountability and proper management. In most cases, a Synod will, when establishing an organisation, approve the constitution of that organisation and appoint all or some members of the governing body.³³

³² cf s 29A(c) *Uniting Church in Australia Act 1977* (Vic)

³³ This may involve an ex-officio membership

110. The setting up of this Property Trusts structure is historically based. At the time of Union, the secular world in which the Church operated was very different. It is unlikely that the founding members of the Church would have envisaged that the Property Trusts would be used as more than a legal custodian for the assets held, nor face the extensive compliance requirements of today.
111. The Property Trusts are legal entities and may sue and be sued in respect of those matters over which they have responsibility.³⁴ Insofar as the Church performs its pastoral functions as a religious organisation, the Property Trust continues to fulfil this important function. Although, there are institutions which utilise Property Trusts' incorporation, and provide services to children, the Property Trust plays no role in the day to day governance or administration of these institutions.

Governance

112. Within the Church regulations, entities which have been established by the Synod are classified as institutions of the Church, thus allowing the Synod to establish or enter into a partnership with an entity.
113. Across Australia, and even within synods, particular missional considerations result in different approaches to governance. Because of the nature of the Church's inter-conciliar form of government, and the authority given to synods to make their own arrangements with institutions there is a lack of consistency across synods.
114. Further, at present, there is no requirement compelling institutions, to incorporate or to adopt any legal structure; in practice, some are incorporated; others operate as unincorporated associations. Whether a Church institution is incorporated has largely been left to the discretion of each institution.
115. As such, they are accountable through different processes. The accountability of an institution is set out in its constitution or governing document. To accommodate

³⁴ *Trustees of the Roman Catholic Church v Ellis & Anor* [2007] NSWCA 117; 70 NSWLR 565 (NSW Court of Appeal).

individual circumstances the legal relationship with the synod is defined by the constitution of each institution.

116. For example, as was illustrated in Case Study 23, the public hearing into Knox Grammar: “[t]he Knox Constitution broadly sets out the relationship between the Synod, UME and Knox. The Knox Constitution provides that the ultimate control of the school is vested in the Synod. However, on a day to day basis, The Synod and UME are not involved in the management or operation of Knox.”³⁵
117. Synods exercise their limited power or control mostly through the appointment of Board members, sometimes through an ex-officio membership, as per the constitution. In some cases the Synod is able to remove Board members or exercise the rights of Visitor. However, the authority of a council of the Church to unilaterally discontinue an institution or to terminate the membership of Board members has rarely been exercised.
118. In this way, due to the structure, the Church influences, rather than directs, the governance and management of its institutions.

Administration

119. The constitution of the institution details the delegated power of the Board, its relationship with the Synod and the duties of the parties. Generally, responsibility for the administration of an institution lies with the Board or its governing body and not with the Synod.
120. For example, this was evidenced in Case Study 23, where the Constitution of Knox Grammar clearly outlined that the responsibility for the administration of Knox Grammar was the responsibility of the School Council and not of the Synod. This included the School Council being responsible for the proper and effective management

³⁵ Case Study 23: Statement of John Oldmeadow, p.5, para 28-9 STAT.0477.001.0001_R

of Knox, staffing and ensuring that Knox complied with legal requirements and policies. This is consistent with the general responsibility of the Synod in regards to the administration of its institutions.

121. The constitution of the institutions detail the delegated power of the Board and the reporting relationship to the Synod. Despite this, institutions that are covered by the Synods insurance coverage have a duty to report matters which may give rise to a claim.

Financial

122. Synod involvement or oversight into Institution's financial operations varies according to institution legal identity. Where an institution is separately incorporated, for example, the Synod has limited oversight. Notwithstanding the financial accountability related to the legal structure, most institutions, whether separately incorporated or not, will be covered by insurance arranged within the relevant Synod.
123. Historically there have been some instances of cross-institutional support at a time of crisis, this has been rare and cannot be required of an institution of the Church.

Question 9

The approach of the Uniting Church in relation to child sexual abuse alleged to have occurred in pre-formation Presbyterian, Methodist and Congregational religious institutions

124. As indicated in the national statement made at the beginning of the Royal Commission's work, the Church speaks for and accepts responsibility for institutions of the Uniting Church, including abuse that occurred pre-Union in Methodist, Presbyterian and Congregational religious institutions. Public apologies have been provided over the years which demonstrate this approach.
125. The Church believes that God has given us the gift of the Spirit to "constantly correct that which is erroneous" in our life (*Basis of Union*, Para 18). The Church has, and will continue to, engage with survivors of pre-Union Uniting Church Institutions. The Church will say "sorry" to anyone who was sexually abused when in our care and, in consultation with those so affected, actively seek for ways to make amends for what happened in the past and identify how we can best offer support into the future.
126. Where abuse has occurred pre-union, and in an institution previously owned/continued to be owned by one of the continuing churches, there have at times been joint responses made to survivors. For example, the Queensland Synod and the Presbyterian Church of Queensland have worked cooperatively in respect of responding to complaints of harm occurring prior to the Union of the Uniting Church (22 June 1977) within facilities that had been owned and run by the Presbyterian Church prior to Union and were transferred to the Uniting Church at the time of Union. Between September 2004 and September 2016 matters involving complaints of harm were addressed under the Uniting Church in Australia, Queensland Synod's Past Abuse and Mistreatment Complaints processes, in which the Presbyterian Church of Queensland had participated where they had been the preceding denomination prior to Union. Following the implementation of the Uniting Church in Australia, Queensland Synod's Interim Redress Principles and Procedures in September 2016 the Presbyterian Church of Queensland has continued to engage in responding to survivors of abuse, through the provision of financial support, where the Presbyterian Church had been the preceding denomination prior to Union.

Question 10

The approach of the Uniting Church in relation to disclosures of child sexual abuse made during confession

127. The Church exercises corporate confession within the context of worship, rather than individual confession to a clergy person. In the course of the authorized liturgy of the Church, prayers of thanksgiving and confession are either led by the minister in the corporate setting or said together as a congregation. Following the prayers of confession, a declaration of forgiveness is offered by the minister to the congregation. This declaration proclaims God's forgiveness, as the Church does not recognise that a ministry agent has a role or function in forgiving another's sin.
128. Therefore confession is not an authorized act of the Church that happens between a minister and a Church member with an understanding of the minister being able to offer absolution, or that the information is confidential in nature. If a member of the Church, or a person who was not a member of the Church confessed to a ministry agent, or to a Church worker/employee that they were a perpetrator of abuse, or had committed a criminal act, then the minister would follow usual reporting procedures to the relevant authorities/police would apply.

Further information to be provided

129. The Church will provide further statements and documents in response to the other questions raised in the Royal Commission's letter dated 7 December 2016. If there are any further documents or material relevant to the matters addressed in this statement, the Church will provide any necessary clarification and the relevant documents.

Signed:



Stuart McMillan

16 January 2017

Signed:



Colleen Geyer