

Royal Commission into Institutional Responses to Child Sexual Abuse

Case Study 45

Children with Problematic or Harmful Sexual Behaviours in Schools

**REPLY SUBMISSIONS OF THE UNITING CHURCH IN AUSTRALIA PROPERTY TRUST (Q.)
FOR SHALOM CHRISTIAN COLLEGE**

2 February 2017

1. These submissions are made on behalf of the following entities and persons:
 - The Uniting Church in Australia – Property Trust (Q.), the current owner and operator of the Shalom Christian College (**SCC**) in Townsville
 - Mr Christopher Kelynge England, the Principal of SCC
 - Ms Elaine Ethel Rae, the Chairperson of the Board of SCC
 - Ms Cassandra (Sandy) Hindmarsh (nee Oxenburgh), the Deputy Principal of SCC
 - Ms Amy Bridson (nee Benjamin), a Counsellor and the Clinical Services Co-Ordinator at SCC

(collectively referred to in these submissions as the Uniting Church unless otherwise stated).

2. The Uniting Church refers to the submissions lodged on 16 January 2017 and provides the following response to Mr Christopher Shirley's submissions and EAL and EAM's submissions.

Mr Shirley's submissions

Records

3. With respect to paragraphs 10 and 31, the Uniting Church relies on paragraph 38 to 40 of its submissions lodged on 16 January 2017.

Health and Wellbeing Centre

4. With respect to paragraph 7, the Health and Wellbeing Centre was established in 2003 and was planned before Mr Shirley commenced as Principal. Prior to the Centre's establishment, Ms Bridson was employed as a full time counsellor. Prior to Ms Bridson's employment, there was one part time Chaplin/counsellor working at SCC.

Ms Hindmarsh (nee Oxenburgh)

5. In response to paragraph 16, reference is made to Mr Shirley's oral evidence where he conceded his recollection of speaking to Ms Oxenburgh may have been mistaken because Ms Oxenburgh was on maternity leave at the relevant time.¹

¹ Transcript pages 22777 – 22778.

6. The Uniting Church otherwise supports the submissions made by Mr Shirley regarding the steps that he took and measures he sought to implement with respect to CLF's safety.

EAL and EAM's submissions

EAL and EAM's evidence was contested in part: paragraph 4

7. With respect to paragraph 4, the Uniting Church relies on paragraph 11 of its submissions.

Available Finding 17: paragraphs 10 - 22

8. The Uniting Church does not agree Available Finding 17 should be expanded.
9. The Uniting Church relies on paragraphs 20-37 of its submissions particularly, paragraphs 29 to 36 which deal with the relevant legislation on reporting obligations at the time.
10. In response to paragraph 19, the Uniting Church does not agree that by the time of the March incident "on the whole of the evidence" staff at SCC formed a view CLF was an unreliable complainant. The Uniting Church relies upon Ms Bridson's evidence that upon receiving the disclosure neither Ms Bridson nor Mr Shirley doubted the incident occurred in the manner described by CLF.²
11. Further:
 - a. with respect to paragraph 19(a), CLF's initial medical complaints did not raise an alarm. The complaints were routine, being the types of complaints a child might raise and treated appropriately. However, when CLF was admitted to hospital for acute pain with no identifiable origin, the nurse and Ms Bridson, not the external professional, questioned if there may be a psychological origin.
 - b. with respect to paragraph 19(b), it is submitted the references are taken out of context. There were a series of incidents in which CLF was approaching boys and the girls were wanting to fight her. This was not about bullying.
 - c. with respect to paragraph 19 (c), the Uniting Church does not agree the submission is correct and is based on a misapprehension of the counsellor's role and the counsellor's records. The matter described were CLF's goals. The counsellor does not set goals for the client. CLF directed the conversation. CLF also told Ms Bridson that she wanted to change her own behaviour. It was also a first session and an opportunity to build rapport. Ms Bridson notes that students

² See Transcript 22700 and 22704

rarely disclose on the first session. The fact that CLF sought Ms Bridson out the following day indicated she did feel she could trust Ms Bridson.

- d. with respect to paragraph 19(d):
- i. the matters set out reflect the Juvenile Aid Bureau's perspective and is not as reported by SCC;
 - ii. there is no evidence that supports a finding that Mr Shirley had not taken the matter seriously and no basis to impute Mr Shirley holding any adverse impression;
 - iii. there is no evidence that Ms Hindmarsh (nee Oxenburgh) was a likely source of the impression imputed to Mr Shirley;
 - iv. there is no evidence that Ms Bridson was a likely source of the impression imputed to Mr Shirley.

12. Mr Shirley gave evidence that he notified Ms Bridson of the incident. He believed he reported the incident to Child Safety and made arrangements with Boarding Staff to ensure CLF was safe until her parents arrived.³
13. With respect to CLF's bullying behaviours and the assertion throughout EAL and EAM's response to Available Finding 17, that these behaviours were a direct result of the sexual assaults that occurred in February and March of 2006, Ms Bridson gave uncontested evidence that staff experienced behavioural issues with CLF from the commencement of her enrolment at the school (December 2005).⁴
14. Further, CLF disclosed to Ms Bridson that she had a prior history of issues at school but was determined not to experience similar issues at SCC.⁵ CLF's behaviour at SCC caused Ms Bridson to form a view that her behaviours were indicative of a history of trauma prior to her enrolment at SCC.⁶
15. The Uniting Church does not agree with paragraph 22 of EAL and EAM's submission nor does it consider the content to be relevant to Available Finding 17. The Uniting Church relies upon the evidence of Mr Shirley, Ms Bridson, Ms Rae, Ms Hindmarsh and Mr England, all of whom identified concerning behaviours of students, effect the lack of resourcing has on their ability to adequately address these concerning behaviours and the

³ See Transcript 22704 and 22754 – 22756

⁴ The particulars of these behavioural issues are described at Transcript 22712, 22713, 22725 and 22727.

⁵ See Transcript 22727.

⁶ See Transcript 22724

ongoing work. The SCC practice of reporting demonstrates SCC does take such matters seriously. The evidence showed that most of SCC's disclosures are about assaults or abuse in the students' homes, rather than about events occurring at SCC. The students disclose about incidents in their homes and families because they feel safe with SCC and trust that their concerns are taken seriously.

Evidence of Dr O'Brien

16. The Uniting Church respectfully submits that paragraph 21 of EAL and EAM's submissions and reference to Dr Wendy O'Brien's evidence have been taken out of context. The Uniting Church does not agree that upon reading the whole of Dr O'Brien's evidence it supports an assertion a school's staff cannot rely on a system of self-reporting and should possess the professional skills necessary to identify when students behaviours indicate previous exposure to trauma.
17. The Uniting Church notes Dr O'Brien referred to the primary purpose of schools being education based and her concession that school staff are unlikely to possess the professional skills necessary to adequately identify such behaviours.⁷
18. Dr O'Brien opined that principals should seek the assistance of specialised therapeutic counsellors when dealing with such matters as even relevant Community Services were deemed by Dr O'Brien to be an insufficient resource.⁸ This is an opinion expressed in 2016. Dr O'Brien was not asked about her opinion about the availability of such specialists a decade earlier in 2006. In the context of SCC in 2006, the services referred to by Dr O'Brien⁹ were not easily accessible nor readily available in regional areas, such as Townsville.

Available Finding 18: paragraphs 23 – 34

19. The Uniting Church has accepted Counsel Assisting's proposed Available Finding 18 but does not agree there is evidence to support a finding of the kind suggested at paragraph 34 of EAL and EAM's submissions, i.e. that the failure to notify them of the incident on 23 February 2006 was '*reflective of a culture at Shalom at the time of ineffective engagement with parents*'.
20. In relation to paragraphs 29 – 32 of EAL and EAM's submissions, the Uniting Church does not agree and relies on paragraphs 4 and 6 of Ms Bridson's Supplementary Statement.¹⁰

⁷ See Transcript 22658

⁸ See Transcript 22672

⁹ See Transcript 22672

¹⁰ Ex 45-049 Supplementary Statement of Amy Frances Bridson, STAT.1217.002.001 at [4] and [6].

Available Finding 19: paragraphs 35 – 39

21. Whilst in its submissions the Uniting Church accepted Available Finding 19 was available (subject to the amendments proposed at paragraph 44), the Uniting Church does not agree the additional findings proposed by EAL and EAM are supported by the evidence.
22. In response to paragraph 35, it is submitted the evidence shows SCC acted appropriately. Psychosomatic complaints are always investigated for physical origins first. SCC also saw CLF immediately when CLF said she felt unsafe.
23. Specifically, the Uniting Church does not agree with paragraph 37 of EAL and EAM's submissions and relies on paragraphs 7 and 8 above.
24. In response to paragraph 38, the Uniting Church notes the following statement made by Mr Shirley in response to the allegation that he created an impression that CLF was an unreliable complainant:

"... that was not my record of what was said, it's their record of our conversation... I understand that's how it is written there, but that's not my record of what was presented to Child Safety"¹¹

25. Mr Shirley does not recall reporting the matter to Child Safety in the same manner it was recorded by them. Mr Shirley provided further evidence that for personal reasons he took such matters very seriously. The Uniting Church submits, Mr Shirley's actions in reporting the incident and making arrangements to ensure CLF was receiving support from Ms Bridson and Boarding staff does not support a finding that he queried the legitimacy of CLF's allegations.

Available Finding 20: paragraph 40

26. The Uniting Church does not agree with the proposed wording of the finding described at paragraph 40, in making this submission the Uniting Church relies on paragraphs 65 to 75 of its submissions.

Available Finding 21: paragraphs 41 – 44

27. The Uniting Church does not agree with paragraphs 41 to 44 for the reasons described at paragraphs 77 to 85 of its submissions.
28. With respect to paragraph 43 specifically, the Uniting Church confirms it holds no record of receiving any communication from EAM following CLF's incident in March of 2006.

¹¹ See Transcript 22759

29. Further to the above, the Uniting Church does not have a Dioceses and queries whether EAM sent his correspondence to the wrong address. It is noted that EAM incorrectly refers to the Uniting Church as the “Anglican Dioceses”, “Queensland Dioceses” and “Dioceses” on a number of occasions in his evidence provided to the Royal Commission.¹²
30. With respect to paragraph 42 and 44 and the suggestion that the finding be expanded, the Uniting Church does not agree the submission is supported by the evidence. The Uniting Church relies on paragraphs 77-85 of its submissions.

Available Finding 22: paragraphs 45 – 50

31. The Uniting Church notes that EAL and EAM’s submissions do not seek alternative or expanded findings. The Uniting Church relies on paragraphs 87 – 99 of its submissions.
32. With respect to paragraph 48 the Uniting Church does not consider it relates to Available Finding 22. The Uniting Church nonetheless relies on the Supplementary Statement of Ms Bridson in response.¹³
33. The Uniting Church does not agree with the submission made by EAL and EAM at paragraph 49, that the provision of counselling services at the time of CLF’s incident was insufficient. In making this submission, the Uniting Church relies on paragraphs 65 to 75 of its submissions.
34. The Uniting Church does not agree with paragraph 50 and relies on paragraphs 87 to 99 of its submissions which describe the steps taken by the SCC since 2006 to create a safe environment for students.

Kate Eastman SC
 Nathan Jarro
 Counsel for the Uniting Church
 2 February 2017

¹² See Transcript 22653 and 22671

¹³ Ex 45-049 Supplementary Statement of Amy Frances Bridson, STAT.1217.002.001 at [4] and [6].