



**Royal Commission**  
into Institutional Responses  
to Child Sexual Abuse

# REPORT OF CASE STUDY NO. 9

The responses of the Catholic Archdiocese of Adelaide, and the South Australian Police, to allegations of child sexual abuse at St Ann's Special School

MAY 2015

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and the South Australian Police, to allegations of child  
sexual abuse at St Ann's Special School

May 2015

## COMMISSIONERS

Justice Jennifer Coate  
Mr Bob Atkinson AO APM  
Mr Robert Fitzgerald AM

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# Preface

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## The Royal Commission

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The Letters Patent provided to the Royal Commission require that it ‘inquire into institutional responses to allegations and incidents of child sexual abuse and related matters’.

In carrying out this task, we are directed to focus on systemic issues but be informed by an understanding of individual cases. The Royal Commission must make findings and recommendations to better protect children against sexual abuse and alleviate the impact of abuse on children when it occurs.

For a copy of the Letters Patent, see Appendix A.

## Public hearings

A Royal Commission commonly does its work through public hearings. A public hearing follows intensive investigation, research and preparation by Royal Commission staff and Counsel Assisting the Royal Commission. Although it may only occupy a limited number of days of hearing time, the preparatory work required to be undertaken by Royal Commission staff and by parties with an interest in the public hearing can be very significant.

The Royal Commission is aware that sexual abuse of children has occurred in many institutions, all of which could be investigated in a public hearing. However, if the Royal Commission were to attempt that task, a great many resources would need to be applied over an indeterminate, but lengthy, period of time. For this reason the Commissioners have accepted criteria by which Senior Counsel Assisting will identify appropriate matters for a public hearing and bring them forward as individual ‘case studies’.

The decision to conduct a case study will be informed by whether or not the hearing will advance an understanding of systemic issues and provide an opportunity to learn from previous mistakes so that any findings and recommendations for future change that the Royal Commission makes will have a secure foundation. In some cases the relevance of the lessons to be learned will be confined to the institution the subject of the hearing. In other cases they will have relevance to many similar institutions in different parts of Australia.

Public hearings will also be held to assist in understanding the extent of abuse that may have occurred in particular institutions or types of institutions. This will enable the Royal Commission to understand the way in which various institutions were managed and how they responded to allegations of child sexual abuse. Where our investigations identify a significant concentration of abuse in one institution, it is likely that the matter will be brought forward to a public hearing.

Public hearings will also be held to tell the story of some individuals, which will assist in a public understanding of the nature of sexual abuse, the circumstances in which it may occur and, most importantly, the devastating impact that it can have on some people’s lives.

A detailed explanation of the rules and conduct of public hearings is available in the Practice Notes published on the Royal Commission's website at

[www.childabuseroyalcommission.gov.au](http://www.childabuseroyalcommission.gov.au)

Public hearings are streamed live over the internet.

In reaching findings, the Royal Commission will apply the civil standard of proof which requires its 'reasonable satisfaction' as to the particular fact in question in accordance with the principles discussed by Dixon J in *Briginshaw v Briginshaw* (1938) 60 CLR 336:

it is enough that the affirmative of an allegation is made out to the reasonable satisfaction of the tribunal. But reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequence of the fact or facts to be proved. The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal ... the nature of the issue necessarily affects the process by which reasonable satisfaction is attained.

In other words, the more serious the allegation, the higher the degree of probability that is required before the Royal Commission can be reasonably satisfied as to the truth of that allegation.

### Private sessions

When the Royal Commission was appointed, it was apparent to the Australian Government that many people (possibly thousands) would wish to tell us about their personal history of child sexual abuse in an institutional setting. As a result, the Commonwealth Parliament amended the *Royal Commissions Act 1902* to create a process called a 'private session'.

A private session is conducted by one or two Commissioners and is an opportunity for a person to tell their story of abuse in a protected and supportive environment. As at 31 March 2015, the Royal Commission has held 3,216 private sessions, with 1,521 people waiting to attend one. Many accounts from these sessions will be recounted in a de-identified form in later Royal Commission reports.

### Research program

The Royal Commission also has an extensive research program. Apart from the information we gain in public hearings and private sessions, the program will draw on research by consultants and the original work of our own staff. Significant issues will be considered in issues papers and discussed at roundtables.

## This case study

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The scope and purpose of the hearing was:

- The circumstances in which Mr Brian Perkins gained his position of employment at St Ann's Special School.
- The monitoring, supervision and oversight of Mr Perkins' activities as an employee and as a volunteer at St Ann's Special School.
- The response of the principal and the board of St Ann's Special School to allegations of child sexual abuse by Mr Perkins including communication with the parents of the children said to have been sexually abused.
- The response, including internal review(s), to allegations of child sexual abuse by Mr Perkins at St Ann's Special School, by the Catholic Archdiocese of Adelaide (including the Catholic Education Office).
- The experience of the parents of those alleged to have been sexually abused by Mr Perkins at St Ann's Special School.
- The circumstances around, and the basis for, the payment of moneys by the Catholic Education Office of the Archdiocese of Adelaide to the parents of those alleged to have been sexually abused.
- The nature of the investigation by the South Australia Police (SAPOL) of the allegations of child sexual abuse by Mr Perkins at St Ann's Special School, including the circumstances in which Mr Perkins was able to leave the State of South Australia in or about 1993 and steps taken by SAPOL to have him return to South Australia.
- The nature and extent of communications of the investigation and other related matters by SAPOL with the parents of those alleged to have been sexually abused.
- Any other related matters.

## Executive summary

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St Ann's Special School was located in Adelaide in South Australia. St Ann's was owned and operated by Catholic Special Schools Incorporated (CSSI). It was established in 1975 and became Our Lady of La Vang School in 2013.

The school catered for students with intellectual disabilities ranging from a moderate to profound level of severity. Many of the children enrolled at the school had limited communication abilities. There were between 50 and 60 students at the school. They were aged between five and 20 years old.

Mr Brian Perkins was born on 20 February 1936. In 1956 he was convicted of abduction of a child by force or fraud. He was sentenced to a three-year good behaviour bond. In 1968, he was convicted of carnal knowledge or attempted carnal knowledge and sentenced to 12 months' imprisonment. In 1974, he was convicted of carnal knowledge or attempted carnal knowledge and sentenced to two months' imprisonment and a \$50 fine. He also had previous convictions in South Australia and Victoria between 1952 and 1974 for larceny and minor dishonesty offences.

Mr Claude Hamam was the principal of St Ann's from September 1985 to December 1996. Mr Perkins applied for a job at St Ann's as a bus driver. The job required him to take children with intellectual and communication disabilities to and from the school each day while unsupervised.

## Employment and supervision of Mr Perkins

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- ▶ **Finding 1:** Mr Claude Hamam, in employing Mr Brian Perkins, did not comply with the following policies contained in the South Australian *Catholic schools handbook*:
  - the requirement to write a shortlist of applicants
  - the requirement for more than one person to interview an applicant for a job
  - the requirement to conduct reference checks with previous employers and not simply rely on written references
  - the requirement to consult the chairperson of the board of management before making a decision to employ Mr Perkins.
  
- ▶ **Finding 2:** Mr Hamam did not conduct a police check on Mr Perkins before employing him, despite his evidence he had previously performed police checks on other prospective employees.

A police check is likely to have disclosed that Mr Perkins had three prior convictions for sexual offences, which would have resulted in him not being employed as a bus driver at St Ann's Special School with children with intellectual disabilities in his care.

Since 2007, a police check unit has operated within the Catholic Archdiocese of Adelaide to undertake police checks on all persons who are required to have them before they work for the Catholic Church.

- ▶ **Finding 3:** Mr Perkins was not supervised when he was driving the bus.

From 2002, the South Australian Commission for Catholic Schools (SACCS) provided funding for an additional staff member on each bus at St Ann's.

Mr Perkins performed some 'volunteer work' around the school, which included 'generally helping around the school and in the woodworking area'.

- ▶ **Finding 4:** In 1986, the Catholic Education Office did not have a policy on the engagement of volunteers.

St Ann's policy was that a registered teacher was required to supervise volunteers at the school at all times. Mr Perkins had unsupervised access to children in the woodwork shed contrary to the applicable policy.

The school's failure to comply with this policy created further opportunity for Mr Perkins to sexually abuse children in his care.

While he was employed by St Ann's, Mr Perkins provided some 'respite care' to certain students of St Ann's.

Mr Hamam gave evidence that the school did not authorise this 'respite care'. However, Mr Hamam did know that Mr Perkins was providing this service to two students at the school: LH and MX. He considered it to be a private arrangement.

- ▶ **Finding 5:** From 1986 until 1991, the Catholic Education Office did not have a policy on respite care by employees or volunteers.

Since December 2009, appointment letters to staff have specifically prohibited staff from contacting or volunteering care for students or families outside of the authorised school contact. The appointment letters also prohibit any social contact, including social media contact, with students.

## The school's response to the police investigation

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In 1991, the South Australia Police (SAPOL) received allegations against Mr Perkins from a former student of St Ann's with intellectual disabilities: ME, who was then aged 19 years old. The allegations were that Mr Perkins had taken ME to a hotel and then to his flat, where ME had consumed alcohol. Mr Perkins asked her to remove her clothes, which she did. He then took photographs of her.

SAPOL investigated the allegations. Another victim, LH, was identified. The police searched Mr Perkins' house and seized two canisters of film that showed two naked teenage boys. Mr Perkins was present at the time of the search. However, he was not interviewed or charged at this time. The boys were identified as students at St Ann's.

On 31 August 1991, SAPOL raised an incident report for the offence of 'induce a child to expose part of their body for prurient interest', contrary to section 58A(1)(b) of the *Criminal Law Consolidation Act 1935 (SA)* (as it then was).

Between 27 September 1991 and 31 December 1991, the investigation was ‘filed’ as the police could not locate Mr Perkins.

- ▶ **Finding 6:** The principal, Mr Hamam, and the acting principal, Mr Martin Aartsen, did not inform the board of management or board of governors (as a board) of the allegations against Mr Perkins despite the requirement of the school’s constitution to do so.
- ▶ **Finding 7:** The principal, Mr Hamam, did not inform the director of the Catholic Education Office of the allegations against Mr Perkins, as he was required to do under the policies set out in the *Catholic schools handbook*.
- ▶ **Finding 8:** We are not satisfied that Mr Hamam informed Mr Gerry White, the acting director of the Catholic Education Office, of the sexual allegations against Mr Perkins.
- ▶ **Finding 9:** In 1991, the Catholic Education Office:
  - did not have a specific policy in place which imposed any specific responsibilities on employees of the Catholic Education Office who were notified of the allegations of sexual abuse of students
  - did not have an officer at the Catholic Education Office who had a specific responsibility to attend to issues relating to non-systemic schools or schools that received funding directly from the government.

In 2001, the Catholic Education Office created the position of principal consultant. Principal consultants work directly with school principals and they provide the initial point of contact for reporting abuse allegations to the Catholic Education Office. Principal consultants must communicate any allegation or incident to the director of the Catholic Education Office.

- ▶ **Finding 10:** Mr Michael Critchley, the then coordinator of resources for the Catholic Education Office, and Ms Sandra Watkinson, a social worker from the Catholic Education Office, became aware of the allegations against Mr Perkins in 1991. There is insufficient evidence to find that other persons employed by the Catholic Education Office were informed of the allegations in 1991 or that Archbishop Faulkner was informed of the allegations between 1991 and 1993.
- ▶ **Finding 11:** There were failings by the Church parties in 1991 when the information about the sexual abuse first emerged, including a failure to take appropriate action to ensure that matters were fully reported and investigated by the Church parties and that families were informed and children were protected.

## South Australia Police

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- ▶ **Finding 12:** The systems and practices of the South Australia Police (SAPOL) in 1991 for antecedent checks and warrant checks, combined with the failure of police officers Detective Sergeant Leonid Mosheev and Detective Sergeant John Carr to make the relevant inquiries, meant they did not have all relevant information to facilitate Mr Perkins’ arrest when they attended at his home, including, as a minimum, access to all relevant witness statements, his prior criminal history and any outstanding warrants.

- ▶ **Finding 13:** Police officers did not issue a warrant for the arrest of Mr Perkins in 1991, despite having information about Mr Perkins' prior convictions, the nature of the sexual allegations against him and the risk he posed of committing further sexual offences against children. Instead, they flagged him as a 'wanted suspect' on a police incident report.

Between September 1991 and April 1993, SAPOL did not continue to investigate Mr Perkins by reinterviewing LH or by interviewing other students who had contact with Mr Perkins and may have been sexually abused by him.

In 1993, after receiving photographs depicting naked adult males with naked young male children, Operation Deny was established to investigate. As part of that investigation, police arrested Mr Perkins at his son's address. They seized pornographic material. Mr Perkins was charged with the offences of inducing a child to expose his body for a prurient purpose, indecent assault (on LH) and possession of child pornography. They were the same offences for which a police incident report had been raised in 1991, although Mr Perkins was now charged with the newly introduced offence of possessing child pornography rather than the offence of producing indecent material.

- ▶ **Finding 14:** After the apprehension of Mr Perkins (and other suspects) in 1993, Operation Deny was discontinued and the investigators told not to make any further inquiries. Pornographic photographs located in the possession of Mr Perkins were not examined. The photographs strengthened the case against Mr Perkins in relation to LH and revealed another offence against LB, a former St Ann's student who had been in the care of Mr Perkins.

On 4 January 1994, the South Australian Director of Public Prosecutions (DPP) filed an Information jointly charging Mr Perkins and others with more serious sexual offences than in the original information. An Information is a document that sets out offences that an accused is alleged to have committed and that the accused must stand trial on and be sentenced on if found guilty.

Mr Perkins had been granted bail on 27 October 1993 in the Magistrates Court before the DPP laid the 1994 Information charging the major indictable offences. On Tuesday, 4 January 1994, Mr Perkins failed to attend court and a warrant for his arrest was issued.

A warrant was issued on the original Information charging the lesser offences.

Between January 1994 and February 1998, SAPOL did not further investigate Mr Perkins or make any attempt to locate Mr Perkins.

- ▶ **Finding 15:** The failure by SAPOL to fully investigate material seized from Mr Perkins in 1993 contributed to the years of delay in bringing Mr Perkins to trial.

In February 1998, Detective Sergeant Gregory Ramm of SAPOL discovered that Mr Perkins was living in Queensland.

- ▶ **Finding 16:** SAPOL declined to apply to extradite Mr Perkins from Queensland because they were given inaccurate information on the seriousness of the charges and because

they failed to give sufficient weight to the strength of the prosecution case against Mr Perkins.

- ▶ **Finding 17:** SAPOL did not inform the broader school community of the sexual allegations against Mr Perkins, despite being aware that other former students with intellectual disabilities and limited verbal capacity may have had contact with Mr Perkins.
- ▶ **Finding 18:** In 1991 and 1993, SAPOL officers investigated Mr Perkins and took child complainant statements. The police officers involved had not received specialised training in child sexual abuse and child protection or in investigating sexual offences against children with disabilities.
- ▶ **Finding 19:** From 2001, the families of former students of St Ann's and the Archdiocese of Adelaide actively urged SAPOL to extradite Mr Perkins from Queensland to South Australia. In seeking to progress the extradition of Mr Perkins, the Archdiocese of Adelaide also offered to pay the costs of the extradition. SAPOL declined the offer.

## Towards Healing

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*Towards Healing: Principles and procedures in responding to complaints of abuse against personnel of the Catholic Church in Australia* protocol (Towards Healing) is a set of principles and procedures for a person who wishes to complain of having been, relevantly for this Royal Commission, sexually abused by a priest, religious or other Catholic Church personnel. Towards Healing was established by the Australian Catholic Bishops Conference and the Australian Conference of Leaders of Religious Institutes in 1997. It was revised in 2000, 2003, 2008 and 2010.

As of 29 November 2002, 12 families from St Ann's had made contact with the Catholic Church's Professional Standards Office (PSO) under Towards Healing. A further five families were receiving counselling.

When determining payment amounts, the Archbishop of Adelaide applied a 'group' approach. By 2 December 2004, 38 families who fitted this group approach had been paid.

The payments that the archdiocese made to St Ann's students, which totalled \$2.3 million, were for children for whom:

- there was substantiated evidence of abuse
- there was a high probability of abuse
- there was an opportunity for Mr Perkins to have abused them.

The payments to the families of St Ann's students came from the archdiocesan revenue.

In 2008, Catholic Church Insurance paid a total of \$800,000 under the archdiocesan insurance policies towards the amounts paid by the archdiocese to the St Ann's victims.

Mrs Helen Gitsham said that her son David Gitsham was a student at St Ann's from 1986 until 1988. David had an intellectual disability that resulted from a chromosomal

abnormality. David Gitsham had substantial contact with Mr Perkins. Mrs Gitsham was first informed of the allegations against Mr Perkins in August 2001.

In dealing with Mrs Gitsham, the Church did not follow the process set down by Towards Healing. The Gitshams had provided two statements in February and May 2002; however, no-one from the Church had spoken with them or sought information from them to determine the extent of David's abuse.

In a letter dated 20 September 2003, Archbishop Wilson made an offer of a 'gift' and said that 'David Gitsham was not identified specifically as a victim of the abuse'.

On 18 November 2003, the Gitshams accepted the gift.

- ▶ **Finding 20:** The Church parties should have provided Mrs Gitsham and her husband with a more prompt and complete response to their concerns about the application of the Towards Healing protocols.
- ▶ **Finding 21:** The Church parties did not consult former students or their families about the decision to take a group approach to the payment of 'gifts'. The Church did not provide an explanation to the former students or their families about how the Church formulated the amount of the gift. The Church did establish a helpline to provide families with information.

The Church caused hurt to some families by failing to engage with them in the development of the process of redress. The Church parties accept they would take a more consultative approach in the future.

- ▶ **Finding 22:** The group approach that the Church took to the payment of 'gifts' to former students of St Ann's – instead of implementing the Towards Healing procedures – did not provide an adequate response for some families. Some families responded positively to the group approach and some families received financial reparation which they would not have received under Towards Healing protocols.

## Reports and inquiries

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In late 2001, Archbishop Philip Wilson commissioned an inquiry into what had occurred at St Ann's in 1991, to be conducted by Mr Brian Hayes QC.

The report on the inquiry (the Hayes report) was publicly released on 2 June 2004. Mr Hayes QC recommended against indiscriminate or wide publication of his report because he had not heard any evidence. The report was not tabled in Parliament.

Some families expressed the view that the report was not a thorough and independent report subject to outside scrutiny. Further, the terms of reference that were ultimately considered did not refer directly to students or families and no recommendations were made.

Archbishop Wilson said in evidence that at the time he thought the Hayes inquiry was satisfactory, but he now considered it limited.

Since 1991, and in particular since 2001, the Archdiocese of Adelaide and the Catholic Education Office have taken steps to address the factors that prevented the allegations of sexual abuse being brought fully to their attention in 1991.

The Catholic Education Office and the archdiocese commissioned a number of other reports and reviews on the issues that arose at St Ann's.

- ▶ **Finding 23:** The delay in the response by SAPOL and the Church parties exacerbated the distress caused by the sexual offending to the former students and their families.

# 1 St Ann's Special School

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St Ann's Special School in Adelaide, South Australia, was established in 1975. St Ann's was a diocesan school and part of the South Australian Catholic school system. It was owned and operated by Catholic Special Schools Incorporated (CSSI).<sup>1</sup> In July 2013 St Ann's Special School became Our Lady of La Vang School.<sup>2</sup>

The school catered for students with intellectual disabilities ranging from a moderate to profound level of severity. Many of the children enrolled at the school had limited communication abilities. There were between 50 and 60 students at the school. They were aged between five and 20 years old.<sup>3</sup>

Until 2011, St Ann's had a two-tier board governance structure consisting of the board of governors and the board of management. The board of governors had ultimate legal control and government of the property and affairs of the school. The board of management had management of the day-to-day activities, general affairs and administration of the school.

From 1975 until 2011, the Catholic Archbishop of Adelaide was the *ex officio* head of the board of governors. The director of the Catholic Education Office and the principal of St Ann's also sat on the board of governors.<sup>4</sup>

In 1992 the school's constitution was amended to state:

The principal shall share fully with the board [of management] all appropriate information from whatever source that may help members in discussion and decision making; and shall service the board [of management] with reports and recommendations to that end.<sup>5</sup>

A new constitution was adopted in 2011. From that time, the school was governed only by a board of management. Subject to the archbishop's overriding directions, the director of the Catholic Education Office was delegated, among other matters, to oversee the application of policies and the financial management of the school.

The principal of St Ann's was given the sole right to engage teaching staff and other school employees and assistants but was required to exercise this right in accordance with the policies determined by the board of management.

Because the school had the archbishop as the chair of its board of governors, St Ann's was required to follow the principles and policies of SACCS and the policies circulated by the Catholic Education Office.

SACCS receives government grants and develops and publishes policies for all Catholic schools in South Australia. The Catholic Education Office acts as the executive and policy arm of SACCS. Many of those principles and policies are set out in the South Australian *Catholic schools handbook*.<sup>6</sup>

## 1.1 Relationship between St Ann's and the Catholic Education Office

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Before 2001, St Ann's operated more autonomously from the Catholic Education Office in some areas than most diocesan schools. Mr Paul Sharkey, the current director of the Catholic Education Office, explained in his statement that various factors may have contributed to the autonomy, including the following:<sup>7</sup>

- The school had its own governance structure and the board of management was not directly answerable to the Catholic Education Office.
- The school did not interact routinely with the Catholic Education Office on funding issues because it received funding directly from the government rather than from a block funding agreement that the government had with SACCS.
- As a special school it was different from mainstream schools.

The school would have still sought advice from the Catholic Education Office on various aspects of its operations and would have been expected to follow the SACCS policies that applied to all Catholic schools.<sup>8</sup>

## 1.2 Mr Perkins' employment at St Ann's

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Mr Perkins was born on 20 February 1936. In 1956 he was convicted in the South Australian South Eastern District Criminal Court of abduction of a child by force or fraud. He was sentenced to a three-year good behaviour bond.<sup>9</sup> In 1968, he was convicted in the Adelaide Magistrates Court of carnal knowledge or attempted carnal knowledge and sentenced to 12 months' imprisonment.<sup>10</sup> In 1974 he was convicted of carnal knowledge or attempted carnal knowledge and sentenced to two months' imprisonment and a \$50 fine.<sup>11</sup> Between 1952 and 1974 he also had convictions in South Australia and Victoria for larceny and minor dishonesty offences.<sup>12</sup>

Mr Perkins applied for a job at St Ann's as a bus driver. The job required him to take children with intellectual and communication disabilities to and from the school each day while unsupervised.

There is some uncertainty about when he was first employed at St Ann's. However, it seems likely that it was in 1986.<sup>13</sup>

## 1.3 Employment procedures at St Ann's

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The policies and procedures that applied at St Ann's in 1986 for the employment of new staff included that:

- where possible, a second person in addition to the principal should draw up a shortlist of applicants
- as part of finalising a shortlist, referees should be contacted
- written references should not be relied on.<sup>14</sup>

The guidelines underpinning the policies and procedures stated that more than one person should interview shortlisted applicants and that, if the parish priest and school board chairperson is not involved with the interviews, they must be consulted before a decision is

made. Because St Ann's was not a school with a parish, it did not have to consult a specific parish priest about appointments. Rather, the chair of the board of management was the appropriate person to be consulted at St Ann's.<sup>15</sup>

Mr Hamam was the principal of St Ann's from September 1985 to December 1996. In 1986, Mr Hamam placed an advertisement in a newspaper in Adelaide seeking a part-time casual bus driver for the school.<sup>16</sup> The advertisement required the applicants to have a bus licence and to have had some experience working with disabled children. A written application and references were required.<sup>17</sup>

Mr Hamam could not precisely recall how many applicants he interviewed in response to the advertisement. In his written statement he noted that he recalled interviewing Mr Perkins and reading his references, although he did not recall whether or not he contacted the referees.<sup>18</sup> He alone interviewed Mr Perkins. He said he made the decision to appoint Mr Perkins without consulting any member of the board of management or the board of governors.<sup>19</sup> Mr Hamam provided no explanation for failing to comply with the policies and procedures for employment required by St Ann's in 1986.

- **Finding 1:** Mr Claude Hamam, in employing Mr Brian Perkins, did not comply with the following policies contained in the South Australian *Catholic schools handbook*:
- the requirement to write a shortlist of applicants
  - the requirement for more than one person to interview an applicant for a job
  - the requirement to conduct reference checks with previous employers and not simply rely on written references
  - the requirement to consult the chairperson of the board of management before making a decision to employ Mr Perkins.

## 1.4 Police clearance check

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In 1986, there was no requirement that a police clearance check be conducted as part of the St Ann's employment process. At that time, the school and the Catholic Education Office had no established mechanism in place for the conduct of these checks.

Mr Hamam did not obtain a police clearance check on Mr Perkins' criminal history before employing Mr Perkins. In his written statement, Mr Hamam stated that there was no requirement at that time for him to seek a police clearance check for any member of staff or volunteer employed at the school.<sup>20</sup> In evidence, Mr Hamam said that he knew how to conduct a police clearance check and he could not explain why he did not do this for Mr Perkins.<sup>21</sup>

However, Mr Hamam's evidence to us varied from accounts he had given previously about conducting a police clearance check on Mr Perkins.

On 13 August 2001, Mr Hamam was interviewed by Mr Allan Dooley, then director of the Catholic Education Office, and Mr Fuller, solicitor for the Catholic Education Office. The notes of that meeting state that 'Claude carried out a police check according to usual practice and that indicated no prior record in relation to Mr Perkins'.<sup>22</sup>

On 21 January 2002, Mr Hamam was interviewed by Mr Dooley, Ms Jane Swift of the Catholic Education Office and Mr Fuller. Mr Hamam's lawyer, Ms Litchfield, was present.<sup>23</sup> During that interview, Mr Hamam gave a detailed explanation about how he went about the police check, naming the police station and saying that he obtained an 'all clear' outcome. Mr Hamam also stated he had made similar phone calls with every appointment and that he had drafted a pro-forma document that he used every time he interviewed an applicant.<sup>24</sup>

On 17 June 2013, Mr Hamam was again interviewed by Mr Dooley, Mr Fuller and Ms Swift, with Ms Litchfield present. At that time, Mr Hamam admitted that he did not obtain a police check before employing Mr Perkins at St Ann's.<sup>25</sup>

As a result of these false representations, in July 2003 Mr Dooley recommended to Archbishop Wilson that Mr Hamam be advised of an intention to dismiss him from his position as principal of Tenison Woods Catholic School in Richmond, New South Wales, on the grounds of misconduct.<sup>26</sup> Archbishop Wilson accepted this recommendation.<sup>27</sup> Mr Hamam then left his position as principal at Tenison Woods.

## 1.5 Current procedures for police clearance checks

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In May 2005, the directors of the Catholic Education Office distributed a circular that stated that 'No new employee or volunteer can commence their employment or volunteer work without a police clearance'.<sup>28</sup>

In October 2005, the Archdiocese of Adelaide established a police check unit within the PSO to undertake police checks for those who required checks as part of their work in the Church and its agencies. The police check unit was established to provide a centralised screening process for the Archdiocese of Adelaide, which incorporated all of its agencies including the Catholic Education Office.

In December 2006, amendments to the *Children's Protection Act 1993 (SA)* came into operation. The amendments required all staff in schools in South Australia to undergo a police check within 12 months of the date that the amendments came into operation – that is, by December 2007.<sup>29</sup>

In April 2013, a police check decision flowchart was implemented by the archdiocese to help schools to determine when a police check was required and for whom.<sup>30</sup>

- ▶ **Finding 2:** Mr Hamam did not conduct a police check on Mr Perkins before employing him, despite his evidence he had previously performed police checks on other prospective employees.

A police check is likely to have disclosed that Mr Perkins had three prior convictions for sexual offences, which would have resulted in him not being employed as a bus driver at St Ann's Special School and having children with intellectual disabilities in his care.

## 1.6 Supervision of Mr Perkins' activities at St Ann's

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### Paid employment: driving the school bus

Mr Hamam said that Mr Perkins was employed from Monday to Friday. He was required to work for approximately an hour or so in the morning and again for an hour or so in the afternoon. Mr Hamam authorised this work.<sup>31</sup> Mr Hamam said that he provided Mr Perkins with a timetable and a list of the students' details and times for transport. Mr Perkins kept a logbook, which was kept in the school office.<sup>32</sup> No other staff member accompanied Mr Perkins when he drove the school bus.<sup>33</sup>

Between 1986 and 1991, there were no policies or procedures at St Ann's about the supervision of staff members who were alone with children.<sup>34</sup>

In 1993 the school established a child protection policy. In 1995 it also introduced procedures for dealing with child abuse. These policies and procedures set down the requirements for the supervision of staff members who were alone with children. The Protective Practices documents of 2005, 2009 and 2011 also included directions for the supervision of staff members who were alone with children.

From August 2002, SACCS approved ongoing funding for an additional staff member on each bus at St Ann's.<sup>35</sup>

► **Finding 3:** Mr Perkins was not supervised when he was driving the bus.

### Volunteer work

Mr Hamam said that Mr Perkins performed some 'volunteer work' around the school, which included 'generally helping around the school and in the woodworking area'. Mr Martin Aartsen, a teacher employed at St Ann's from 1984 to 2007, also recalled that staff, including Mr Perkins, commonly volunteered and performed extra duties around the school.

In 1986, there was no policy on the engagement of volunteers.<sup>36</sup>

From 1986 to 1991, the *Catholic schools handbook* provided that it was the school's responsibility to ensure that volunteer workers were competent and that a registered teacher was supervising the volunteer at all times. Mr Hamam said he was aware of this policy and complied with it.<sup>37</sup>

Mr Perkins was employed only as a bus driver. At the time of employment, his suitability for other work was not assessed.<sup>38</sup> Mr Hamam gave evidence that, as Mr Perkins acquired the trust of others within the school community, his presence at the school and contact with the students increased.<sup>39</sup>

Mr Hamam gave evidence that Mr Perkins was always supervised in this work and that 'he would have worked in conjunction with other staff members as part of this volunteer work'.<sup>40</sup> Mr Hamam gave evidence that he believed there was an element of trust between staff and volunteers. Mr Hamam said that, at the time he was working at the school, he never suspected Mr Perkins of any inappropriate behaviours towards the students.<sup>41</sup>

However, there is other evidence, which we find persuasive, that, for some of this 'volunteer work', Mr Perkins was unsupervised. In particular, LH gave evidence that Mr Perkins was alone with him in the woodwork shed at lunchtimes.<sup>42</sup> LO said in her statement that she found LE alone in the woodwork shed with Mr Perkins.<sup>43</sup>

- ▶ **Finding 4:** In 1986, the Catholic Education Office did not have a policy on the engagement of volunteers.

St Ann's policy was that a registered teacher was required to supervise volunteers at the school at all times. Mr Perkins had unsupervised access to children in the woodwork shed contrary to the applicable policy.

The school's failure to comply with this policy created further opportunity for Mr Perkins to sexually abuse children in his care.

## Respite care

From 1986 until 1991, there was no policy on provision of respite care by employees or volunteers at St Ann's.<sup>44</sup>

Since December 2009, appointment letters to staff have specifically prohibited staff from contacting or volunteering care for students or families outside of the authorised school contact. The appointment letters also prohibit any social contact, including social media contact, with students.<sup>45</sup>

While he was employed by St Ann's, Mr Perkins provided some 'respite care' to certain students of St Ann's.

Mr Hamam gave evidence that the school did not authorise this 'respite care'. However, Mr Hamam did know that Mr Perkins was providing this service to students LH and MX. He considered it to be a private arrangement.<sup>46</sup>

- ▶ **Finding 5:** From 1986 until 1991, the Catholic Education Office did not have a policy on respite care by employees or volunteers.

## 1.7 Earlier complaints about Mr Perkins

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Mr Hamam said he had no concerns about the paid or voluntary work that Mr Perkins performed.<sup>47</sup> He also said he had never received any complaint of a sexual nature against Mr Perkins until the allegations were first raised in 1991.

However, the Royal Commission received evidence and documentary material that there were complaints about Mr Perkins that could have raised Mr Hamam's suspicions about Mr Perkins. These complaints included the following:

- The bus was often late.
- Mr Perkins had brought another volunteer unknown to the school onto the school grounds.

- A parent had told Mr Hamam that her daughter complained that Mr Perkins had inappropriately touched her.

The Royal Commission received evidence from a parent, LK, about her son, LB, who attended St Ann's from 1983 until 1992; from when he was aged five until he was 14. LB caught the school bus. After 1988, LK began to notice that the school bus was often late in dropping her son home. On these occasions the bus was driven by Mr Perkins. On several occasions the bus was up to an hour late. When this occurred, LK would occasionally telephone the school and ask where the bus was and why it was late. She was often told by the school secretary that the bus was running late, had broken down or had mechanical problems or that the delay was caused by the children being disruptive.<sup>48</sup> LK raised with Mr Hamam that the school bus appeared to be consistently late. She was told:

Oh, once a kid had a fit on the bus. Sometimes we have to drop off another child before LB, so the route changes. Sometimes the bus breaks down.<sup>49</sup>

The Royal Commission also had evidence from LM, whose son LC attended St Ann's from 1982 until 1988. The school day finished at 3.15 pm, but LC was not arriving home on the bus until 5.30 or 6 pm. LM raised the issue with Mr Hamam and was told that the delay was because of the route the bus took at the time.<sup>50</sup>

The Church parties submit that the complaints about the school bus being late would not have necessarily or reasonably raised Mr Hamam's suspicions that Mr Perkins was engaging in sexual abuse of students on the bus. We accept this submission. However, we note that Mr Hamam did not ask Mr Perkins why the bus was late, despite complaints by some parents.

Mr Hamam agreed that a teacher had expressed concern that Mr Perkins had brought Mr Robert Hawkes (a man unknown to the school community) to the school grounds near students. Mr Hamam does not recall raising that matter with Mr Perkins.<sup>51</sup> Mr Hamam said that Mr Hawkes was introduced to the school as a potential volunteer and that Mr Hawkes filled out a volunteer application form.<sup>52</sup>

A parent made a report to Mr Hamam in 1990 that her daughter, LT, said that Mr Perkins had tried to touch her breast.

Mr Hamam's evidence was he did not recall LT's mother telling him that LT had made a complaint that Mr Perkins had tried to touch her breast.<sup>53</sup> Mr Hamam said that if he had been told of such matters then he would have informed the police.<sup>54</sup>

The Church parties submitted that there is an insufficient basis for the Royal Commission to conclude that LT's mother made a complaint to Mr Hamam in circumstances where LT did not give evidence and there was no opportunity to test her account.

We have not found it necessary to come to a conclusion as to whether, before 1991, LT's mother informed Mr Hamam about her daughter's allegation. The evidence is that Mr Perkins was having unsupervised access to students in his capacity as a volunteer and this was contrary to school policy at the time.

## 1.8 Allegations of abuse in 1991

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The allegations against Mr Perkins first surfaced in 1991 and came to light in the following way.

On 15 August 1991, the Darlington Police Station in Adelaide received a facsimile from Detective Doherty of the Christies Beach Criminal Investigation Branch (CIB). The facsimile referred to allegations that ME, a former student of the school, made against Mr Perkins. The facsimile said that ME had intellectual disabilities and was now aged 19 years old. ME's mother had reported to her general practitioner, Dr Lee, that ME was approached by a bus driver, Mr Perkins, while ME was visiting St Ann's. Mr Perkins had taken ME to a hotel and then to his flat, where she had consumed alcohol. Mr Perkins asked her to remove her clothes, which she did. He then took photographs of her. The facsimile requested that Mr Perkins 'be spoken to as soon as possible as other children may be involved'.<sup>55</sup>

Police took a statement from ME on 17 August 1991.<sup>56</sup> In that statement, ME reported that she had seen LH, another student, at the school. LH told her that Mr Perkins wanted to see ME in the woodwork shed. ME went into the shed. Mr Perkins told ME that LH had let Mr Perkins take photos of him. Mr Perkins also told her that 'he wanted to take photos of LH and I naked with me holding LH's penis'.<sup>57</sup> ME was 18 years old at the time of the alleged incident.

On 21 August 1991, police officers Detective Sergeant Mosheev and Detective Sergeant Carr of Darlington CIB attended at Mr Perkins' home address in Dovar Gardens in Adelaide. They searched his home and found a photographic studio. Two canisters of film were seized from the studio – one labelled 'L' and the other 'L & M'. On the same day, one of the two canisters of film was developed or processed. The film showed two naked teenage boys. Mr Perkins was present at the time of the search. However, he was not interviewed or charged at this time.

On 25 August 1991, Detective Sergeant Mosheev spoke with the foster parents of LH, who confirmed that the two naked boys depicted in the photos were LH and their biological son, MX. MX was also a student with intellectual disabilities at St Ann's. In August 1991, LH was 15 years old.

On 25 August 1991:

- Detective Sergeant Graham Clarke, who was the supervisor of detectives Mosheev and Carr, spoke to MX's mother, NE.
- Detective Sergeant Mosheev collected the photos of victim LH from the police photographs department.
- Detective Sergeant Mosheev spoke to NE and Mr Hamam.<sup>58</sup>

On 26 August 1991, a meeting was held at St Ann's. It was attended by Mr Hamam, Detective Sergeant Mosheev and LH's foster mother. Another parent, LK, may also have been present. Detective Sergeant Mosheev took a statement from LH on that day.

Mr Hamam informed the chair of the board of management of St Ann's, Mr Paul Morrissy, and the coordinator of resources at the Catholic Education Office, Mr Critchley, about at least some of the allegations against Mr Perkins.

On 31 August 1991, the police raised an incident report for the offence of ‘induce a child to expose part of their body for prurient interest, contrary to section 58A(1)(b) of the *Criminal Law Consolidation Act 1935 (SA)*’ (as it then was). This was a minor indictable offence. Mr Perkins was listed as a suspect. The police did not issue a warrant of apprehension at this time, but Mr Perkins was flagged as a suspect. Detective Sergeant Mosheev went on extended sick leave on 31 August 1991. No police officer applied for a warrant of apprehension after that date.

The police went to Mr Perkins’ home on at least three occasions in late August and into September 1991. He was not there and appeared to have vacated the house. They also went to his son’s address and to the address of Mr Hawkes, an associate of Mr Perkins.

On 27 September 1991, there was a further meeting at St Ann’s. Detective Sergeant Clarke attended this meeting along with Mr Hamam and about eight others, including LH’s foster parents. Detective Sergeant Clarke said he intended to apply for a warrant for Mr Perkins’ arrest within a week.

Between 27 September 1991 and 31 December 1991, the investigation was ‘filed’, as the police could not locate Mr Perkins.

## 1.9 The school’s response to the allegations of abuse in 1991

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### Failure to inform the board of management

Mr Hamam said that, either following or immediately before the police attended the school to interview LH, he contacted Mr Morrissy, chair of the board of management, and advised him of the allegations.<sup>59</sup> Mr Hamam says that he went to Mr Morrissy’s house and had a face-to-face meeting with him.<sup>60</sup> Mr Morrissy did not give evidence at the public hearing; he was excused from providing a statement and giving evidence on the grounds of his ill health.

Mr Hamam accepted in evidence that he did not inform the board of management or board of governors of the allegations against Mr Perkins as the school’s constitution required him to do. Mr Hamam speculated that he may have not informed the board of management or board of governors at the meetings because he was asked to respect the confidentiality of students and staff and there were persons present from St Ann’s.<sup>61</sup> This matter is addressed later in this report.

Mr Hamam accepted that the allegations should have been raised at the board meetings so that the board of management and board of governors could have considered a response to the allegations, including whether the broader school community should be informed of the allegations.

Mr Hamam went on leave for the fourth term of school in 1991. Mr Aartsen took over as acting principal for the fourth term from 3 October 1991. Mr Aartsen gave evidence that he also did not inform the board of management of the allegations against Mr Perkins. He said he did not do so because he assumed Mr Hamam had advised members of the board of management<sup>62</sup> or he understood that the police had instructed that the issue should be treated as confidential so as not to compromise the police investigation.<sup>63</sup>

The allegations should have been raised at the board meetings so that the board of management and board of governors could have considered a response to the allegations, including whether and how the broader school community should be informed of the allegations.

- ▶ **Finding 6:** The principal, Mr Hamam, and the acting principal, Mr Martin Aartsen, did not inform the board of management or board of governors (as a board) of the allegations against Mr Perkins despite the requirement of the school's constitution to do so.

### Whom did Mr Hamam inform at the Catholic Education Office about the allegations?

Between 1986 and 1991, mandatory reporting to the South Australian Department of Family and Community Services (FACS) applied to teachers under the *Community Welfare Act 1972 (SA)*. The school staff were required to tell the principal, as well as the director of the Catholic Education Office, about any suspected abuse.<sup>64</sup> If an allegation were made against a staff member or volunteer at the school, the principal would be required to notify the director of the Catholic Education Office.<sup>65</sup> The director of the Catholic Education Office in 1991 was Mr John McDonald.<sup>66</sup>

Mr Hamam said he was aware of the *Catholic schools handbook* but rarely referred to it. He was provided with no professional development about the policies and procedures to follow in responding to allegations of child sexual abuse.<sup>67</sup> Also, he was not aware of the child protection unit at the Catholic Education Office. He cannot recall having had anything to do with the unit.<sup>68</sup>

Mr Hamam accepted that he did not inform the director of the Catholic Education Office, Mr McDonald, of the allegations against Mr Perkins. Instead, he contacted Mr Critchley of the Catholic Education Office.

In 1991, Mr Critchley held the position of coordinator of resources and was responsible for budget and finance, human resources and industrial relations.<sup>69</sup> His job did not involve issues of child protection or the safety of children. Matters such as mandatory reporting, liaison with FACS and the police and the development of guidelines were dealt with by the school services section, to which a social worker, Ms Watkinson, was attached.<sup>70</sup>

- ▶ **Finding 7:** The principal, Mr Hamam, did not inform the director of the Catholic Education Office of the allegations against Mr Perkins as he was required to do under the policies set out in the *Catholic schools handbook*.

Mr Morrissy provided an unsigned draft statement (dated 19 November 2002) to the Hayes inquiry. Mr Morrissy said in his statement that Mr Hamam told him he had 'made contact with' the then acting director of the Catholic Education Office, Mr Gerry White.<sup>71</sup> Mr Morrissy's note of his conversation with Mr Hamam said, 'Gerry White Acting Director Catholic Education Office re media comment'.

Mr Hamam gave evidence that it is possible that he contacted Mr White, but he no longer recalls whether he did so.<sup>72</sup>

Mr Aartsen said in his statement that, in or around 1991, when he was first informed of the allegations against Mr Perkins, Ms Watkinson, a social worker from the Catholic Education Office, attended St Ann's. He recalled her meeting with Mr Hamam and with parents on several occasions.<sup>73</sup> Detective Sergeant Mosheev also noted that Ms Watkinson advised him on 31 August 1991 that she had instructed Mr Hamam to prepare a list of students who had associated with Mr Perkins.

The Church parties contend that the evidence supports the finding that Mr Hamam did not inform Mr White of the allegations of sexual abuse by Mr Perkins. They rely on the following matters:

- Mr Hamam could no longer recall whether he contacted Mr White.
- There are no Catholic Education Office records of any communication between Mr Hamam and Mr White.
- Mr White was not called to give evidence at the Royal Commission.
- Mr Morrissy's statement of 2002 was unsigned and he was unable to give evidence at the public hearing due to ill health.

Counsel for the families of the victims of sexual abuse rely on the following material and evidence, which, they submit, support a finding that Mr Hamam did inform the acting director, Mr White, of the allegations:

- The statement of Mr Morrissy referred to above.<sup>74</sup>
  - Ms Watkinson was employed as a social worker at the child protection unit of the Catholic Education Office. Ms Watkinson attended at the school in 1991 in response to the allegations. Mr Hamam gave evidence that he could not recall having had any dealings with Ms Watkinson about the allegations. Mr Critchley said he did not request Ms Watkinson's attendance at the school.<sup>75</sup> Mr Critchley gave evidence that, if Mr Hamam had not asked Ms Watkinson to attend the school, the only other possibility was that one of her superiors at the Catholic Education Office organised for her to do so.
- **Finding 8:** We are not satisfied that Mr Hamam informed Mr Gerry White, the acting director of the Catholic Education Office, of the sexual allegations against Mr Perkins.

### Some parents of students who had contact with Mr Perkins, and the wider school community, were not informed of the allegations

On 25 August 1991, Detective Sergeant Mosheev spoke with the foster parents of LH, who confirmed that the two naked teenagers depicted in the photos found at Mr Perkins' home were LH and their biological son MX. MX was also a former student of St Ann's who had intellectual disabilities.

On 26 August 1991, a meeting was held at St Ann's. It was attended by Mr Hamam, Detective Sergeant Mosheev and LH's foster mother. Another parent, LK, may also have been present. Detective Mosheev took a statement from LH.

On 27 September 1991, Detective Sergeant Clarke attended a meeting at the school with Mr Hamam, Mr Aartsen, a FACS representative and a number of parents. LK gave evidence that she attended a meeting described in similar terms, although she dated it in August 1991. LK

gave evidence that at that meeting the police told her to keep the information confidential.<sup>76</sup> She said that the school also told her to keep information about the allegations confidential.<sup>77</sup>

Mr Hamam gave evidence that he did not inform the wider school community of the allegations because the police had told him to keep the matter confidential to protect the identity of the children so as not to compromise the police investigation.<sup>78</sup> Mr Hamam said that he informed staff of the allegations and told staff that police requested that the matter not be discussed openly.<sup>79</sup>

Mr Hamam said that, acting on police advice, he contacted only three families to inform them of the allegations of abuse against Mr Perkins and to offer them counselling. He gave evidence that he was informed by the police that the children of those families may have been abused. He said it was not the case that he contacted those specific families on his own understanding that those children had a lot of contact with Mr Perkins.<sup>80</sup>

Mr Hamam said that he may also have told MR's mother of the allegations.<sup>81</sup>

Mr Aartsen gave evidence that it was his understanding that the police did not want Mr Perkins' name to be raised or for the matter to be discussed by staff or with families from 1991 because of fears that this would compromise their investigation.<sup>82</sup> Mr Aartsen also said that Mr Hamam had told him that the police had warned him that if he discussed the matter it might interfere with their progress towards an arrest.<sup>83</sup>

Detective Sergeant Mosheev gave evidence that he could not recall whether he said to the principal or some other person that they could not discuss the allegations.<sup>84</sup>

Detective Sergeant Mosheev agreed in evidence that he was aware of the police regulations that prescribe an offence for police to improperly disclose information about police investigations to persons who had no connection with police work.<sup>85</sup>

Detective Sergeant Mosheev said he was aware of those regulations and of the need to preserve the integrity of an investigation where charges had not been laid.<sup>86</sup>

## 2 Response of the Catholic Education Office and Archdiocese of Adelaide in 1991

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Mr Critchley was the coordinator of resources for the Catholic Education Office from 1988 until 1999. He did not have any background in child protection and his responsibilities with the Catholic Education Office did not involve the formulation or application of child protection policies or procedures.<sup>87</sup>

Mr Hamam contacted Mr Critchley in September 1991 and informed him of the allegations against Mr Perkins. Mr Hamam denied that he contacted Mr Critchley purely for industrial advice on Mr Perkins' employment. Mr Critchley gave evidence that he cannot recall discussing the matter further with Mr Hamam after Mr Hamam informed him of the allegations and he had organised the letter of termination.<sup>88</sup>

Mr Critchley said that he did not inform the director of the Catholic Education Office, Mr McDonald, or Archbishop Faulkner of the allegations.

In 1991, the Catholic Education Office did not have a specific policy in place that imposed any specific responsibilities on employees of the Catholic Education Office who were notified of the allegations of sexual abuse. There was also no officer at the Catholic Education Office who had a specific responsibility to attend to issues relating to non-systemic schools.<sup>89</sup>

In his statement to the Royal Commission, Mr Critchley said:<sup>90</sup>

Looking back, there are a number of things I wish I had done differently in 1991:

- first, I should have followed Mr Hamam up to find out exactly what was going on; and
- second, I could have made sure the director of the Catholic Education Office knew what was going on, so he could decide how to handle it.

I greatly regret that I did not take those steps at the time.

In evidence, Mr Critchley said he could think of no real or perceived barriers that prevented him from taking those steps.<sup>91</sup>

In June 2004, the Catholic Education Office conducted an independent investigation of Mr Critchley's handling of the report of child sexual abuse allegations in 1991. A written report concluded that in 1991 Mr Critchley had responded to the allegations of sexual abuse in accordance with his duties and responsibilities and in accordance with accepted expectations and procedures relating to reports of child sexual abuse as they existed at that time.<sup>92</sup>

The Church parties submit that Mr Critchley's response to the allegations was reasonable given:

- Mr Critchley's contemporaneous file note, which indicates that he was not apprised of the full extent of the abuse and that, as a result, he instructed Mr Hamam to ring the police and FACS to find out more

- a finding by an independent review panel that it was accepted practice at the time that, once such matters were in the hands of the authorities, they were then to be left to the authorities to investigate
- a finding by an independent review panel that at the time the Catholic Education Office did not have a specific policy in place that imposed any particular responsibilities on employees of the Catholic Education Office who were notified of allegations of sexual abuse – in particular, allegations about non-systemic schools
- a finding by an independent review panel that at the time there was no officer of the Catholic Education Office who would have had a specific responsibility to attend to or take up issues to do with non-systemic schools
- Mr Critchley’s role as coordinator of resources, and his subsequent conduct, established that he dealt with the matter purely as an industrial issue.

In 2001, the Catholic Education Office created the position of principal consultant. Principal consultants work directly with school principals and they are the initial point of contact for reporting abuse allegations to the Catholic Education Office. Principal consultants must communicate any allegation or incident to the director of the Catholic Education Office.

► **Finding 9:** In 1991, the Catholic Education Office:

- did not have a specific policy in place that imposed any specific responsibilities on employees of the Catholic Education Office who were notified of the allegations of sexual abuse of students
- did not have an officer at the Catholic Education Office who had a specific responsibility to attend to issues relating to non-systemic schools or schools that received funding directly from the government.

## 2.1 Did senior officers at the Catholic Education Office and Archbishop Faulkner become aware of the allegations in 1991?

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The following evidence and material suggests that persons other than Mr Critchley at the Catholic Education Office and Archbishop Faulkner may have been informed of the allegations in 1991:

- Ms Watkinson, a social worker from the Catholic Education Office, attended at the school and provided support for staff in 1991. Mr Critchley said he did not inform Ms Watkinson of the sexual abuse allegations against Mr Perkins. He gave evidence that, if Mr Hamam had not asked Ms Watkinson to attend at St Ann’s, the only other possibility was that one of Ms Watkinson’s superiors at the Catholic Education Office had asked her to attend.<sup>93</sup>
- Mr Morrissy said in his unsigned statement taken in 2002 that Mr Hamam told him that he had contacted the acting director, Mr White, and informed him of the allegations, as discussed above.
- From 1991 until 2001, Archbishop Faulkner sat on the board of governors of St Ann’s Special School, along with the then director of Catholic Education Office, Mr McDonald. Archbishop Faulkner said (in an earlier statement provided for the Hayes inquiry commissioned by the Church, which is discussed later):

- the first time I became aware of Brian Perkins and his involvement at St Ann's was in 1993 or whenever it was that he was arrested or charged by the police ... I also believed or assumed that the Catholic Education Office was aware of the matter and was dealing with it appropriately.<sup>94</sup>

The Royal Commission excused Archbishop Faulkner from providing a statement and giving evidence on the grounds of ill health.

Mr Dooley, the director of the Catholic Education Office from 1994 until 2009, gave evidence that, while he was the director of the Catholic Education Office, Archbishop Faulkner never informed him of the allegations and to his knowledge there was no response by the Catholic Education Office or archdiocese to the allegations.<sup>95</sup>

The Church parties contend there is an insufficient basis for the Royal Commission to conclude that any person at the Catholic Education Office, other than Mr Critchley and Ms Watkinson, knew of the allegations. The Church parties also submit that there is an insufficient basis to find that Archbishop Faulkner knew of the allegations of sexual abuse by Mr Perkins.

Counsel for the victims' families submit that the Royal Commission should find that senior officers at the Catholic Education Office and most likely the acting director, Mr White, were informed of the allegations and passed that information on to Archbishop Faulkner.

- ▶ **Finding 10:** Mr Michael Critchley, the then coordinator of resources for the Catholic Education Office, and Ms Sandra Watkinson, a social worker from the Catholic Education Office, became aware of the allegations against Mr Perkins in 1991. There is insufficient evidence to find that other persons employed by the Catholic Education Office were informed of the allegations in 1991 or that Archbishop Faulkner was informed of the allegations between 1991 and 1993.
- ▶ **Finding 11:** There were failings by the Church parties in 1991 when the information about the sexual abuse first emerged, including a failure to take appropriate action to ensure that matters were fully reported and investigated by the Church parties and that families were informed and children were protected.

## 3 Response of the South Australia Police from 1991 to 2001

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### 3.1 The initial investigation in 1991

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On 15 August 1991, the Darlington Police Station in Adelaide received a facsimile from Detective Doherty of the Christies Beach CIB. The facsimile concerned ME, a former student of St Ann's with intellectual disabilities, who was aged 19 in 1991. The facsimile said that ME's mother had reported to ME's doctor that ME was approached by a bus driver, Mr Perkins, while ME was visiting St Ann's. Mr Perkins had taken ME to a hotel and then to his flat and ME had consumed alcohol. Mr Perkins asked her to remove her clothes, which she did, and he then took photographs of her. The facsimile requested that Mr Perkins 'be spoken to as soon as possible as other children may be involved'.<sup>96</sup>

Detective Sergeant Clarke was a supervising detective at Darlington CIB in August 1991. He made a notation in his police diary on 15 August 1991 which said 'ME enquiry' and mentioned the receipt of a facsimile.

Two days later, on 17 August 1991, ME made a statement to police officer Constable Pfitzner.<sup>97</sup> In that statement, ME said that she was 19 years old. She said that she was visiting St Ann's when LH, who was one of her old schoolmates, told her that Mr Perkins wanted to see her in the woodwork shed. ME reported that she went to see Mr Perkins there. Mr Perkins asked her whether she wanted to do some modelling and have some photographs taken of her from the shoulders up. Mr Perkins told her that LH let him take photographs of him. ME reported that Mr Perkins took her to his flat, where they drank some alcohol, and Mr Perkins told her he would pay her \$10 if she took her top off, as he wanted to take some photos of her topless. ME stated that he showed her a photograph album containing photos of boys and said that he wanted to take photographs of LH and her naked, with her holding LH's penis. She said that Mr Perkins took photographs of her topless.<sup>98</sup> LH was 15 years old.<sup>99</sup>

There is no evidence as to whether Detective Sergeant Clarke was informed of ME's statement taken by Constable Pfitzner and, if he had been, at what time. Counsel on behalf of SAPOL accepts that Detective Sergeant Clarke was informed of the facsimile to Darlington CIB dated 15 August 1991, which referred to allegations against Mr Perkins.

Four days after Constable Pfitzner took ME's statement, detectives Mosheev and Carr attended at Mr Perkins' home on 21 August 1991. Detective Sergeant Mosheev gave evidence that, at the time of their attendance, he was not aware of the facsimile of 15 August 1991 or of ME's statement. Detective Sergeant Mosheev said that Detective Sergeant Clarke had not informed him about the documents or the information they contained. He says that he attended Mr Perkins' address because of a 'police action' that informed him Mr Perkins had 'nude photos'.<sup>100</sup> Detective Clarke said in his statement that he cannot recall exactly how the investigation of Mr Perkins commenced and why detectives Mosheev and Carr attended at Mr Perkins' home.<sup>101</sup>

In a police investigation diary entry made shortly before Detective Sergeant Mosheev went on leave on 31 August 1991, he noted that he attended at Mr Perkins' residence as a result of ME's statement.<sup>102</sup> In evidence Detective Sergeant Mosheev said he made that note by relying on information that he learnt after his attendance.<sup>103</sup>

By way of explanation for why he was not aware of the facsimile of 15 August 1991 or ME's statement, Detective Sergeant Mosheev said that in 1991 SAPOL officers operated in a largely paper-based environment in which police incident reports were placed in an officer's basket and the officer collected them and prioritised them.<sup>104</sup> A SAPOL officer would have been dealing with 20 to 30 'police incident reports plus other things at the one time'.<sup>105</sup>

Before attending at Mr Perkins' home, Detective Sergeant Mosheev did not check whether Mr Perkins had any prior convictions.<sup>106</sup> Mr Perkins had three prior convictions for sexual offences.

There was no electronic access to antecedent records in 1991. SAPOL implemented electronic access to offender history records throughout 1992 and 1993.<sup>107</sup> In 1991, a SAPOL officer could only obtain information about a person's antecedents by telephoning the central records section at police headquarters and requesting a manual search of the index card system to locate any details.<sup>108</sup>

The evidence to the Royal Commission was that it was the practice of many SAPOL officers in 1991 when responding to a police incident report to prioritise attending a premises over conducting an antecedents check. This was because the process for obtaining antecedent information was time consuming; SAPOL officers were required to wait for the records retrieved by central records staff.<sup>109</sup>

Before attending at Mr Perkins' premises, Detective Sergeant Mosheev also did not check whether Mr Perkins had a warrant history. Mr Perkins had an outstanding warrant for a drink-driving offence.<sup>110</sup>

Detective Sergeant Mosheev said that, at the time of his attendance at Mr Perkins' residence, he had no electronic access to warrants and it was necessary for him to ring the warrant section at SAPOL to obtain warrant information.

By 1991, SAPOL had begun to implement a system whereby details of outstanding warrants could be accessed electronically.<sup>111</sup> However, it is unclear on the evidence whether in August 1991 police officers at the Darlington CIB were able to access warrant information electronically.

Counsel for SAPOL submits that there should be a further finding that, where it was not possible to obtain electronic access to warrant information, it was appropriate in many situations, including that pertaining to Mr Perkins, to ensure that the premises were visited promptly and to conduct a warrant check after the initial visit. However, there is no evidence to support a positive finding that such an approach by police officers in 1991 was reasonable or appropriate in the investigation of Mr Perkins.

Upon arrival at Mr Perkins' residence, Detective Sergeant Mosheev located a photographic lab and seized two canisters of film. There were other film negatives, but he only seized the

canisters labelled 'L' and 'L & M' respectively. He seized them because they were the only labelled canisters of film, not because he was looking for photos of LH or MX.<sup>112</sup>

Detective Sergeant Mosheev looked at the negatives while he was at Mr Perkins' home and saw a naked male person. He did not think the male was a child.<sup>113</sup>

Detective Sergeant Mosheev agreed in evidence that had he seen the facsimile of 15 August 1991 and ME's statement and, upon finding the canister of film with 'L' written on it, he would have had reasonable cause to suspect Mr Perkins of having committed an offence and would have considered arresting him.<sup>114</sup> Detective Sergeant Mosheev also agreed that he would have been more ready to arrest Mr Perkins had he known of his prior convictions for sexual offending.<sup>115</sup>

The most applicable offence in 1991 for this conduct was production of indecent material and/or gratifying prurient interest.<sup>116</sup> The relevant age threshold for these offences was 16 years of age.

Counsel for SAPOL does not accept that, if Detective Sergeant Mosheev had been aware of ME's statement, he would have had reasonable cause to suspect Mr Perkins of having committed an offence and had the power to arrest him. The State of South Australia submits that, even if Detective Sergeant Mosheev had been aware of ME's statement while he was at Mr Perkins' home, that information, combined with the images in the negatives and other photos on display, did not suggest that LH was likely to be under the age of 16.

Counsel for SAPOL submits that the following material suggests that LH was not likely to be under 16 years:

- In her statement, ME said she was 19 years old and referred to LH as one of her old classmates at St Ann's.
- Detective Sergeant Mosheev said that many of the photos he saw at Mr Perkins' home were clearly of adults.
- Detective Sergeant Mosheev believed that the male person he saw in the negatives contained in the canister labelled 'L' or 'L & M' looked like 'a young man',<sup>117</sup> someone who 'would have been 18, 19, 20',<sup>118</sup> not a child.
- With respect to the offence of the production of indecent material, there was an available defence of artistic merit.

Detective Sergeant Mosheev had not been informed of ME's statement before attending at Mr Perkins' premises. He did not make any inquiries with other sources, such as LH, ME or St Ann's, about LH's age. The statement of ME in itself would have given Detective Sergeant Mosheev reasonable cause to suspect that an offence had been committed with a child under 16, as he conceded in evidence, because:

- ME says she saw LH at the campus of St Ann's school, suggesting that LH was still a student.
- ME said in her statement that Mr Perkins showed her a photograph album containing photos of 'boys', not men.

ME also reported that Mr Perkins said that LH let him take photographs of him and that Mr Perkins told her he wanted to take photographs of LH and her naked, with her holding LH's penis.

- ▶ **Finding 12:** The systems and practices of the South Australia Police (SAPOL) in 1991 for antecedent checks and warrant checks, combined with the failure of police officers Detective Sergeant Leonid Mosheev and Detective Sergeant John Carr to make the relevant inquiries, meant they did not have all relevant information to facilitate Mr Perkins' arrest when they attended at his home, including, as a minimum, access to all relevant witness statements, his prior criminal history and any outstanding warrants.

If the attending police officers had been aware of ME's statement, they would have had reasonable cause to suspect that Mr Perkins had committed the offence of producing indecent material and/or gratifying prurient interest and had the power to arrest Mr Perkins.

## The police investigation from 1991 to 1993

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After detectives Mosheev and Carr visited Mr Perkins' premises on 21 August 1991 and seized two canisters of film, Detective Sergeant Mosheev arranged for the film to be developed, spoke to the principal of St Ann's and to LH's mother and took a statement from LH.<sup>119</sup>

Between 21 August and 26 August 1991, police did not re-attend at Mr Perkins' address. Detective Sergeant Mosheev said that there was some urgency to apprehending Mr Perkins because Mr Perkins knew that police had seized photos of a naked LH. However, Detective Sergeant Mosheev was waiting to obtain all of the evidence before he re-attended the premises to arrest him.<sup>120</sup>

On 26 August 1991, detectives Mosheev, Carr and Clarke attended at Mr Perkins' home address to find that he was not there.<sup>121</sup>

Detective Sergeant Mosheev went on extended sick leave from 1 September 1991 until 31 December 1991. Before going on leave, on 31 August 1991 Detective Sergeant Mosheev raised a police incident report that flagged Mr Perkins as a wanted suspect.<sup>122</sup> He also wrote a minute setting out a list of further enquiries to be pursued while he was on leave.<sup>123</sup> The minute referred to Ms Watkinson from the Catholic Education Office having instructed the principal, Mr Hamam, to compile a list of those children who had associated with Mr Perkins.<sup>124</sup>

In his absence, Detective Sergeant Mosheev expected another police officer to speak with the parents of children who had contact with Mr Perkins and who may have been abused.<sup>125</sup>

On 4 September 1991 and 11 September 1991, police attended at Mr Perkins' home. He was not present. Police also attended at the home of Mr Perkins' son<sup>126</sup> and the premises of Mr Hawkes.<sup>127</sup>

On 27 September 1991, police held a meeting at St Ann's. Police informed the attendees, including a parent, LK, that a warrant would be issued for the arrest of Mr Perkins.

In late 1991, SAPOL made a decision that Mr Perkins could not be located and 'filed' the investigation on the basis that the investigation would be reactivated if Mr Perkins was located.

Upon his return to work, Detective Sergeant Mosheev discovered that Mr Perkins' whereabouts were unknown and the matter was no longer being investigated.<sup>128</sup> He understood it was a 'low priority' matter. He did not know what, if any, inquiries had been made in his absence or whether any of the matters listed in his minute had been completed.<sup>129</sup>

The police did not issue a warrant for Mr Perkins' arrest, as Detective Sergeant Clarke had told the meeting of 27 September 1991 at St Ann's that he intended to do within the week. Instead, Mr Perkins was flagged as a 'wanted suspect'. SAPOL stated that information about the flagging of a person as a wanted suspect could be accessed by SAPOL officers via radio if they stopped and spoke with Mr Perkins.<sup>130</sup> Detective Sergeant Mosheev said that in 1991 within SAPOL it was regarded as an effective and efficient procedure when compared with the workload and delay involved in applying for a first instance warrant.<sup>131</sup>

To obtain a first instance warrant in 1991, a police officer would be required to prepare an apprehension report and a brief of evidence and submit these to the prosecutions section of SAPOL. A justice of the peace or a special magistrate would decide whether there was sufficient evidence to justify issuing a warrant.<sup>132</sup> Detective Sergeant Mosheev said that it would take many weeks, maybe months, before police acted on a first instance warrant in 1991.<sup>133</sup>

The evidence to the Royal Commission was that the procedures for obtaining and acting on a first instance warrant are now improved and streamlined when compared with the procedures in 1991.<sup>134</sup>

Detective Sergeant Mosheev agreed in evidence that a two-tiered approach that involved continuing investigations of Mr Perkins and issuing a warrant would have been a better approach.<sup>135</sup> A warrant is a court order that authorises a person's immediate arrest and can therefore be acted upon immediately by police. This approach is preferable to flagging a suspect on a police incident report because to flag a suspect a police officer must form a reasonable suspicion or obtain a warrant before arresting a person.

Counsel for SAPOL submits that, as of late 1991, when SAPOL decided to 'file' the investigation of Mr Perkins, there was no evidence that he posed a risk of further offending against children.

We consider that, by late 1991, there was considerable evidence that Mr Perkins posed a risk of sexual offending against children in the future. That evidence includes:

- Mr Perkins' prior convictions for sexual offences against children
- LH's statement of the sexual acts committed upon him by Mr Perkins
- ME's statement that Mr Perkins said he would like to take photographs of ME holding LH's penis
- the photographs of LH located at Mr Perkins' home
- Mr Perkins did not return to work and was unable to be located by the police after they had attended at his home on 21 August 1991 and in his presence discovered his 'photographic studio' and removed canisters of film.

- ▶ **Finding 13:** Police officers did not issue a warrant for the arrest of Mr Perkins in 1991, despite having information about Mr Perkins' prior convictions, the nature of the sexual

allegations against him and the risk he posed of committing further sexual offences against children. Instead, they flagged him as a 'wanted suspect' on a police incident report.

Between September 1991 and April 1993, SAPOL did not continue to investigate Mr Perkins by reinterviewing LH or by interviewing other students who had contact with Mr Perkins and may have been sexually abused by him.

### 3.3 Operation Deny is established in 1993

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From late 1991 until May 1993 there were no further police investigations of Mr Perkins.

On 11 May 1993, Detective Sergeant Ramm met with Detective Chief Inspector Peter Simons (as he then was) and a journalist, Mr David Kellett. The journalist handed Detective Sergeant Ramm film, negatives and photographs depicting naked adult males with naked young male children. Detective Sergeant Ramm was assigned to investigate the material with the assistance of an intelligence officer, Sergeant Vicki Sherlock.

The investigation identified a paedophile ring comprising Mr Hawkes, Mr Perkins, Mr Kenneth Glencross and Mr Geoffrey Barton. The investigation was the genesis of Operation Deny.<sup>136</sup>

On 3 September 1993, Detective Chief Superintendent Graham Bartlett signed the operation order for Operation Deny. CIB investigators from the Christies Beach, Darlington, Holden Hill and Elizabeth police stations in Adelaide were assigned to conduct simultaneous raids and arrests of four of the five suspects.<sup>137</sup>

The arrests were conducted one week later, on 10 September 1993. Detective Sergeant Ramm believed that the timing was premature, as there were still many outstanding enquiries.<sup>138</sup>

As part of Operation Deny, Detective Sergeant Mosheev and Detective Senior Constable Martin arrested Mr Perkins at his son's address on 10 September 1993. They seized pornographic material located in the caravan and shed on the premises.<sup>139</sup> Mr Perkins was charged with the offences of inducing a child to expose his body for a prurient purpose, indecent assault (on LH) and possession of child pornography.<sup>140</sup> They were the same offences for which a police incident report had been raised in 1991, although Mr Perkins was now charged with the newly introduced offence of possessing child pornography rather than the offence of producing indecent material.

Following the arrests of the suspects, all SAPOL investigating police officers involved in Operation Deny attended a meeting at the Holden Hill Police Station.

Detective Chief Inspector Simons, on the instruction of Assistant Commissioner Colin Watkins, advised police officers that they were to examine seized material for the purpose of locating any evidence relevant to the suspects they had arrested and the offences for which they had been charged and to finalise the briefs of evidence. They were instructed not to conduct any other inquiries beyond that.

Mr Simons retired from SAPOL in 2006. In a statement to the Royal Commission, Mr Simons provided no specific explanation for the instruction to finalise the briefs of evidence that was given during the meeting on 10 September 1993.<sup>141</sup> However, Mr Simons did say that all operations have time frames set for them and Operation Deny was a short-term operation centred on the apprehension of the suspects. If further information or intelligence were identified, a new operation would be established as a matter of course. From a management perspective, SAPOL would have assessed the information and advice, looked at anything new and started again with a new operation. He referred to this as a fundamental management principle.<sup>142</sup>

Detective Sergeant Mosheev understood that he was only to investigate Mr Perkins for those matters that Mr Perkins had been arrested for – namely, the charges that related to material seized in 1991.<sup>143</sup> He was not permitted to undertake any further investigations.<sup>144</sup> He prepared a brief of evidence on the offences that Mr Perkins had been charged with. Detective Sergeant Mosheev did not make any other inquiries or examine the material seized from Mr Perkins' caravan to find other evidence that may have led to other charges being laid in relation to LH or that may have revealed other victims.

After the arrest phase of the operation was completed, the following approvals were given for a three-week period:

- Sergeant Sherlock was to continue as intelligence officer for duration of the operation.
- All available evidence was to be gathered to assist the prosecution of the four offenders.
- An early assessment was to be made as to the necessity or otherwise to extend the operation beyond the planned three-week duration.

On 24 October 1993, Detective Sergeant Ramm and Sergeant Sherlock recommended that Operation Deny continue.<sup>145</sup> They said that there were numerous other inquiries to be made, including those involving over 50 other child victims who had never been identified.<sup>146</sup>

On 17 November 1993, Detective Sergeant John Bean wrote a report (the Bean report), which, in its original draft, recommended that SAPOL officers be allowed more time to investigate the group of paedophile suspects and that a taskforce be established to investigate paedophile offences. Detective Sergeant Bean sent the report to Assistant Commissioner Watkins. After receiving the report, Assistant Commissioner Watkins directed Detective Sergeant Bean to amend this recommendation so that the report stated there was no justification for forming a taskforce.<sup>147</sup>

Assistant Commissioner Watkins is now deceased. The Anti-Corruption Branch at SAPOL subsequently investigated Assistant Commissioner Watkins's actions in relation to Operation Deny and found no evidence that Assistant Commissioner Watkins had acted improperly.<sup>148</sup>

Operation Deny was finalised and a paedophile taskforce was not established.

Counsel for SAPOL submits that Operation Deny was commenced as a dedicated, short-term, special policing operation for the purpose of coordinating simultaneous raids to effect the arrests of five identified paedophile suspects, including Mr Perkins.<sup>149</sup> Counsel for SAPOL

submits that Operation Deny was discontinued because it had achieved the purpose it was established for.<sup>150</sup>

Counsel for SAPOL submits that the reason that SAPOL did not commit resources to investigating the material seized during Operation Deny was not because it was discontinued but because Assistant Commissioner Watkins directed Detective Sergeant Bean not to recommend that a paedophile taskforce be established within SAPOL to examine the material seized and to carry out investigations on the basis of the material.<sup>151</sup>

Whether as a result of Operation Deny being shut down or a paedophile taskforce not having been created, pornographic material seized from Mr Perkins was not examined by police in 1993. This material included pornographic photographs of LH and LB, which formed the basis of one of the charges to which Mr Perkins ultimately pleaded guilty in 2002.<sup>152</sup> The pornographic photographs of LH seized from Mr Perkins in 1993 also materially supported the other charges relating to LH, to which Mr Perkins later pleaded guilty.<sup>153</sup>

A stronger case against Mr Perkins in 1993 would have weighed more heavily in favour of extradition after Mr Perkins was discovered in Queensland five years later, in 1998.

- ▶ **Finding 14:** After the apprehension of Mr Perkins (and other suspects) in 1993, Operation Deny was discontinued and the investigators told not to make any further inquiries. Pornographic photographs located in the possession of Mr Perkins were not examined. The photographs strengthened the case against Mr Perkins in relation to LH and revealed another offence against LB, a former St Ann's student who had been in the care of Mr Perkins.

### 3.4 Prosecution of Mr Perkins in 1993–1994

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In the latter part of 1993, the prosecution of Mr Perkins for the offences against St Ann's students commenced and continued to progress through the courts.

In late 1993, the DPP assumed conduct of all prosecutions relating to Operation Deny. The original statement of LH, taken on 26 September 1991, formed part of the brief of evidence.<sup>154</sup> On 6 December 1993, a DPP solicitor spoke with LH in preparation for the court proceedings. LH disclosed further acts of sexual misconduct by Mr Perkins.<sup>155</sup>

On 4 January 1994, the DPP filed an Information jointly charging Mr Perkins and others with more serious sexual offences.<sup>156</sup> Mr Perkins was charged with two counts of unlawful sexual intercourse (a major indictable offence), which related to acts of anal sexual intercourse and fellatio on LH. On 28 January 1994, LH was reinterviewed by the sexual assault unit of SAPOL and disclosed the same acts he spoke of in the meeting with the DPP solicitor in December 1993.<sup>157</sup>

In charging Mr Perkins with the major indictable offences on 4 January 1994, it is open to infer that the DPP formed the view that LH was able to give evidence at a trial. LH's evidence would also have been materially supported by naked photos of LH found in the possession of Mr Perkins.

In 1993, Detective Sergeant Mosheev formed the view, which he maintained in evidence, that LH would not be a reliable witness because of his intellectual disabilities.<sup>158</sup>

On 7 February 1994, Detective Sergeant Mosheev and all other investigating officers of Operation Deny attended a meeting with the prosecutor of the DPP. The police officers were asked to bring full briefs of evidence and a summary of evidence against each offender.<sup>159</sup> Detective Sergeant Mosheev gave evidence that he has no recollection of the new charges being discussed at that meeting and he never saw the new Information.<sup>160</sup> However, Detective Sergeant Ramm attended the same meeting and gave evidence that it is more than likely that the new charges were discussed.<sup>161</sup>

Mr Perkins was granted bail on 27 October 1993 in the Magistrates Court before the DPP had laid the new Information charging the major indictable offences. On Tuesday, 4 January 1994, Mr Perkins failed to attend court and a warrant was issued for his arrest.<sup>162</sup>

A warrant was issued on the original Information charging the lesser offences.

Between January 1994 and February 1998, SAPOL did not further investigate Mr Perkins or make any attempt to locate Mr Perkins.

- ▶ **Finding 15:** The failure by SAPOL to fully investigate material seized from Mr Perkins in 1993 contributed to the years of delay in bringing Mr Perkins to trial.

### 3.5 Application for extradition in 1998

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In February 1998, Detective Sergeant Ramm discovered that Mr Perkins was living in Queensland. He submitted a report to the officer in charge of South Coast CIB in South Australia, Detective Chief Inspector Newman, seeking approval to extradite Mr Perkins.<sup>163</sup> Detective Chief Inspector Newman in turn submitted the report to Detective Chief Superintendent Bartlett.

Detective Chief Superintendent Bartlett received a facsimile from Detective Chief Inspector Newman along with the minute from Detective Sergeant Ramm, a copy of the warrant of apprehension and extracts from the police apprehension report. He was not advised of Mr Perkins' prior convictions.<sup>164</sup>

Detective Chief Superintendent Bartlett noted that the warrant for apprehension was for the offence of inciting a child to commit an indecent act and was issued by the Adelaide Magistrates Court on 21 January 1994.<sup>165</sup> Detective Chief Superintendent Bartlett was not informed that the DPP had laid a new Information charging Mr Perkins with two counts of the more serious offence of unlawful sexual intercourse on LH.

In 1998 there were no specific guidelines on whether an application for extradition should be approved, but the cogent factors were:

- the seriousness of the offence
- the lapse of time between the offence and the application for extradition
- the availability and competency or ability to give evidence
- the strength of the case
- the cost effectiveness of the application by reference to the budget.<sup>166</sup>

The budgetary consideration was only one factor and was not the primary factor.<sup>167</sup>

Detective Chief Superintendent Bartlett gave evidence that he generally relied on the investigating officer but from time to time would ring the DPP directly.<sup>168</sup> He did not ring the DPP about this matter.<sup>169</sup>

On 23 February 1998, Detective Chief Superintendent Bartlett sought an opinion from Detective Sergeant Mosheev about:

- the suitability and availability of witnesses
- the quality of the exhibit evidence
- the opinion of the DPP as to the overall strength of the evidence and the prospect of obtaining a conviction.<sup>170</sup>

Detective Sergeant Mosheev had no recollection of his response to Detective Chief Superintendent Bartlett's request.<sup>171</sup> He agreed that the appropriate course was to find out from the DPP whether the charges would proceed, which in turn would involve a consideration of the most current charges – namely, the major indictable offences.<sup>172</sup> Detective Sergeant Mosheev agreed that he should have contacted LH and his family to assess LH's availability and suitability to give evidence. He also needed to locate the exhibits.<sup>173</sup> He could not recall whether he performed any of those tasks.

On 26 March 1998, Detective Chief Superintendent Bartlett discussed the extradition with Detective Sergeant Mosheev. Detective Sergeant Mosheev met with Detective Chief Superintendent Bartlett but could not recall the content or detail of that meeting. Detective Chief Superintendent Bartlett said that Detective Sergeant Mosheev advised him that 'the victims are intellectually handicapped children who would not now be reliable witnesses'.<sup>174</sup> Detective Chief Superintendent Bartlett noted that 'It is not cost effective to extradite on the remaining charge of prurient interest, as the case is not strong'.<sup>175</sup>

Detective Chief Superintendent Bartlett did not approve the application for extradition of Mr Perkins on the basis that he had been informed that the witnesses were intellectually handicapped and would not make reliable witnesses (relevant to the charge of indecent assault on LH) and, on the remaining charge of prurient interest, the case was not a strong one.<sup>176</sup>

Counsel for SAPOL submits that Detective Sergeant Mosheev correctly advised Detective Chief Superintendent Bartlett in 1998 that LH was not a reliable witness. The State of South Australia relies on the following evidence to support that submission:

- In 1991, Detective Sergeant Mosheev had difficulty obtaining a statement from LH and LH's parents were concerned about his ability to give evidence.<sup>177</sup>
- Between 1991 and 1994, Detective Sergeant Mosheev kept in contact with LH and his family and had built up a relationship with LH.<sup>178</sup>
- On 6 December 1993, LH attended a proofing session at the DPP. The solicitor noted her 'grave concerns about him being able to give evidence and in particular being cross-examined, he could be easily confused'.<sup>179</sup>
- SAPOL obtained an opinion from a psychologist, who concluded that LH's mental age was equivalent to an eight-year-old child and his comprehension and understanding of behavioural situations was at the level of a six-year-old.

Counsel for SAPOL submits that it is likely that in 1998 LH's evidence would have required a warning of the danger of acting on LH's evidence, if it were not confirmed by other evidence, because of his intellectual disabilities<sup>180</sup> and the delay between the time of the offending and the trial.<sup>181</sup>

Against this, in 1994, after the proofing session of 6 December 1993, the DPP laid a fresh Information charging Mr Perkins with the offence of unlawful sexual intercourse in relation to LH. Counsel for SAPOL submits that there was no evidence before the Royal Commission to suggest that the DPP laid the fresh Information because they were confident that LH could give evidence. The State of South Australia submits that the evidence rises no higher than that the DPP laid the Information on the basis of further allegations of unlawful sexual intercourse at the proofing session. However, we find the inference is open that the DPP would not have laid a fresh Information charging major indictable offences if they were of the view that LH would make an unreliable witness.

Further, the DPP was prepared to call LH as a witness at the trial in 2003 if Mr Perkins had not pleaded guilty. Counsel for SAPOL submits that the preparedness of the DPP to call LH as a witness in 2003 can be distinguished from an assessment of LH's ability to give reliable evidence in 1998 because LH was older, had not been exposed to Mr Perkins for a longer time and had received counselling. Notwithstanding those matters, it is relevant that the DPP considered that LH was able to give evidence at a trial in 2003, only five years after Detective Sergeant Mosheev considered him an unreliable witness.

Most significantly, the photographs of LH seized from Mr Perkins in 1991 and 1993 would have provided material support for LH's evidence at trial on the charges of gratifying prurient interest and indecent assault.

Detective Chief Superintendent Bartlett was never informed of the new Information laid by the DPP on 4 January 1994 charging Mr Perkins with the major indictable offences of unlawful sexual intercourse on LH. Detective Sergeant Mosheev was unaware of the new charges or Information having been filed with the court by the DPP.

On 21 January 1994, Mr Perkins failed to attend at the Adelaide Magistrates Court. By this stage, the Information of 4 January 1994 had been filed with the Magistrates Court. However, Mr Perkins had not been granted bail on this Information and the bail had not been transferred to the new Information, so the warrant was issued on the old Information. The fresh Information was not recorded or entered on the Justice Information System (JIS) so police and prosecutors did not have electronic access to the fresh charges. A subsequent internal police report found this was a 'one-off' mistake caused by the Magistrates Court not entering the new Information on the JIS.<sup>182</sup>

Detective Sergeant Mosheev could not recall making any direct inquiry of the DPP in 1998 about the strength of the case or prospect of conviction. Detective Chief Superintendent Bartlett relied on the advice of Detective Sergeant Mosheev and did not contact the DPP directly.<sup>183</sup>

Counsel for SAPOL submits that Detective Sergeant Mosheev had no reason to contact the DPP in 1998 and, if he had contacted the DPP before meeting Detective Chief Superintendent Bartlett, there is no evidence that the DPP would have provided him with additional information of the more serious major indictable offences laid against Mr Perkins.

However, it is open to infer that, if the DPP had been asked about the strength of the Crown case, it would have made the police aware of the charges as they existed at that time – namely, of the more serious charges laid in 1994.

Detective Chief Superintendent Bartlett gave evidence that, if he had known Mr Perkins was in fact charged with two counts of unlawful sexual intercourse, he would have assumed that the DPP considered there to be sufficient evidence to lay the more serious charges and his recommendation would have been different.<sup>184</sup>

Poor coordination of information by SAPOL resulted in their:

- failing to be informed of the Information charging major indictable offences
  - failing to apprehend the seriousness of the allegations against Mr Perkins
  - failing to apprehend the strength of the prosecution case.
- **Finding 16:** SAPOL declined to apply to extradite Mr Perkins from Queensland because they were given inaccurate information on the seriousness of the charges and because they failed to give sufficient weight to the strength of the prosecution case against Mr Perkins.

### 3.6 Police disclosure of information

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From 1991 until 2001, most parents of children who had contact with Mr Perkins, and the wider school community, were not informed of the allegations against Mr Perkins. This was despite the fact Mr Perkins had unsupervised contact with numerous children, many of whom were non-verbal or had limited capacity to complain of any sexual abuse that might have occurred to them.

During August and September 1991, police spoke with NE (the carer of LH and mother of MX) about the allegations, along with Mr Hamam, the principal of St Ann's.

At a meeting at St Ann's on 27 September 1991, police spoke with four to five parents, including LK, about the allegations.

In 1991, LK, Mr Hamam and Mr Aartsen all say they were told by police officers that other parents should not be informed of the allegations so as to protect the integrity of the investigation. Detective Sergeant Mosheev gave evidence that he cannot recall telling the principal or any family member not to discuss the allegations with other parents.

At some point between 27 September 1991 and 31 December 1991, the investigation of Mr Perkins was 'filed'. The investigation remained dormant until 1993. After 1993, the police made contact with LH and LH's carers. SAPOL did not contact the school to further investigate the allegations or inform the school community of the arrest. From 21 January 1994, when Mr Perkins absconded, until 22 February 1998, when Mr Perkins was located in Queensland, the investigation again remained dormant. After 1998, when a decision was made not to apply to extradite Mr Perkins, the investigation again remained dormant until 2001.

Detective Sergeant Mosheev agreed in evidence there was nothing that prevented SAPOL from disclosing the fact of the allegations against Mr Perkins to the school community –

without releasing the details of the allegations or the names of the alleged victims – as early as 1991. In particular, he said this disclosure would not have undermined the integrity of the investigation or prosecution of Mr Perkins.

From 1991 to 2002, there were no specific written general or special orders about the disclosure of information to individuals and organisations external to SAPOL.<sup>185</sup> The SAPOL code of ethics contained within the then *General duties manual*, the police regulations and the Information Privacy Principles Instruction provided policy guidance to SAPOL on the issue.<sup>186</sup>

From 1991 to 1993, SAPOL practice was for information disclosure relevant to criminal investigations to be limited to protect personal information and the integrity of the investigation. It was more likely that information disclosure occurred where persons were identified as being within the scope of a specific investigation or where police suspected that a person could assist in the furtherance of the investigation of the criminal act.<sup>187</sup> Broader notifications to parents, members of institutions and organisations about the alleged criminal conduct of employees, particularly those involved in child care and safety, were not standard practice.<sup>188</sup>

From 1991 until 2001, SAPOL's approach to the disclosure of information was governed by various policies and practices that SAPOL stated were directed to limiting the disclosure of personal information to protect the privacy of the alleged victims and preserve the integrity of criminal investigations. As a result, with the exceptions of LB's family in 1991 and LH's family in 1993 and 1994, for 10 years SAPOL did not keep St Ann's or some parents of former students of St Ann's informed of the progress of the investigation of Mr Perkins.

- ▶ **Finding 17:** SAPOL did not inform the broader school community of the sexual allegations against Mr Perkins, despite being aware that other former students with intellectual disabilities and limited verbal capacity may have had contact with Mr Perkins.

## Systemic issues with the police investigation from 1991 until 2001

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Between 1991 and 1993, SAPOL did not have specific policies and procedures on child protection and sexual abuse. SAPOL investigators were guided by generic general orders and procedures.

The general order relating to sexual offences provided:<sup>189</sup>

- The principal function of sexual assault unit members was to take statements from female and child victims of sexual assault.
- Male victims of rape offences, of tender and immature age, would have their statement taken by a sexual assault unit member. In all other cases, the statement is to be taken by the relevant CIB member.
- In all other sexual offences, outside of rape, attempted rape and incest, a sexual assault unit member would only take the statement where the offence was accompanied by acts of violence or threat of the same and only where the victim was female or a male of tender or immature age.

From 2001 until 2006, SAPOL training involved the completion of the Certificate IV in Child Abuse Investigation.<sup>190</sup>

Detective Sergeant Mosheev completed the Certificate IV in Child Abuse Investigation in 2001 and the Sex Crime Investigator Course in 2005. Detective Sergeant Carr completed the Certificate IV in Child Abuse Investigation in 1993. Neither detective had completed this training when they investigated Mr Perkins in 1991 and 1993.<sup>191</sup>

- ▶ **Finding 18:** In 1991 and 1993, SAPOL officers investigated Mr Perkins and took child complainant statements. The police officers involved had not received specialised training about child sexual abuse and child protection or in investigating sexual offences against children with disabilities.

### 3.8 Current procedures and policies for child sexual abuse investigations

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From October 2004, the Sexual Crime Investigation Branch of SAPOL was established. It incorporates the former Child Exploitation Investigation Section (whose purpose was targeting and investigating persistent and systematic or predatory sexual abuse and exploitation of children)<sup>192</sup> and the victim management section.<sup>193</sup>

The Sexual Crime Investigation Branch comprises:<sup>194</sup>

- detectives responsible for the investigation of sexual crimes
- the victim management section, whose personnel have responsibility for coordinating and arranging welfare and forensic medical examinations, obtaining statements, conducting investigative interviews and overall management of the health and welfare of victims. Most of the officers have at least 10 years' experience in sexual crime investigation and victim management.

The Child Protection Service, part of the South Australian Department of Health and Ageing, interviews children under the age of seven years.

Sexual offences are investigated either by detectives within the CIB of a local service area or within the centralised Sexual Crime Investigation Branch.<sup>195</sup>

The procedures are governed by General Order – Sexual Offences.<sup>196</sup>

Immediately upon a report of any sexual offence being made, if the sexual offence is a more serious offence – that is, rape, attempted rape, sexual abduction or unlawful sexual intercourse – there is a requirement for a detective at the local service area to contact the Sexual Crime Investigation Branch and notify it of the report. At that point, an assessment is made concerning how the matter will be handled within SAPOL. A determination is made as to whether the skills of the detectives at the local service area are adequate, when compared with those at the Sexual Crime Investigation Branch, to investigate the matter.<sup>197</sup>

The fact that a matter remains with the local service area does not limit the detective seeking the assistance of the Sexual Crime Investigation Branch. Where an investigation is

undertaken by the local service area CIB, there are victim contact officers who maintain contact with the victim and family.<sup>198</sup>

Where a victim of a sexual offence has intellectual disabilities or special needs, SAPOL may employ the expertise of specialist agencies such as the South Australian Child Protection Services, Disability Services or Department of Communities and Social Inclusion.<sup>199</sup>

The Royal Commission was told that, if a SAPOL officer were dealing today with circumstances similar to the 1991 investigation of Mr Perkins, the processes for interviewing a potential victim with intellectual disabilities would include the following:<sup>200</sup>

- The SAPOL investigating officer would contact the Sexual Crime Investigation Branch seeking specialist support from the victim management section in managing the victim and conducting the interview.
- A victim management section officer would be allocated as the interviewing officer. That person would liaise with the investigating officer.
- The victim management section officer would prepare for the interview by contacting persons who could inform the best approach for conducting the interview, including parents, specialists, the school and support persons.
- The SAPOL officers would ensure that the special needs of the victims were paramount in the decision-making processes to enable the victim to provide their account of what occurred.

### 3.9 Information sharing

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Currently, the following documents inform the procedures by which information is disclosed by SAPOL officers:<sup>201</sup>

- Information Privacy Principles, dated 16 September 2013
- Information Sharing Guidelines
- SAPOL General Order – Information and Access Release, dated 24 July 2013
- Management of Sexual Offences Notifications, dated 16 September 2013, replicated in General Order – Child Protection and General Order – Sexual Offences.

Once a suspect of child sexual abuse has been identified, an assessment is made about whether that person has access to children. Investigators will then identify a relevant person within an organisation or school and inform that person. SAPOL will also give that person advice on how not to impede an investigation. There may be situations where police stress the desirability of not disclosing the information widely until further investigations are complete.<sup>202</sup>

When a report is made of a sexual offence and there is reason to suspect that the person may have offended against other children, SAPOL takes what the policy describes as a ‘principled approach’. This involves a structured approach that removes any suggestion that the police cast a wide net for victims.<sup>203</sup>

As the investigation progresses, it may be that genuine lines of inquiry are exhausted and the known evidence that can be obtained spontaneously has been collected. At that time, a decision is made to make a more generalised disclosure to a particular community.

There is no single form for such a disclosure. The South Australian *Royal Commission 2012–2013: Report of Independent Education Inquiry* identified the use of letters to parents as well as meetings with relevant parents as two appropriate means for facilitating disclosure.<sup>204</sup>

If the allegations against Mr Perkins were investigated today, the Sexual Crime Investigation Branch stated that it would:<sup>205</sup>

- request from the school a list of names and addresses of all students who had contact with Mr Perkins
- undertake an immediate assessment regarding the alleged offending
- contact all parents of students who had contact with Mr Perkins
- inform parents of the nature of the investigations and the suspected role of their child
- the children would be interviewed
- once all of the genuine inquiries are undertaken, consider making a general disclosure to the broader school community to ensure that the broader school community was aware of the allegations.

## 4 Responses of the Catholic Education Office and the South Australia Police from 2001

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### 4.1 Families raise issue of Mr Perkins with the Catholic Education Office

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In June 2001, some families of former St Ann's students became aware for the first time of allegations of sexual misconduct by Mr Perkins.

On 23 July 2001, a parent made contact with Mr Dooley, the then director of the Catholic Education Office, about the allegations of abuse by Mr Perkins and the lack of information that had been disclosed to parents about Mr Perkins.<sup>206</sup>

On 24 July 2001, Mr Dooley and Ms Swift, an assistant director of the Catholic Education Office with responsibility for human resources, met with the parent who had made contact with the Catholic Education Office.

During the meeting the parent told Mr Dooley and Ms Swift that another former St Ann's parent had told her that a bus driver at St Ann's between 1986 and 1991, Mr Perkins, was a paedophile. Due to that conversation, the parent suspected that her son may have been abused by Mr Perkins when he attended St Ann's.<sup>207</sup>

Mr Dooley noted that the parent said she then made contact with other parents from St Ann's, who advised her of the following:

- Mr Perkins had been a bus driver at St Ann's for about six years until 1991.
- Some parents would allow their children to go camping with Mr Perkins on weekends and sometimes to stay at his home.
- Mr Perkins took some pornographic photographs of some children on these camps and occasions.
- Mr Perkins had children perform indecent acts on each other.
- One of the children went to Mr Perkins' home, where she saw indecent photos. She reported it to her carer. The police were then informed and raided Mr Perkins' home.
- One of the parents identified her child in some of the photos.
- The school was informed and Mr Perkins was terminated from his position.<sup>208</sup>

The parent was concerned about the lack of information that had been disclosed to St Ann's parents about Mr Perkins, both at the time of the allegations and subsequently. Mr Dooley recalled that the parent said there had been no information and no support from the school. It seemed to her that some parents had been told about Mr Perkins while others had not been told. Parents did not know whether or not Mr Perkins had abused their children and neither they nor their children had received counselling.<sup>209</sup>

The meeting with the parent was the first knowledge that Mr Dooley had of the abuse by Mr Perkins of students at St Ann's.<sup>210</sup>

Mr Dooley advised Monsignor David Cappo, the Vicar General of the Catholic Archdiocese of Adelaide, of the matters that had been raised with him.<sup>211</sup> Mr Dooley also had a telephone conversation with Mr Hamam.<sup>212</sup>

On 26 July 2001, Monsignor Cappo approved Mr Dooley's recommendations that:

- the matter be referred to the Professional Standards Committee of the archdiocese
- he and Ms Swift have a meeting with the then director of the Professional Standards Committee, Ms Pauline Verity, to clarify the ongoing process, which may involve meeting with the families.<sup>213</sup>

Following that meeting, Mr Dooley recommended to Archbishop Wilson that:<sup>214</sup>

- in line with the relevant policies and procedures for handling matters that involve criminal allegations, the Catholic Education Office should contact the families concerned and advise them that these matters should be referred to the police so that statements and evidence can be obtained in the first instance
- once the police investigation is concluded, Towards Healing (discussed below) should be engaged to further consider the complaints as well as pastoral and other support for the families
- Mr Dooley and Ms Swift should visit St Ann's and indicate to the staff that some allegations from the past had been received and advise them on how the archdiocese is proceeding.

Families of former St Ann's students formed a support group and obtained the assistance of Parent Advocacy. The group agitated with the Catholic Education Office for information and a response to their concerns about Mr Perkins.

Mr Dooley and Ms Swift met with parents in August 2001 and October 2001.<sup>215</sup>

Mr Dooley conducted formal interviews with Mr Hamam in August 2001 and again in January 2002 and June 2003.<sup>216</sup>

There was contact with SAPOL in August 2001. Mr Dooley provided Detective Sergeant Lewandowski with a summary of the information he had been given by the first parent and information obtained from his interview with Mr Hamam.<sup>217</sup>

On 15 August 2001 Mr Dooley sent letters to the parents of three students with whom he had met.<sup>218</sup> In these letters he said:

- He had committed himself to a further immediate investigation concerning the allegations that had been reported to him.
- The Church had developed principles and procedures for responding to complaints of abuse, published in Towards Healing, which he had given them when they met.
- In South Australia there is a Professional Standards Resource Group appointed under these policies and procedures and Ms Verity was the Director of Professional Standards in South Australia.
- He had discussed the matters raised by the individual families with Ms Verity and with Monsignor Cappo and they agreed that the allegations are criminal in nature. Consequently, they should be reported to the police in detail to ascertain if criminal proceedings should progress against the person concerned.

- He encouraged them to formally report the matters to the police. He would assist them in approaching and speaking with the police by offering a support person for this purpose.
- He had written separately to Detective Sergeant Lewandowski, who was a member of the SAPOL Child Exploitation Investigation Section, and Detective Sergeant Lewandowski was happy to personally take their call. The telephone number was given.
- The normal course of events would involve the police proceeding to investigate the allegations and lay charges for a court to determine. Following the finalisation of the matter by the police and the outcome of any charges if the police decided to proceed, the Church would then proceed with the guidelines for receiving complaints following the policies and procedures outlined in Towards Healing.
- It was important to contact police before proceeding with the Church's own procedures to ensure that allegations of a criminal nature are first received by the proper authorities for taking such statements and evidence.
- They had the support of Catholic Education South Australia (CESA).
- He would be grateful if they could sign their statement and return it him.

Mr Dooley also made contact with the then principal of St Ann's, Sister Loreto O'Connor. He asked her to look for documentation at St Ann's regarding Mr Perkins and his work at the school and to help identify former St Ann's students who might have been abused by Mr Perkins so he could notify the families.<sup>219</sup> He and Ms Swift also visited St Ann's on at least two occasions and met with a number of staff about the allegations.<sup>220</sup>

On 20 August 2001, Mr Dooley met with CSSI board of management. The following day he had a conversation with Mr Morrissy, the then chair of the board of management of CSSI.

On 3 September 2001, Mr Dooley prepared a memo for Archbishop Wilson that included details of a conversation he had previously had with Detective Walter Conte of the SAPOL Child Exploitation Investigation Section. In that memo he recorded that Detective Sergeant Conte informed him:<sup>221</sup>

- Mr Perkins had been convicted of child stealing in 1956 and indecency offences in 1969 and 1974.
- There were current child pornography charges against Mr Perkins in relation to photographs depicting at least one St Ann's student, if not more.
- Extradition had been sought but was refused.
- Unless further information was forthcoming from St Ann's parents to police, there was little further action the police could take against Mr Perkins.
- He would speak to the investigating officer at the time, Detective Sergeant Mosheev.
- Children from St Ann's had also reported the involvement of a known South Australian paedophile, Mr Hawkes, with Mr Perkins in the perpetration of offences against them.
- Mr Hawkes had been charged with offences, including rape, that were not related to children at St Ann's, but he had been acquitted of these charges in 1996.

In the memo, Mr Dooley made recommendations to Archbishop Wilson that included briefing the Minister for Education, the Director of Professional Standards in South Australia, Ms Verity, and Catholic Church Insurance; and continuing to liaise with the police and meet with the families.

On 30 October 2001, a meeting was held with Mr Dooley, SAPOL and three families of former students to discuss the allegations. The families expressed their concern about the lack of progress of the investigation and queried whether Mr Perkins could be extradited to South Australia for prosecution. They also wanted parents of other students who had contact with Mr Perkins to be informed of the allegations. The meeting also discussed the drafting of a letter to the Minister for Education to seek support for the extradition of Mr Perkins.<sup>222</sup>

During the latter part of 2001, Mr Dooley also met with parents and carers of other former St Ann's students. Their stories related to their children's association with Mr Perkins and the fact that changes in the behaviour of their children now caused them to suspect that their children had been abused.<sup>223</sup>

Mr Dooley said it was his practice to write to the parents after these meetings and recommend that they report their concerns to the police. He also offered the support of CESA and the processes of Towards Healing.<sup>224</sup> He sent parents copies of Towards Healing. He was working on the basis that the support structures of Towards Healing would be made available to the families from the time of their initial contact meeting to assist them to report their concerns to the police. However, under Towards Healing, if parents did make reports to the police, they would have to await the conclusion of the police investigation before entering the Towards Healing complaint process.

On 27 November 2001, Mr Dooley wrote to the Minister for Education and Children's Services, the Hon Malcolm Buckby MP, to seek the minister's assistance with extradition of Mr Perkins.<sup>225</sup>

In December 2001, the St Ann's taskforce was established by the Catholic Education Office to manage the archdiocese's response to the allegations at St Ann's. The taskforce was chaired by Archbishop Wilson. On 13 December 2001, the first meeting of the St Ann's taskforce was held.<sup>226</sup>

On 21 February 2002, Archbishop Wilson wrote to the South Australian Police Commissioner, Mal Hyde, regarding the extradition of Mr Perkins. Archbishop Wilson indicated his preparedness to contribute to any costs associated with the extradition.<sup>227</sup> Archbishop Wilson also sought Commissioner Hyde's views on a letter he proposed to send to parents of students who had been at the school at the time Mr Perkins was working there.<sup>228</sup>

Mr Dooley continued to have contact with Parent Advocacy.<sup>229</sup> On 21 February 2002, he received a letter from Parent Advocacy that enclosed a statement from two parents stating they were angry, frustrated and disillusioned. They wanted the Catholic Education Office to take further action and contact all parents. These statements were said to reflect the feelings of a group of parents at St Ann's.<sup>230</sup>

On 22 February 2002, Mr Dooley sent a letter to the Child Exploitation Investigation Section of SAPOL providing it with names of students who were likely to have been vulnerable to sexual abuse by Mr Perkins.<sup>231</sup> Detective Sergeant Mosheev had noted on 31 August 1991, before taking extended leave, that such a list of children should be compiled by the police officer who assumed conduct of the file.<sup>232</sup> This was not done.

On 4 March 2002, Archbishop Wilson met Commissioner Hyde and showed him a draft of the letter he proposed sending to families.<sup>233</sup>

On 11 March 2002, Chief Inspector Kym Hardwick wrote to Archbishop Wilson and advised:

- The police investigation of alleged offences committed by Mr Perkins was under review by a police taskforce. As part of that review, the investigative process and associated decisions were being reviewed.
- If a decision were made to extradite Mr Perkins, the associated costs would be borne by SAPOL.
- The police were of the opinion that they should not express any views about a decision by the Catholic Education Office to contact parents of children who may have been affected by the alleged sexual abuse.<sup>234</sup>

On 20 March 2002, Archbishop Wilson sent a letter to each family identified as having a child at St Ann's during the period of 1986 to 1991. The letters advised of the allegations and included an apology to victims. The letters also included contact details for the PSO of the Archdiocese of Adelaide, Crimestoppers and Parent Advocacy.<sup>235</sup> A copy of the Towards Healing protocols of 2000 was included with the letter.<sup>236</sup>

In April 2002, Mr Dooley arranged for a member of the Catholic Education Office staff, Mrs Eileen Young, to provide full-time support and assistance on the St Ann's taskforce. Her work included interviewing and gathering information from parents about the interactions their child may have had with Mr Perkins. Mrs Young also managed a helpline set up by CESA for parents. She provided parents with information on police reporting, counselling and Towards Healing. Part of her work was also to compile a comprehensive list of all of the children at the school while Mr Perkins was there.

Mr Dooley said in his statement that, during 2002 and 2003, he continued to attend St Ann's taskforce meetings and keep informed of developments of the prosecution and the Towards Healing processes.<sup>237</sup>

## 4.2 Prosecution of Mr Perkins in 2002 and 2003

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On 20 March 2002, Mr Perkins was extradited to South Australia from Queensland. Detective Sergeant Mosheev gave evidence that the application for extradition was because of pressure brought to bear on SAPOL by the Archbishop of Adelaide.<sup>238</sup>

In August 2003, Mr Perkins pleaded guilty to five sexual offences in relation to three students – namely, LH, LB and MR. During the prosecution of Mr Perkins in 2003, the DPP relied on naked photographs of LH seized in 1991 and naked photos of LH and LB found in the possession of Mr Perkins in 1993. This material supported four of the five charges to which Mr Perkins pleaded guilty.<sup>239</sup>

On 12 September 2003, Mr Perkins was sentenced to 10 years and six months imprisonment with a non-parole period of six years. He died in custody.

- ▶ **Finding 19:** From 2001, the families of former students of St Ann's and the Archdiocese of Adelaide actively urged SAPOL to extradite Mr Perkins from Queensland to South

Australia. In seeking to progress the extradition of Mr Perkins, the Archdiocese of Adelaide also offered to pay the costs of the extradition. SAPOL declined the offer.

The prosecution of Mr Perkins in 2002 relied on evidence that had been in the possession of SAPOL since 1993.

## 5 Response of the Catholic Church from 2001 to the sexual abuse

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### 5.1 Towards Healing

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Towards Healing is a set of principles and procedures, established by the Australian Catholic Bishops Conference and the Australian Conference of Leaders of Religious Institutes, for a person who wishes to complain of having been sexually abused by Catholic Church personnel. It was introduced in 1997 and revised in 2000, 2003, 2008 and 2010. The 2000 version of Towards Healing applied to the St Ann's families.

In general terms the stated intent of Towards Healing is to provide an opportunity to a person to tell their story to somebody in authority in the Church, receive an apology and be offered pastoral care and reparation. It also provides one of several methods by which Church bodies assess risk regarding those still holding positions within the Church.

Under the Towards Healing protocols (2000),<sup>240</sup> the process is initiated when a complaint is received by the Church authority or the director of the PSO. A 'complainant' includes a person other than the alleged victim. The director is then required to appoint a contact person, who meets the complainant and listens to the allegation, and the PSO obtains a contact report. The next step is to establish whether the abuse actually occurred. If there is a significant dispute, the complaint is referred for assessment. The PSO appoints an assessor, who is required to be independent of the Church authority so as to ensure an objective assessment. If the complaint is not disputed, the matter proceeds to a facilitation.

The protocols envisage situations where a complainant may not be able to engage personally or directly in the assessment.<sup>241</sup> A complaint still needs to be proved on the balance of probabilities. If the complaint is proved, the matter proceeds to a response and a facilitation. Part of the facilitation involves ascertaining what is important to the victim and what outcome the victim seeks.<sup>242</sup>

In 2002, the PSO within the Archdiocese of Adelaide was responsible for implementing Towards Healing protocols.

On 26 September 2002, Ms Susan Cain began as the director of the PSO, replacing Ms Verity.<sup>243</sup> Mrs Cain reported to Archbishop Wilson on some areas of responsibility and to the relevant Church authorities about Towards Healing matters that involved them.

Mrs Cain's involvement in the St Ann's response started immediately. She became a member of the St Ann's taskforce and then replaced the Archbishop Wilson as chair of the taskforce.<sup>244</sup> In this work, Mrs Cain reported to Archbishop Wilson and the then Vicar General, Monsignor Cappo.

Mrs Cain said in her statement to the Royal Commission that her work with the St Ann's response included:<sup>245</sup>

- identifying former students who may have been abused by Mr Perkins, which involved the gathering and sharing of information between St Ann's, the Catholic Education Office, the PSO and SAPOL
- categorising those former students according to whether they were likely to have had unsupervised contact with, or likely to have been abused by, Mr Perkins
- the carriage of individual complaints made to the PSO under Towards Healing
- developing a group-based model for the payment of financial reparations for former students and their carers
- the administrative aspects of the implementation of the response, including the payments to the former students and the provision of non-monetary benefits
- maintaining contact with the affected families throughout the process to afford them an opportunity to express their concerns and receive a response from the archdiocese.

By the time Mrs Cain became involved in the St Ann's response in September 2002, Archbishop Wilson had written to families with children at the school during the relevant period and the Catholic Education Office had established a helpline. From April 2002, Mrs Young, a member of the Catholic Education Office, provided full-time support to the St Ann's taskforce. She managed a helpline set up by CESA for parents, which provided information on Towards Healing procedures.<sup>246</sup> In January 2003, the Catholic Education Office engaged an additional person to assist Mrs Young in her work.<sup>247</sup>

The work included collecting historical school records and examining bus routes to identify former students who were on Mr Perkins' bus run.<sup>248</sup>

In this way, the Catholic Education Office, in consultation with SAPOL, was involved in the identification of former students who may have been abused by Mr Perkins. By 18 October 2002, SAPOL had interviewed 90 families and divided those students into three categories:

- most likely to have been offended against (category 1)
- possibly offended against (category 2)
- probably not offended against (category 3).<sup>249</sup>

As of 29 November 2002, 12 families had made contact with the PSO under the Towards Healing protocols. A further five families were receiving counselling.<sup>250</sup> By November 2002, the archdiocese had made no decision on how to progress the complaints or whether complaints should be handled individually or as part of a group approach.<sup>251</sup>

## 5.2 The group approach to complaints by former students of St Ann's

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From early 2002 until September 2003, the PSO and the archdiocese considered what approach should be taken to complaints by former St Ann's students made under Towards Healing protocols and whether they should implement an overall group approach rather than considering each individual complaint.

The Church considered a group approach to the complaints. The group approach involved categorising former students into groups according to their varying levels of unsupervised contact with Mr Perkins.

Mrs Cain believed that the group approach provided a basis for devising a model of reparation that would ensure that every former student who might have been abused by Mr Perkins received some financial reparation, with a higher payment for those who clearly had been abused. She believed that the approach would be compassionate and equitable, avoid the need for assessment processes to be undertaken and avoid re-traumatising the former students and their families.<sup>252</sup>

A confidential briefing paper prepared by Mrs Cain and provided to Archbishop Wilson on 16 September 2003 proposed a model for the making of payments to former students. The briefing paper summarised the final categories of payment, formulated from information obtained by records of contact with the Catholic Education Office, complaints made to Towards Healing and consultation with SAPOL.

The categories of payments proposed in the briefing paper were as follows:<sup>253</sup>

- Category 1A: former students with substantiated evidence of abuse. Mr Perkins had pleaded guilty to matters involving these students. This category comprised three former students (LH, LB and MR).
- Category 1B: former students for whom there was a high probability of abuse, on the bases that they had reported abuse; they had regularly attended weekend respite with Mr Perkins; or they had psychological/psychiatric reports that implicated Mr Perkins. This category comprised 10 former students.
- Category 2: former students for whom there was no direct evidence of abuse but where there was an opportunity for Mr Perkins to have abused them, directly or indirectly, because they had travelled on the bus with Mr Perkins or they were present in the woodwork shed. This category comprised 20 former students.
- Category 3: former students who were believed not to have been abused on the basis that there was no evidence of unsupervised contact or there was limited opportunity for unsupervised contact. This category comprised 59 former students.

The briefing paper also recommended that payment of the following amounts be considered:

- for category 1A: \$100,000
- for category 1B: \$75,000
- for category 2: \$50,000.

In relation to category 3, it was recommended that support and pastoral care be offered. It was proposed that a helpline could be offered as a first point of contact, with consideration of other options, including the option of speaking with a priest or the offer of a paid session with a counsellor at Centacare.<sup>254</sup>

Archbishop Wilson accepted those recommendations. The archbishop decided that the receipt of a payment should not preclude a family from bringing a civil case against the Church or St Ann's. However, any 'gift' made by the Church to victims falling within the established categories would be deducted from any payment for damages.<sup>255</sup> The payments, like Towards Healing payments, were not confidential.<sup>256</sup>

On 23 September 2003, the archbishop sent letters to the families with notice of the relevant payment.

By 2 December 2004, all 38 families had been paid. The total amount of payments that were made by the archdiocese in categories 1 and 2 was \$2.3 million. The money paid to the families came from the archdiocesan revenue.

In 2008, Catholic Church Insurance paid a total of \$800,000 under the archdiocesan insurance policies towards the amounts paid by the archdiocese to the St Ann's victims.<sup>257</sup>

The Church parties say that the paramount concern that underpinned the group model was the wellbeing of the former students and their families and the need to provide a response that applied to all affected students and families.

According to the archbishop, the pastoral response developed for the St Ann's abuse victims was along the lines of Towards Healing but did not require the element of assessment that the Towards Healing protocol required.<sup>258</sup> The main reasons for this modification were to accommodate the fact that many victims were non-verbal; and reluctance to put the former students and their families through more distress.<sup>259</sup>

Mrs Cain said that, if the Towards Healing protocols had been applied instead of the group approach, some of those victims may not have received any assistance or payments at all.<sup>260</sup> Archbishop Wilson said he intended to construct a response from the ground up that would address the particular circumstances and that included a financial payment.<sup>261</sup>

The Church parties submit that the categorisation of the former students into groups, according to their varying levels of unsupervised contact with Mr Perkins, provided a basis for devising a model of pastoral response that would ensure that every former student who might have been abused by Mr Perkins received some financial assistance.

### 5.3 The experiences of families of former students of St Ann's

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Some parents were critical of the decision to treat the former St Ann's students in categories instead of making a decision for each former student on an individual case-by-case basis under Towards Healing.<sup>262</sup>

The two main criticisms that some St Ann's parents made of the group approach to implementing the principles of Towards Healing were:

- Parents were not given the opportunity to engage in the formulation of the Church's response and adoption of a group model; and, after it had been implemented, there was a lack of communication about why students were categorised within that model.
- The group model adopted by the Church did not provide the same level of engagement with former students and their families as under the normal protocols of Towards Healing. Some families would have preferred the individual process of the normal Towards Healing protocols.

Mrs Gitsham gave a statement to the Royal Commission and gave evidence at the public hearing.

Mrs Gitsham said that her son David Gitsham was a student at St Ann's from 1986 until 1988. David had a chromosomal abnormality that resulted in his intellectual disability. From

1986 to 1988, while a student at St Ann's, David Gitsham had contact with Mr Perkins in that:

- he caught the school bus that was driven by Mr Perkins to and from school each day
- he was involved in the woodwork shed, where Mr Perkins volunteered
- he attended TAFE courses, which involved travelling on the school bus with Mr Perkins
- he was responsible for cleaning the school bus unsupervised by anyone except Mr Perkins.<sup>263</sup>

David began to exhibit sexual behaviour of a mostly homosexual nature from about 1995 until 1998. David developed an anxiety disorder and experienced panic attacks in 1999. From 2001, his attacks were of such severity he withdrew from his employment and was unable to take up another position.<sup>264</sup> David also had a physical scarring to his urethra, which the treating urologist told Mrs Gitsham could have been caused by sexual abuse. David died of cancer in 2005.

Mrs Gitsham was first informed of the allegations against Mr Perkins by LO in August 2001. Mrs Gitsham and her husband, Mr Brian Gitsham, attended a meeting on 31 October 2001, along with the parents of five other former St Ann's students. Also in attendance were Mr Malcolm Robinson, LH's counsellor, and Detective Senior Sergeant Walter Conte, one of the investigating officers from 1991. It was at this meeting that Mrs Gitsham and her husband formed the view that David had probably been sexually abused by Mr Perkins.

On 17 November 2001, Mrs Gitsham and her husband, on behalf of the parent group, sent a letter to Mr Dooley, which requested that all parents of students who attended St Ann's at the relevant time receive a letter inviting them to contact the Catholic Education Office so that serious issues could be discussed. They also asked for reasons that the system failed to protect children, what St Ann's responsibility was in the matter and what measures had been taken to ensure that it did not happen again.<sup>265</sup>

Mr Dooley replied that the matter was currently under police investigation and he was unable to comment further.<sup>266</sup> Mr Dooley also invited them to lodge a formal complaint with the Church and enclosed a copy of Towards Healing.

On 21 February 2002, Mrs Gitsham and her husband submitted a statement to Mr Dooley about their concerns that David may have been abused by Mr Perkins. They had not submitted a statement before that date because, although there were several indications that David had been abused, they believed they had no definite proof and David was unable to speak about the matter because of his limited level of communication and verbal skills.<sup>267</sup>

On 5 March 2002, Mr Dooley requested they sign an enclosed form authorising the Church to forward their statement to the police. He said:

following the finalisation of the matter by the police and the outcome of any charges if the police decide to proceed, the Church would then proceed with its guidelines for receiving your complaints following the policies and procedures outlined in Towards Healing.<sup>268</sup>

Mrs Gitsham and her husband returned the form of authority within two days.

On 20 March 2002, Mrs Gitsham and her husband (along with other families) received a letter from Archbishop Wilson outlining the possible sexual abuse of their son at St Ann's.<sup>269</sup>

The letter also stated that the Towards Healing protocols had been activated and that Mrs Verity and Ms Cathy Black were the Church contact persons.<sup>270</sup> This was the first time they had been informed of any Church contact persons other than Mr Dooley.<sup>271</sup>

On 24 April 2002, Mrs Gitsham and her husband prepared a letter to Monsignor Cappo on behalf of the parent group asking what the Church's commitment was to the Towards Healing procedures. The letter was sent by Parent Advocacy.<sup>272</sup> On 16 May 2002, Monsignor Cappo responded that the Church was committed to implementing the Towards Healing process, but:

the formal process of assessment could only be involved after a signed formal complaint was made to a designated contact person (not Mr Dooley with whom we had had contact). Four complaints had been identified as not compromising the police investigations and your complaint was not one of them.<sup>273</sup>

On 13 May 2002 Mrs Gitsham and her husband wrote an expanded statement to Mr Dooley about why they believed there was a strong possibility their son had been abused by Mr Perkins.<sup>274</sup>

In February 2003, Mrs Gitsham and her husband signed consent forms authorising a solicitor to act on their behalf (and on behalf of other families) to pursue a civil action.<sup>275</sup> On 19 April 2004, they informed the solicitor they no longer wished to proceed with the civil action. Mrs Gitsham said they believed that the civil action could only provide monetary compensation and they wanted answers about why the system failed their son. The 'gift' offered by the Church had no bearing on their decision to withdraw from the civil action.<sup>276</sup>

In a letter dated 20 September 2003, Archbishop Wilson made an offer of a 'gift' and said that 'David Gitsham was not identified specifically as a victim of the abuse'. Apart from the two statements that the Gitshams had provided in February and May 2002, no-one from the Church had spoken with them or sought information from them to determine the extent of David's abuse. Accompanying the letter was a 'form of acceptance' and a document entitled 'explanatory notes'. On 18 November 2003, they signed the form of acceptance and sent it to the PSO.

On 26 November 2003, Mrs Gitsham and her husband received a letter from Mrs Cain stating that the gift could not be paid until they provided formal documentation. Throughout December they engaged in correspondence with the Church about the nature of the documentation and why it was required.<sup>277</sup>

On 18 February 2004, Mrs Gitsham and her husband wrote to Mrs Cain attaching the documents requested by the Church and stating:

We remain mystified by the assessment process. The Archbishop has stated publicly that it is in the context of Towards Healing but no one has discussed David's circumstances with us which we would have expected as outlined in Towards Healing. The assessment has been undertaken with no input from David or his family. We have not had any conversation with the Catholic Church Office since April 2002. So much for the pastoral response.

On 19 February 2004, they forwarded a copy of the letter to Archbishop Wilson.<sup>278</sup>

There were various discussions and correspondence about a meeting with Archbishop Wilson.

On 10 November 2004, Mrs Gitsham and her husband sent a letter to the archbishop and advised him to send all future correspondence directly to them (not through their solicitors). They wrote:

We are exceedingly disappointed that you are unwilling to enter into face-to-face discussions in a spirit of dialogue to address our questions. At no time have we sought a pastoral response from you but rather that these serious issues in regard to processes in relation to Towards Healing be addressed.

On or around 27 July 2005, Mrs Gitsham and her husband received letters from Archbishop Wilson and Mrs Cain in almost identical terms. Both letters apologised for the delay in their response and stated that Towards Healing could not properly accommodate St Ann's former students because of their intellectual and physical disabilities.

In his letter, Archbishop Wilson stated that:

If Towards Healing had been applied to any specific extent at all to your son David Gitsham's case, the complaint would have failed immediately. I could not allow that to occur so I made the decision to distribute gifts of money to many of the former students and their parents, guardians or carers. I made that decision after a great deal of thought as to how I might best respond with compassion to the particular issues and vulnerabilities of the many former students and their families who have been affected and who would not have been assisted by the Towards Healing process.<sup>279</sup>

On 28 July 2005, Mrs Gitsham and her husband sent a letter to Archbishop Wilson and Mrs Cain stating that their son was in hospital with terminal cancer with not long to live, therefore they were unable to respond. David Gitsham died later in 2005.

Mrs Gitsham and her husband sought an explanation from Archbishop Wilson by letter on 20 October 2004 about the Towards Healing procedures.<sup>280</sup> After several cancelled meetings, they received a response on 26 July 2005, eight months later.<sup>281</sup> Mrs Cain agreed in evidence that the Church's responding letter was not an adequate reply.<sup>282</sup>

► **Finding 20:** The Church parties should have provided Mrs Helen Gitsham and her husband with a more prompt and complete response to their concerns about the application of the Towards Healing protocols.

Over three years, Mrs Gitsham and her husband were given four different reasons why the Church did not implement the Towards Healing protocols for their son. These were:<sup>283</sup>

- The police investigation was ongoing and prevented the process of Towards Healing. Mr Perkins pleaded guilty and was sentenced on 12 September 2003.
- Civil action taken by Mrs Gitsham and her husband against the Church precluded the use of the Towards Healing protocols. On 19 April 2004, Mrs Gitsham and her husband abandoned their civil claim.
- Their son could not provide a statement or participate in the assessment process because of his intellectual disabilities.

- Apart from the three victims in respect of whom Mr Perkins had pleaded guilty (LH, LB and MR), no other victim, including David Gitsham, could prove the facts of his or her case.

Mrs Gitsham and her husband said that their family was not given the opportunity to engage with the Towards Healing process and no-one from the Church listened to their family story.<sup>284</sup> They believed that no-one was prepared to answer their questions and, although members of the Church offered to meet with them, they appeared willing to do so only on their terms.<sup>285</sup>

## 5.4 Families' criticisms of the group approach

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The group approach was objectively a reasonable response by the Church to the large number of complaints made by former students and families, particularly where the students had intellectual and communication disabilities. However, the families of former students had a number of criticisms about the delivery of the group approach model.

In determining to adopt the group approach, the archdiocese did not consult with the families as to which approach they would prefer; that is, whether they would prefer their complaint to be considered under the Towards Healing protocols. All of the discussion about which approach to adopt had occurred within Church agencies and did not involve any consultation with the victims or their families.<sup>286</sup>

After the Church adopted the group approach, it established a helpline to provide families with information. However, some families never received a clear explanation of the reasons that different families were offered different amounts of money and how the Church concluded (in all but the offences to which Mr Perkins pleaded guilty) that their child was 'not specifically identified as a victim of abuse'.<sup>287</sup> Another family considered that the 'gift' was presented to them in a vacuum, without any assessment of their child or discussions of their family's needs.<sup>288</sup>

In evidence, Archbishop Wilson agreed that, in adopting the group approach, the Church did not consult the families and there was no engagement with the families in formulating the Church's response. Archbishop Wilson gave evidence that, if a situation where there were a number of claimants arose again, he would engage more and consult with them about what the process should be.<sup>289</sup>

- ▶ **Finding 21:** The Church parties did not consult former students or their families about the decision to take a group approach to the payment of 'gifts'. The Church did not provide an explanation to the former students or their families about how the Church formulated the amount of gift. The Church did establish a helpline to provide families with information.

The Church caused hurt to some families by failing to engage with them in the development of the process. The Church parties accept they would take a more consultative approach in the future.

- ▶ **Finding 22:** The group approach that the Church took to the payment of ‘gifts’ to former students of St Ann’s – instead of implementing the Towards Healing procedures – did not provide an adequate response for some families. Some families responded positively to the group approach and some families received financial reparation which they would not have received under Towards Healing protocols.

## 5.5 Other aspects of the Church’s response to abuse at St Ann’s

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### The Hayes inquiry

In late 2001, Archbishop Wilson commissioned an inquiry into what had occurred at St Ann’s in 1991. Mr Dooley facilitated the drafting of the Terms of Reference, which included inquiring into:<sup>290</sup>

- the selection process and appointment of Mr Perkins to his position at St Ann’s
- whether or not a police check of Mr Perkins was performed
- whether any governance bodies for St Ann’s received communications from Mr Hamam or other staff at St Ann’s regarding information received from police about the allegations against Mr Perkins in September 1991
- whether the allegations against Mr Perkins were discussed or considered in any way by the board of management, board of governors or their members
- what, if any, steps were taken in response
- whether any, and if so what, steps had been taken by the principal or governance bodies of St Ann’s to identify students and their families who may have been affected by the alleged conduct of Mr Perkins
- whether, and if so what, steps had been taken by the principal or governance bodies of St Ann’s to support those students and their families who may have been affected by the alleged conduct of Mr Perkins.

On 28 April 2004, Mr Hayes QC delivered a report that had as its Terms of Reference an inquiry into the following matters:

- how Mr Perkins gained employment at the school
- whether there was any knowledge of his background or propensities
- how the matter was handled by those who had responsibility to do so in 1991.

Mr Hayes QC was instructed to have regard to the earlier draft Terms of Reference only in a general way.

Mr Hayes QC was provided with witness statements but did not hear any oral evidence. He did not embark upon any fact-finding enquiry or purport to determine the credibility or veracity of any of the witness statements.

The Hayes report was publicly released on 2 June 2004. Mr Hayes QC recommended against indiscriminate or wide publication of his report because he not heard any evidence. The report was not tabled in Parliament.<sup>291</sup>

Some families expressed the view that the report was not a thorough and independent report subject to outside scrutiny.<sup>292</sup> Further, the Terms of Reference that were ultimately

considered did not refer directly to students or families<sup>293</sup> and no recommendations were made.<sup>294</sup>

Archbishop Wilson said in evidence that at the time he thought that the Hayes inquiry was satisfactory, but now he considered it limited.<sup>295</sup>

### Initiatives by the Church since 1991

Since 1991, and in particular since 2001, the Archdiocese of Adelaide and the Catholic Education Office have taken steps to address factors that contributed to the fact that allegations of sexual abuse were not brought fully to their attention in 1991.<sup>296</sup>

The Church parties provided evidence to the Royal Commission about the child protection policies adopted by the Catholic Education Office and Archdiocese of Adelaide since 1991, including:

- the adoption in November 1991 of a policy prepared by the interagency committee of the South Australian Child Protection Council, which was entitled *Interagency Guidelines in Child Protection*
- the creation of a child protection policy in 1993, which listed the responsibilities of principal and deputy principals in this area
- the development in 1995 of a revised set of *Procedures for dealing with child abuse – Guidelines for schools*
- the issuing of a new child protection policy in 2000
- the development and publishing in May 2002 of a document entitled *Procedures for dealing with child abuse – Guidelines for schools*
- the issuing in 2005 of a *Charter for teachers in Catholic Schools SA*
- the adoption in 2005 of a policy prepared by the three education sectors entitled *Protective Practices for Staff in their interaction with Students*, which was updated in 2009 and 2011
- the approval in 2005 of a document entitled *Procedures for dealing with allegations of misconduct*, which was revised and adopted in 2013.

The Church parties also provided evidence of developments aimed at improving the oversight of individual school principals and providing greater support to them in responding to allegations of child sexual abuse.

In 2001, the Catholic Education Office created the position of principal consultant. The principal consultant is to work directly with school principals and must communicate any allegation or incident to the director of the Catholic Education Office. The principal consultant team is also the intake office for allegations of child sexual abuse, regardless of the source of the claim.<sup>297</sup>

Since 2001, the archdiocese and the Catholic Education Office have also established:<sup>298</sup>

- a child protection unit within the archdiocese
- a child protection council to prepare child protection policies and guidelines
- mandatory police checks for all employees and volunteers across the archdiocese
- a police check unit

- a new screening guidelines project, which resulted in the creation in September 2002 of a document entitled *Screening procedures for applicants – Employees, volunteers and other workplace participants*.<sup>299</sup>

Within the archdiocese, there is a training program for principals and staff in child protection issues. As part of this program, every person employed in the archdiocese needs to be trained in child protection every three years.

Principals are required to attend employee relations seminars every term. The seminars are designed, among other things, to update principals on new policies and advise them on strategies they should adopt in their schools to ensure that staff are also familiar with the policy requirements.<sup>300</sup>

The Catholic Education Office also sends an annual circular entitled *Critical incidents* to every principal. That circular reminds principals of the types of incidents that should be treated as critical incidents within the school and reiterates the reporting obligations on those incidents.<sup>301</sup>

A report was prepared by Mr Paul Slattery QC on 9 July 2004 about the governance, management, practices and procedures of St Ann's. A further report was prepared by Hynd and Co Lawyers on 28 February 2005 about the strategy for the implementation of the recommendations made by Mr Slattery QC.

Following the recommendations by Mr Slattery QC, St Ann's adopted a new constitution in 2011. Under the 2011 constitution, there is no longer a two-tier governance structure but solely a board of management. Subject to the archbishop's overriding directions, the director of CESA is delegated by the Archbishop of Adelaide to undertake the roles and exercise the powers detailed in the constitution. This includes oversight of the application of policies and the financial management of the schools.<sup>302</sup> In this way, St Ann's was more clearly within the oversight of the Catholic Education Office.

The 2011 constitution makes it specifically clear that special schools are to be run in accordance with CESA and SACCS policies, procedures and guidelines.<sup>303</sup>

## Other reports and reviews

The Catholic Education Office and the archdiocese commissioned a number of other reports and reviews on the issues that arose at St Ann's. They include:<sup>304</sup>

- the *Child protection systems report*, from the Director of South Australia Professional Standards Office and Mrs Judy Harris, Catholic Education Office lawyer, evaluating the child protection and safety policies, practices and procedures in place at St Ann's, including the reporting of child protection matters
- a report from the historical assessment group (with Mrs Cain in an advisory role) reviewing St Ann's Special School's child protection systems. The report, known as the *Historical assessment report*, was delivered on 8 August 2011. It concluded that St Ann's was a high-risk environment but that child protection practices had significantly improved in the last four years and there were now clear procedures for reporting
- a report in May 2011 by consultants with expertise in education and disability services evaluating the educational approach of the schools.

We note the extensive work done by the archdiocese through inquiries, investigations and the development and implementation of child protection policies to strengthen child protection within the archdiocese and the special schools within the Catholic education system in South Australia.

## 6 Effect of delay on the victims

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Most former students of St Ann's who came into contact with Mr Perkins were at the time totally or partially non-verbal. LH was the only victim who gave evidence to the Royal Commission. He was sufficiently verbal to give evidence at the public hearing. He described the sexual offending that was committed on him by Mr Perkins.

LH attended St Ann's from when he was aged five until he was 21. He was sexually assaulted by Mr Perkins when he was aged between 11 and 15 years old. The sexual assaults occurred when he was alone with Mr Perkins in the woodwork shed at school, on the school bus and when he would stay overnight or visit Mr Perkins at his home.

Mr Perkins performed various sexual acts upon LH, including indecently touching him, masturbation, oral sex and attempted anal penetration. Mr Perkins also encouraged LH to sexually touch other former students of St Ann's who were also present at his home. Mr Perkins showed LH pornography and was present when another convicted sex offender, Mr Hawkes, took photographs of a naked LH. On one occasion Mr Perkins took LH to the house of a man named Ted. Mr Perkins and Ted undressed LH, tied up LH's penis with rope and smacked him over his body.

LH also described the impact of the offending on him. He said:<sup>305</sup>

I used to be a very angry person. I was angry because I did not speak up and I did not tell anyone about what happened to me. Because of what happened to me I have found it hard to keep a job. I was a very angry person. Malcolm Robinson has been a big help to me. I have gotten better after speaking to Malcolm. My anger has changed now. I still feel angry and guilty, but not so much. I still think about what happened. Not all the time, but sometimes. When I do think about it I have mood swings and feel upset. Sometimes I also feel stressed out. Unfortunately I think I might feel this way for the rest of my life.

Mr Robinson, a social worker, first treated LH in 2002. Mr Robinson says in his statement that the delay in LH receiving comprehensive assistance about the abuse allowed the problems that LH faced to escalate unchecked. The delay also compromised LH's life by delaying opportunities for him to resolve the trauma he experienced as a result of the abuse.

Mrs Gitsham gave evidence that in 2001, when she was first made aware of the allegations, the information provided some explanation for her son's changed behaviour after 1991. She was shocked that the allegations had been kept from her and her husband for 10 years, during which time their son's behaviour had deteriorated and she was left searching for an explanation.

LK is the mother of LB. Mr Perkins pleaded guilty to a sexual offence involving LB. In 1993, the police located naked photos of her son in the possession of Mr Perkins. LK gave evidence at the public hearing. LB has Down syndrome. LB came into contact with Mr Perkins on the school bus and stayed at Mr Perkins' home for sleepovers. LK noticed changes in her son's behaviour after 1991. He became more abusive, hitting himself.<sup>306</sup> He

also became withdrawn.<sup>307</sup> LB started to communicate with imaginary people.<sup>308</sup> His behaviour deteriorated to the extent that LB had to move home. In adult life, LB has stopped talking.<sup>309</sup>

LK also gave evidence that she and her husband were not provided with any assistance or counselling by the Church. LK says that the abuse suffered by her son at the hands of Mr Perkins, combined with the delay in the police and Church response to the allegations, shattered her family's home life.<sup>310</sup>

Parents and carers LM, LO, LQ, LJ and LN also provided statements to the Royal Commission.

LM is the mother of LC, who attended St Ann's from 1982 until 1988. LC had contact with Mr Perkins in the woodwork shed and at events organised by Mr Perkins, such as the Pedal Prix. LC's behaviour changed in that he became aggressive and exhibited sexual behaviour such as masturbating in public. LC changed from a happy, outgoing child to an angry, aggressive and violent person.

LE suffers from an intellectual disability and attended St Ann's from 1979 until 1989. His mother, LO, described the contact that LE had with Mr Perkins on the school bus,<sup>311</sup> in the woodworking class<sup>312</sup> and while staying at his home on three weekends.<sup>313</sup> From 1986, LE started to behave differently by running away from the bus,<sup>314</sup> stealing from his mother's purse<sup>315</sup> and having angry outbursts.<sup>316</sup> LO removed LE from St Ann's because his behaviour deteriorated so significantly. LE's behaviour continued to decline in that he began to drink heavily and self-mutilate.<sup>317</sup> LE currently resides with LO, as he cannot live with other people.<sup>318</sup>

LF has Down syndrome and limited communication skills. He attended St Ann's in 1990 and 1991.<sup>319</sup> His father, LQ, said that LF had contact with Mr Perkins on the bus and in the woodwork shed. LF's behaviour became sexually aggressive and he was expelled from St Ann's.<sup>320</sup> After leaving St Ann's he continued to exhibit aggressive behaviour by damaging public property.<sup>321</sup> LF now resides at a community house, where he has had an enormous amount of support and his condition has improved.

LA has Down syndrome and is visually impaired. His carer LJ said that LA attended St Ann's from 1981 until 1989.<sup>322</sup> He had contact with Mr Perkins in the school bus, in the woodwork shed and at the event Pedal Prix.<sup>323</sup> In 1986, LA stopped wanting to travel to and from school on the bus.<sup>324</sup> He started to exhibit inappropriate sexual behaviour.<sup>325</sup> After LA left St Ann's, his behaviour deteriorated. In 1991, he was placed in permanent care and continues to live there.<sup>326</sup>

LD was born with Fragile X syndrome, an intellectual disability. LD was a student at St Ann's from 1976 until 1989. LD's father, LN, said that LD on occasion had contact with Mr Perkins on the school bus<sup>327</sup> and in the woodwork shed.<sup>328</sup> LD also attended the Pedal Prix in 1988 – an event that Mr Perkins was involved with.<sup>329</sup> After 1986, there was a change in LD's behaviour.

In 2001, LN was informed by other parents of allegations against Mr Perkins. LN asked his son, who told him in scant detail that Mr Perkins and Mr Hawkes had sexually abused him in the woodwork shed.<sup>330</sup> Over the years that followed, LD told his parents he was sexually abused by Mr Perkins on the school bus, in the school toilet, on school excursions, during

the Pedal Prix event, at Mr Perkins' home, at another house and at a house in Seacliff in South Australia during a school outing. According to LN, LD told him that Mr Perkins masturbated him, made him perform oral sex, tied him up, anally raped him, whipped him with a cane and took pictures of him naked.<sup>331</sup>

LD continues to suffer from depression, anxiety and post-traumatic stress disorder.<sup>332</sup>

Parents and carers LM, LO, LQ, LJ and LN all described the distress they experienced at learning of the allegations in 2001. They said that the delay in being informed of the allegations of sexual abuse by Mr Perkins exacerbated their distress. If they had known of the allegations earlier, they would have been better equipped to understand the changes in their children's behaviour and provide their children with the appropriate care. They say the impact of the abuse has been made worse by the failure of St Ann's, the Catholic Church and SAPOL to inform them of the allegations and respond promptly to the allegations.<sup>333</sup>

- ▶ **Finding 23:** The delay in the response by SAPOL and the Church parties exacerbated the distress caused by the sexual offending to the former students and their families.

## 7 Systemic issues

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The broader systemic issues arising from this case study will be the subject of ongoing work and analysis by the Royal Commission and will be addressed in future reports.

One of the tasks of the Royal Commission in conducting its public hearings is to use the information and understanding gleaned from the individual case studies to identify systemic issues that have emerged from the public hearing.

In this case study, the systemic issues that were identified include the following:

- the nature and adequacy of pre-employment policies, procedures and checks
- compliance with the institution's pre-employment policies and procedures
- monitoring, supervision and oversight of employees working with children with intellectual and communication disabilities
- engagement, monitoring, supervision and oversight of volunteers engaging with children with intellectual and communication disabilities
- communication protocols and procedures between agencies and potentially affected families for the reporting and investigating of allegations of child sexual abuse against children with disabilities
- the need for specialist training and supports for investigators of allegations of sexual abuse against children with disabilities.

## APPENDIX A: Terms of Reference

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### Letters Patent dated 11 January 2013

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO

The Honourable Justice Peter David McClellan AM,  
Mr Robert Atkinson,  
The Honourable Justice Jennifer Ann Coate,  
Mr Robert William Fitzgerald AM,  
Dr Helen Mary Milroy, and  
Mr Andrew James Marshall Murray

GREETING

WHEREAS all children deserve a safe and happy childhood.

AND Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse.

AND all forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.

AND child sexual abuse and other related unlawful or improper treatment of children have a long-term cost to individuals, the economy and society.

AND public and private institutions, including child-care, cultural, educational, religious, sporting and other institutions, provide important services and support for children and their families that are beneficial to children's development.

AND it is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse and any related unlawful or improper treatment of children be fully explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of child sexual abuse and to respond appropriately when any allegations and incidents of child sexual abuse occur, including holding perpetrators to account and providing justice to victims.

AND it is important that those sexually abused as a child in an Australian institution can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify.

AND noting that, without diminishing its criminality or seriousness, your inquiry will not specifically examine the issue of child sexual abuse and related matters outside institutional

contexts, but that any recommendations you make are likely to improve the response to all forms of child sexual abuse in all contexts.

AND all Australian Governments have expressed their support for, and undertaken to cooperate with, your inquiry.

NOW THEREFORE We do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and under the Constitution of the Commonwealth of Australia, the Royal Commissions Act 1902 and every other enabling power, appoint you to be a Commission of inquiry, and require and authorise you, to inquire into institutional responses to allegations and incidents of child sexual abuse and related matters, and in particular, without limiting the scope of your inquiry, the following matters:

- a. what institutions and governments should do to better protect children against child sexual abuse and related matters in institutional contexts in the future;
- b. what institutions and governments should do to achieve best practice in encouraging the reporting of, and responding to reports or information about, allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- c. what should be done to eliminate or reduce impediments that currently exist for responding appropriately to child sexual abuse and related matters in institutional contexts, including addressing failures in, and impediments to, reporting, investigating and responding to allegations and incidents of abuse;
- d. what institutions and governments should do to address, or alleviate the impact of, past and future child sexual abuse and related matters in institutional contexts, including, in particular, in ensuring justice for victims through the provision of redress by institutions, processes for referral for investigation and prosecution and support services.

AND We direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

- e. the experience of people directly or indirectly affected by child sexual abuse and related matters in institutional contexts, and the provision of opportunities for them to share their experiences in appropriate ways while recognising that many of them will be severely traumatised or will have special support needs;
- f. the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you will be informed by individual cases and may need to make referrals to appropriate authorities in individual cases;

- g. the adequacy and appropriateness of the responses by institutions, and their officials, to reports and information about allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- h. changes to laws, policies, practices and systems that have improved over time the ability of institutions and governments to better protect against and respond to child sexual abuse and related matters in institutional contexts.

AND We further declare that you are not required by these Our Letters Patent to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and We authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration:

- i. the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things, in accordance with section 6P of the Royal Commissions Act 1902 or any other relevant law, including, for example, for the purpose of enabling the timely investigation and prosecution of offences;
- j. the need to establish investigation units to support your inquiry;
- k. the need to ensure that evidence that may be received by you that identifies particular individuals as having been involved in child sexual abuse or related matters is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
- l. the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses;
- m. the need to ensure that institutions and other parties are given a sufficient opportunity to respond to requests and requirements for information, documents and things, including, for example, having regard to any need to obtain archived material.

AND We appoint you, the Honourable Justice Peter David McClellan AM, to be the Chair of the Commission.

AND We declare that you are a relevant Commission for the purposes of sections 4 and 5 of the Royal Commissions Act 1902.

AND We declare that you are authorised to conduct your inquiry into any matter under these Our Letters Patent in combination with any inquiry into the same matter, or a matter

related to that matter, that you are directed or authorised to conduct by any Commission, or under any order or appointment, made by any of Our Governors of the States or by the Government of any of Our Territories.

AND We declare that in these Our Letters Patent:

**child** means a child within the meaning of the Convention on the Rights of the Child of 20 November 1989.

**government** means the Government of the Commonwealth or of a State or Territory, and includes any non-government institution that undertakes, or has undertaken, activities on behalf of a government.

**institution** means any public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated), and however described, and:

- i. includes, for example, an entity or group of entities (including an entity or group of entities that no longer exists) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families; and
- ii. does not include the family.

**institutional context:** child sexual abuse happens in an institutional context if, for example:

- i. it happens on premises of an institution, where activities of an institution take place, or in connection with the activities of an institution; or
- ii. it is engaged in by an official of an institution in circumstances (including circumstances involving settings not directly controlled by the institution) where you consider that the institution has, or its activities have, created, facilitated, increased, or in any way contributed to, (whether by act or omission) the risk of child sexual abuse or the circumstances or conditions giving rise to that risk; or
- iii. it happens in any other circumstances where you consider that an institution is, or should be treated as being, responsible for adults having contact with children.

**law** means a law of the Commonwealth or of a State or Territory.

**official**, of an institution, includes:

- i. vi. any representative (however described) of the institution or a related entity; and
- ii. vii. any member, officer, employee, associate, contractor or volunteer (however described) of the institution or a related entity; and

- iii. viii. any person, or any member, officer, employee, associate, contractor or volunteer (however described) of a body or other entity, who provides services to, or for, the institution or a related entity; and
- iv. ix. any other person who you consider is, or should be treated as if the person were, an official of the institution.

**related matters** means any unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse.

AND We:

require you to begin your inquiry as soon as practicable, and

require you to make your inquiry as expeditiously as possible; and

require you to submit to Our Governor-General:

first and as soon as possible, and in any event not later than 30 June 2014 (or such later date as Our Prime Minister may, by notice in the *Gazette*, fix on your recommendation), an initial report of the results of your inquiry, the recommendations for early consideration you may consider appropriate to make in this initial report, and your recommendation for the date, not later than 31 December 2015, to be fixed for the submission of your final report; and

then and as soon as possible, and in any event not later than the date Our Prime Minister may, by notice in the *Gazette*, fix on your recommendation, your final report of the results of your inquiry and your recommendations; and

authorise you to submit to Our Governor-General any additional interim reports that you consider appropriate.

IN WITNESS, We have caused these Our Letters to be made Patent

WITNESS Quentin Bryce, Governor-General of the Commonwealth of Australia.

Dated 11th January 2013

Governor-General

By Her Excellency's Command

Prime Minister

## Letters Patent dated 13 November 2014

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO

The Honourable Justice Peter David McClellan AM,  
Mr Robert Atkinson,  
The Honourable Justice Jennifer Ann Coate,  
Mr Robert William Fitzgerald AM,  
Dr Helen Mary Milroy, and  
Mr Andrew James Marshall Murray

GREETING

WHEREAS We, by Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia, appointed you to be a Commission of inquiry, required and authorised you to inquire into certain matters, and required you to submit to Our Governor-General a report of the results of your inquiry, and your recommendations, not later than 31 December 2015.

AND it is desired to amend Our Letters Patent to require you to submit to Our Governor-General a report of the results of your inquiry, and your recommendations, not later than 15 December 2017.

NOW THEREFORE We do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and under the Constitution of the Commonwealth of Australia, the *Royal Commissions Act 1902* and every other enabling power, amend the Letters Patent issued to you by omitting from subparagraph (p)(i) of the Letters Patent '31 December 2015' and substituting '15 December 2017'.

IN WITNESS, We have caused these Our Letters to be made Patent.

WITNESS General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia.

Dated 13th November 2014  
Governor-General  
By Her Excellency's Command  
Prime Minister

## APPENDIX B: Public hearing

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<b>The Royal Commission</b>	Justice Peter McClellan AM (Chair) Mr Bob Atkinson AO APM Justice Jennifer Coate Mr Robert Fitzgerald AM Professor Helen Mary Milroy Mr Andrew Murray
<b>Commissioners who presided</b>	Justice Jennifer Coate Mr Bob Atkinson AO APM Mr Robert Fitzgerald AM
<b>Date of hearings</b>	17–24 March 2014
<b>Legislation</b>	<i>Royal Commissions Act 1902 (Cth)</i>
<b>Leave to appear</b>	State of South Australia LO LP LQ LM LL LK LN LI LJ Catholic Archdiocese of Adelaide Catholic Special Schools Incorporated (CSSI) Truth Justice and Healing Council (TJHC) Mr Claude Hamam
<b>Legal representation</b>	S David, Counsel Assisting the Royal Commission P Humphries, Duncan Basheer Hannon Lawyers, appearing for witnesses LO, LP, LQ, LM, LL, LK, LN, LI and LJ T Golding and C Jacobi, South Australian Crown Solicitor's Office, appearing for the State of South Australia J Needham SC, J Gooley, Gilbert + Tobin, appearing for the Archdiocese of Adelaide and the Truth, Justice and Healing Council S Litchfield, appearing for C Hamam

<b>Pages of transcript</b>	825 pages
<b>Notice to Produce issued under <i>Royal Commissions Act 1923</i> (Cth) and documents produced</b>	22 notices to produce producing 9,034 documents
<b>Number of exhibits</b>	40 exhibits consisting of a total of 1,151 documents tendered at the hearing
<b>Witnesses</b>	<p><b>LH</b> Former St Ann's student</p> <p><b>LK</b> Mother of LB (former St Ann's student)</p> <p><b>Mrs Helen Gitsham</b> Mother of David Gitsham (dec'd) (former St Ann's student)</p> <p><b>Leonid Mosheev</b> Detective Sergeant, South Australia Police</p> <p><b>Gregory Ramm</b> Detective Sergeant, South Australia Police</p> <p><b>Graham Bartlett</b> Detective Chief Superintendent, South Australia Police (retired)</p> <p><b>Mr Claude Hamam</b> Former Principal, St Ann's Special School</p> <p><b>Mr Michael Critchley</b> Catholic Education Office (retired)</p> <p><b>Mr Martin Aartsen</b> Former teacher / acting Principal, St Ann's Special School</p> <p><b>Walter Conte</b> Detective Senior Sergeant, South Australia Police</p> <p><b>Allan Dooley</b> Former Director of Catholic Education, Archdiocese of Adelaide</p> <p><b>Ms Susan Cain</b> Director, South Australian Professional Standards Office, Catholic Church South Australia</p> <p><b>Archbishop Philip Wilson</b> Roman Catholic Archbishop of Adelaide</p>

## Endnotes

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- <sup>1</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [41]–[42].
- <sup>2</sup> Exhibit 9-0032, Statement of P Wilson, CTJH.500.17001.0001 at [26].
- <sup>3</sup> Exhibit 9-0028, Statement of C Hamam, STAT.0191.001.0002\_R at [5].
- <sup>4</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [42]–[52].
- <sup>5</sup> Exhibit 9-0027, Annexure 6, CTJH.500.14001.0048 at 0059.
- <sup>6</sup> Exhibit 9-0027, Annexure 9, CTJH.500.14001.0092; Exhibit 9-0027, Annexure 10, CTJH.500.14001.0339.
- <sup>7</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [65].
- <sup>8</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [66]–[67].
- <sup>9</sup> Exhibit 9-0009, CTJH.140.01006.0003.
- <sup>10</sup> Exhibit 9-0009, CTJH.140.01006.0003.
- <sup>11</sup> Exhibit 9-0009, CTJH.140.01006.0003.
- <sup>12</sup> Exhibit 9-0009, CTJH.140.01006.0003.
- <sup>13</sup> Exhibit 9-0028, Statement of C Hamam, STAT.0191.001.0002\_R at [18]; Transcript of C Hamam, T1235:13–16 (Day SA11).
- <sup>14</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [117].
- <sup>15</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [119].
- <sup>16</sup> Exhibit 9-0028, Statement of C Hamam, STAT.0191.001.0002\_R at [18]; Transcript of C Hamam, T1235:13–16 (Day SA11).
- <sup>17</sup> Exhibit 9-0028, Statement of C Hamam, STAT.0191.001.0002\_R at [18].
- <sup>18</sup> Exhibit 9-0028, Statement of C Hamam, STAT.0191.001.0002\_R at [19].
- <sup>19</sup> Exhibit 9-0028, Statement of C Hamam, STAT.0191.001.0002\_R at [19].
- <sup>20</sup> Exhibit 9-0028, Statement of C Hamam, STAT.0191.001.0002\_R at [19].
- <sup>21</sup> Transcript of C Hamam, T1236:7–9 (Day SA11).
- <sup>22</sup> Exhibit 9-0026, Annexure 9, CTJH.500.15001.0040\_R.
- <sup>23</sup> Exhibit 9-0026, Annexure 24, CTJH.500.15001.0091\_R.
- <sup>24</sup> Transcript of C Hamam, T1310:33–T1311:42 (Day SA11).
- <sup>25</sup> Exhibit 9-0026, Annexure 44, CTJH.500.15001.0137\_R at 0143\_R; Exhibit 9-0009, Tab 330, CTJH.140.02001.0019\_R at 0023\_R.
- <sup>26</sup> Exhibit 9-0026, Annexure 45, CTJH.500.15001.0146\_ at 0155\_R.
- <sup>27</sup> Exhibit 9-0032, Statement of P Wilson, CTJH.500.17001.0001 at [91].
- <sup>28</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [130].
- <sup>29</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [132].
- <sup>30</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [136].
- <sup>31</sup> Exhibit 9-0028, Statement of C Hamam, STAT.0191.001.0002\_R at [12].
- <sup>32</sup> Exhibit 9-0028, Statement of C Hamam, STAT.0191.001.0002\_R at [13].
- <sup>33</sup> Exhibit 9-0028, Statement of C Hamam, STAT.0191.001.0002\_R at [14].
- <sup>34</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [119].
- <sup>35</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [144].
- <sup>36</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [120].
- <sup>37</sup> Transcript of C Hamam, T1244:10–17 (Day SA11).
- <sup>38</sup> Exhibit 9-0028, Statement of C Hamam, STAT.0191.001.0002\_R at [17].
- <sup>39</sup> Transcript of C Hamam, T1243:9–40 (Day SA11).
- <sup>40</sup> Exhibit 9-0028, Statement of C Hamam, STAT.0191.001.0002\_R at [18].
- <sup>41</sup> Transcript of C Hamam, T1241:15–37 (Day SA11).
- <sup>42</sup> Exhibit 9-0008, Statement of LH, STAT.0200.001.0001\_R at [19].
- <sup>43</sup> Exhibit 9-0036, Statement of LO, STAT.0217.001.0001\_R at [11].
- <sup>44</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [139].
- <sup>45</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [141].
- <sup>46</sup> Exhibit 9-0028, Statement of C Hamam, STAT.0191.001.0002\_R at [20].

- <sup>47</sup> Transcript of C Hamam, T1289:17–30 (Day SA11).
- <sup>48</sup> Exhibit 9-0010, Statement of LK, STAT.0199.001.0001\_R at [12].
- <sup>49</sup> Exhibit 9-0010, Statement of LK, STAT.0199.001.0001\_R at [13].
- <sup>50</sup> Transcript of C Hamam, T1247:20–T1248:1 (Day SA11).
- <sup>51</sup> Transcript of C Hamam, T1249:36–T1252:45 (Day SA11).
- <sup>52</sup> Exhibit 9-0009, CTJH.140.02001.0019\_R at 0023\_R.
- <sup>53</sup> Transcript of C Hamam, T1248:13–16 (Day SA11).
- <sup>54</sup> Transcript of C Hamam, T1248:26–T1249:24 (Day SA11).
- <sup>55</sup> Exhibit 9-0020, Annexure LSM-1, STAT.0213.001.0010\_R.
- <sup>56</sup> Exhibit 9-0009, STAT.0213.001.0011\_R at 0011\_R–0014\_R.
- <sup>57</sup> Exhibit 9-0009, STAT.0213.001.0011\_R at 0013\_R.
- <sup>58</sup> Exhibit 9-0009, SA.0004.001.1046\_R at 1063\_R–1064\_R.
- <sup>59</sup> Exhibit 9-0028, Statement of C Hamam, STAT.0191.001.0002\_R at [41].
- <sup>60</sup> Transcript of C Hamam, T1262:45–T1263:1 (Day SA11).
- <sup>61</sup> Transcript of C Hamam, T1320:36–46; T1321:1–19 (Day SA11).
- <sup>62</sup> Exhibit 9-0029, Statement of M Aartsen, CTJH.500.13001.0001\_R at [42].
- <sup>63</sup> Transcript of M Aartsen, T1331:35–39; T1333:41–T1334:10 (Day SA11).
- <sup>64</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [79].
- <sup>65</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [97].
- <sup>66</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [53].
- <sup>67</sup> Transcript of C Hamam, T1326:2–8 (Day SA11).
- <sup>68</sup> Transcript of C Hamam, T1317:5–13 (Day SA11).
- <sup>69</sup> Transcript of M Critchley, T1346:35–47 (Day SA11).
- <sup>70</sup> Transcript of M Critchley, T1348:17–28 (Day SA11).
- <sup>71</sup> Exhibit 9-0009, CTJH.140.02001.0041\_R at 0042\_R.
- <sup>72</sup> Transcript of C Hamam, T1263:44–T1264:5 (Day SA11); T1264:7–12 (Day SA11).
- <sup>73</sup> Exhibit 9-0029, Statement of M Aartsen, CTJH.500.13001.0001\_R at [33].
- <sup>74</sup> Exhibit 9-0009, CTJH.140.02001.0041\_R at 0042\_R.
- <sup>75</sup> Transcript of M Critchley, T1354:12–18 (Day SA11).
- <sup>76</sup> Transcript of LK, T719:31–T720:15 (Day SA7).
- <sup>77</sup> Transcript of LK, T734:24–38 (Day SA7).
- <sup>78</sup> Transcript of C Hamam, T1259:23–33 (Day SA11).
- <sup>79</sup> Transcript of M Aartsen, T1330:42–T1331:13 (Day SA11).
- <sup>80</sup> Transcript of C Hamam, T1267:2–47 (Day SA11).
- <sup>81</sup> Transcript of C Hamam, T1279:1–47 (Day SA11).
- <sup>82</sup> Exhibit 9-0029, Statement of M Aartsen, CTJH.500.13001.0001\_R at [28]–[29].
- <sup>83</sup> Exhibit 9-0009, CTJH.140.02001.0030\_R at 0032\_R.
- <sup>84</sup> Transcript of L Mosheev, T992:24–27 (Day SA9).
- <sup>85</sup> The Police Regulations 1982 (SA) clause 27(6).
- <sup>86</sup> Transcript of L Mosheev, T998:47–T999:44 (Day SA9).
- <sup>87</sup> Exhibit 9-0030, Statement of M Critchley, CTJH.500.11001.0001\_R at [28].
- <sup>88</sup> Exhibit 9-0030, Statement of M Critchley, CTJH.500.11001.0001\_R at [44].
- <sup>89</sup> Exhibit 9-0030, Statement of M Critchley, CTJH.500.11001.0001\_R at [70].
- <sup>90</sup> Exhibit 9-0030, Statement of M Critchley, CTJH.500.11001.0001\_R at [74]–[75].
- <sup>91</sup> Transcript of M Critchley, T1361:18–29 (Day SA11).
- <sup>92</sup> Exhibit 9-0030, Statement of M Critchley, CTJH.500.11001.0001\_R at [71]; Exhibit 9-0030, Annexure 26, CTJH.500.11001.0303.
- <sup>93</sup> Transcript of M Critchley, T1354:32–41 (Day SA11).
- <sup>94</sup> Exhibit 9-0009, CTJH.140.02001.0011 at 0011.
- <sup>95</sup> Transcript of A Dooley, T1201:40–T1203:31 (Day SA10).
- <sup>96</sup> Exhibit 9-0020, Annexure LSM-1, STAT.0213.001.0010\_R.
- <sup>97</sup> Exhibit 9-0020, Annexure LSM-2, STAT.0213.001.0011\_R.
- <sup>98</sup> Exhibit 9-0020, Annexure LSM-2, STAT.0213.001.0011\_R at 0012\_R.

- <sup>99</sup> Exhibit 9-0020, Annexure LSM-2, STAT.0213.001.0011\_R at 0011\_R.
- <sup>100</sup> Exhibit 9-0020, Statement of L Mosheev, STAT.0213.001.0001\_R at [46].
- <sup>101</sup> Exhibit 9-0013, Statement of G Clarke, STAT.0184.001.0001\_R at [2].
- <sup>102</sup> Transcript of L Mosheev, T845:8–23 (Day SA8).
- <sup>103</sup> Transcript of L Mosheev, T850:22–42 (Day SA8).
- <sup>104</sup> Transcript of L Mosheev, T835:41–46 (Day SA8).
- <sup>105</sup> Transcript of L Mosheev, T832:47–T833:2 (Day SA8).
- <sup>106</sup> Transcript of L Mosheev, T861:39–41 (Day SA8).
- <sup>107</sup> Exhibit 9-0017, Statement of P Dickson, STAT.0180.001.0001\_R at [18].
- <sup>108</sup> Exhibit 9-0017, Statement of P Dickson, STAT.0180.001.0001\_R at [15]; Transcript of L Mosheev, T863:45–47; T866:1–2 (Day SA8).
- <sup>109</sup> Transcript of L Mosheev, T863:45–47; T864:1–8 (Day SA8).
- <sup>110</sup> Transcript of L Mosheev, T861:7–34 (Day SA8).
- <sup>111</sup> Exhibit 9-0017, Statement of P Dickson, STAT.0180.001.0001\_R at [18].
- <sup>112</sup> Transcript of L Mosheev, T838:40–T839:7 (Day SA8).
- <sup>113</sup> Transcript of L Mosheev, T1000:35–41 (Day SA8).
- <sup>114</sup> Transcript of L Mosheev, T842:7–T843:7; T947:6–41 (Day SA8).
- <sup>115</sup> Transcript of L Mosheev, T864:26–35 (Day SA8).
- <sup>116</sup> *Criminal Law Consolidation Act 1935* (SA) section 58A(1)(b).
- <sup>117</sup> Transcript of L Mosheev, T837:45 (Day SA8).
- <sup>118</sup> Transcript of L Mosheev, T1000:38–41 (Day SA8).
- <sup>119</sup> Exhibit 9-0020, Annexure LSM-4, STAT.0213.001.0016\_R.
- <sup>120</sup> Transcript of L Mosheev, T866:5–16 (Day SA8).
- <sup>121</sup> Exhibit 9-0013, Statement of G Clarke, STAT.0184.001.0001\_R at [4]; Exhibit 9-0014, Statement of J Carr, STAT.0183.001.0001\_R at [7].
- <sup>122</sup> Exhibit 9-0017, Statement of P Dickson, STAT.0180.001.0001\_R at [142].
- <sup>123</sup> Exhibit 9-0020, Annexure LSM-8, STAT.0213.001.0027\_R.
- <sup>124</sup> Exhibit 9-0020, Annexure LSM-8, STAT.0213.001.0027\_R.
- <sup>125</sup> Transcript of L Mosheev, T960:13–22 (Day SA8).
- <sup>126</sup> Statement of J Carr, STAT.0183.001.0001\_R at [7].
- <sup>127</sup> Statement of J Carr, STAT.0183.001.0001\_R at [8]–[9].
- <sup>128</sup> Transcript of L Mosheev, T894:42–T895:2 (Day SA8); T960:45–T961:1–3 (Day SA9).
- <sup>129</sup> Transcript of L Mosheev, T897:37–44 (Day SA8).
- <sup>130</sup> Exhibit 9-0017, Statement of P Dickson, STAT.0180.001.0001\_R at [143].
- <sup>131</sup> Transcript of L Mosheev, T890:9–27 (Day SA8).
- <sup>132</sup> Transcript of L Mosheev, T889:32–47 (Day SA8).
- <sup>133</sup> Transcript of L Mosheev, T892:3–24 (Day SA8).
- <sup>134</sup> Exhibit 9-0040, Statement of D Powell, SA.0018.061.0001 at 0023.
- <sup>135</sup> Transcript of L Mosheev, T892:12–T893:3 (Day SA8).
- <sup>136</sup> Exhibit 9-0023, Statement of G Ramm, STAT.0188.001.0001\_R at [3]–[5].
- <sup>137</sup> Exhibit 9-0023, Statement of G Ramm, STAT.0188.001.0001\_R at [9].
- <sup>138</sup> Transcript of G Ramm, T1031:24–26 (Day SA10).
- <sup>139</sup> Transcript of L Mosheev, T901:8–29 (Day SA8).
- <sup>140</sup> Exhibit 9-0009, SA.0004.001.2946\_R at 2946\_R.
- <sup>141</sup> Transcript of G Ramm, T1035:41–T1036:15; T1040:4-10 (Day SA9); Exhibit 9-0016, Statement of P Simons, STAT.0190.001.0001.
- <sup>142</sup> Exhibit 9-0016, Statement of P Simons, STAT.0190.001.0001 at [6].
- <sup>143</sup> Transcript of L Mosheev, T910:38–T911:39 (Day SA8).
- <sup>144</sup> Transcript of L Mosheev, T914:6–31 (Day SA8).
- <sup>145</sup> Exhibit 9-0023, Statement of G Ramm, STAT.0188.001.0001\_R at [6].
- <sup>146</sup> Exhibit 9-0023, Statement of G Ramm, STAT.0188.001.0001\_R at [15].
- <sup>147</sup> Exhibit 9-0015, Statement of J Bean, STAT.0182.001.0001 at [11]–[12].
- <sup>148</sup> Exhibit 9-0009, SA.0005.001.0201\_R at 0202\_R; 0215\_R.

- <sup>149</sup> Exhibit 9-0009, SA.0005.001.0201\_R at 0203\_R.
- <sup>150</sup> Exhibit 9-0016, Statement of P Simons, STAT.0190.001.0001 at [6]; Transcript of L Mosheev, T912:14–28 (Day SA8).
- <sup>151</sup> Exhibit 9-0017, Statement of P Dickson, STAT.0180.001.0001\_R at [58], [63].
- <sup>152</sup> Exhibit 9-0009, SA.0008.001.2952\_R at 2953\_R.
- <sup>153</sup> Exhibit 9-0009, SA.0008.001.2952\_R at 2952\_R–2953\_R.
- <sup>154</sup> Exhibit 9-0020, Annexure LSM-3, STAT.0213.001.0014\_R.
- <sup>155</sup> Exhibit 9-0020, Annexure LSM-17, STAT.0213.001.0057\_R.
- <sup>156</sup> Exhibit 9-0009, SA.0012.001.0707\_R.
- <sup>157</sup> Transcript of L Mosheev, T924:45–T925:7 (Day SA8).
- <sup>158</sup> Transcript of L Mosheev, T907:34–47 (Day SA8).
- <sup>159</sup> Exhibit 9-0009. SA.0004.001.3056 at 3056.
- <sup>160</sup> Transcript of L Mosheev, T923:18–T924:26 (Day SA8).
- <sup>161</sup> Transcript of L Mosheev, T1048:215 (Day SA9).
- <sup>162</sup> Transcript of L Mosheev, T945:19–24 (Day SA9).
- <sup>163</sup> Exhibit 9-0009, SA.0004.001.2945.
- <sup>164</sup> Transcript of G Bartlett, T1079:9–13 (Day SA9).
- <sup>165</sup> Exhibit 9-0024, Statement of G Bartlett, STAT.0181.001.0001 at [12].
- <sup>166</sup> Transcript of G Bartlett, T1075:31–39 (Day SA9).
- <sup>167</sup> Transcript of G Bartlett, T1086:26–35 (Day SA9).
- <sup>168</sup> Transcript of G Bartlett, T1077:38–45 (Day SA9).
- <sup>169</sup> Transcript of G Bartlett, T1080:13–15 (Day SA9).
- <sup>170</sup> Exhibit 9-0009, SA.0004.001.2942.
- <sup>171</sup> Transcript of L Mosheev, T932:9–15 (Day SA8).
- <sup>172</sup> Transcript of L Mosheev, T933:3–14 (Day SA8).
- <sup>173</sup> Transcript of L Mosheev, T933:26–T934:17 (Day SA8).
- <sup>174</sup> Exhibit 9-0024, Statement of G Bartlett, STAT.0181.001.0001 at [14].
- <sup>175</sup> Exhibit 9-0009. SA.0004.001.2895.
- <sup>176</sup> Exhibit 9-0024, Statement of G Bartlett, STAT.0181.001.0001 at [14].
- <sup>177</sup> Transcript of L Mosheev, T903:21–27 (Day SA8).
- <sup>178</sup> Transcript of L Mosheev, T935:14–16 (Day SA8).
- <sup>179</sup> Exhibit 9-0020, Annexure LSM-17, STAT.0213.001.0057\_R at 0057\_R.
- <sup>180</sup> *Bromley v R* (1986) 161 CLR 315.
- <sup>181</sup> *Longman v R* (1989) 168 CLR 79.
- <sup>182</sup> Exhibit 9-0009, SA.0004.001.2824 at 2825.
- <sup>183</sup> Transcript of G Bartlett, T1083:28–45 (Day SA9).
- <sup>184</sup> Transcript of G Bartlett, T1083:47–T1084:15 (Day SA9).
- <sup>185</sup> Exhibit 9-0017, Statement of P Dickson, STAT.0180.001.0001\_R at [117].
- <sup>186</sup> Exhibit 9-0017, Statement of P Dickson, STAT.0180.001.0001\_R at [116].
- <sup>187</sup> Exhibit 9-0017, Statement of P Dickson, STAT.0180.001.0001\_R at [118].
- <sup>188</sup> Exhibit 9-0017, Statement of P Dickson, STAT.0180.001.0001\_R at [119].
- <sup>189</sup> Exhibit 9-0017, Statement of P Dickson, STAT.0180.001.0001\_R at [83]–[85.]
- <sup>190</sup> Exhibit 9-0017, Statement of P Dickson, STAT.0180.001.0001\_R at [149]–[150].
- <sup>191</sup> Exhibit 9-0017, Statement of P Dickson, STAT.0180.001.0001\_R at [155].
- <sup>192</sup> Exhibit 9-0017, Statement of P Dickson, STAT.0180.001.0001\_R at [168].
- <sup>193</sup> Exhibit 9-0017, Statement of P Dickson, STAT.0180.001.0001\_R at [172].
- <sup>194</sup> Exhibit 9-0040, Statement of D Powell, SA0018.001.0001 at [10].
- <sup>195</sup> Exhibit 9-0040, Statement of D Powell, SA0018.001.0001 at [9].
- <sup>196</sup> Exhibit 9-0040, Statement of D Powell, SA0018.001.0001 at [8].
- <sup>197</sup> Exhibit 9-0040, Statement of D Powell, SA0018.001.0001 at [12].
- <sup>198</sup> Exhibit 9-0040, Statement of D Powell, SA0018.001.0001 at [17].
- <sup>199</sup> Exhibit 9-0040, Statement of D Powell, SA0018.001.0001 at [19]–[24].
- <sup>200</sup> Exhibit 9-0040, Statement of D Powell, SA0018.001.0001 at [45].

- <sup>201</sup> Exhibit 9-0040, Statement of D Powell, SA0018.001.0001 at [50].
- <sup>202</sup> Exhibit 9-0040, Statement of D Powell, SA0018.001.0001 at [53]–[57].
- <sup>203</sup> Exhibit 9-0040, Statement of D Powell, SA0018.001.0001 at [62].
- <sup>204</sup> Exhibit 9-0040, Statement of D Powell, SA0018.001.0001 at [74].
- <sup>205</sup> Exhibit 9-0040, Statement of D Powell, SA0018.001.0001 at [76].
- <sup>206</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [19].
- <sup>207</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [21].
- <sup>208</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [22].
- <sup>209</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [23].
- <sup>210</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [20]–[24].
- <sup>211</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [27].
- <sup>212</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [29].
- <sup>213</sup> Exhibit 9-0026, Annexure 2, CTJH.500.15001.0026\_R at 0029\_R.
- <sup>214</sup> Exhibit 9-0026, Annexure 6, CTJH.500.15001.0035\_R.
- <sup>215</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [40]; Exhibit 9-0026, Annexures 10-13, CTJH.500.15001.0046\_R, CTJH.500.15001.0051\_R, CTJH.500.15001.0061\_R.
- <sup>216</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [39]; Exhibit 9-0026, Annexure 9, CTJH.500.15001.0040\_R.
- <sup>217</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [42].
- <sup>218</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [43]; Exhibit 9-0026, Annexures 15-17, CTJH.500.15001.0067\_R, CTJH.500.15001.0069\_R, CTJH.500.15001.0071.
- <sup>219</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [44].
- <sup>220</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [48].
- <sup>221</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [49]; Exhibit 9-0026, Annexure 20, CTJH.500.15001.0080\_R.
- <sup>222</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [53]; Exhibit 9-0026, Annexure 21, CTJH.500.15001.0083\_R.
- <sup>223</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [54].
- <sup>224</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [55].
- <sup>225</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [58]; Exhibit 9-0026, Annexure 22, CTJH.500.15001.0086.
- <sup>226</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [59].
- <sup>227</sup> Exhibit 9-0032, Statement of P Wilson, CTJH.500.17001.0001 at [75].
- <sup>228</sup> Exhibit 9-0032, Statement of P Wilson, CTJH.500.17001.0001 at [76].
- <sup>229</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [67], [81].
- <sup>230</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [67]; Exhibit 9-0026, Annexure 29, CTJH.500.15001.0108.
- <sup>231</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [69]; Exhibit 9-0026, Annexure 30, CTJH.500.15001.0110\_R.
- <sup>232</sup> Exhibit 9-0020, Annexure LSM-8, STAT.0213.001.0027\_R.
- <sup>233</sup> Exhibit 9-0032, Statement of P Wilson, CTJH.500.17001.0001 at [77].
- <sup>234</sup> Exhibit 9-0032, Statement of P Wilson, CTJH.500.17001.0001 at [78].
- <sup>235</sup> Exhibit 9-0032, Statement of P Wilson, CTJH.500.17001.0001 at [99].
- <sup>236</sup> Transcript of P Wilson, T1374:46–T1375:3 (Day SA12).
- <sup>237</sup> Exhibit 9-0026, Statement of A Dooley, CTJH.500.15001.0001\_R at [84]–[87].
- <sup>238</sup> Transcript of L Mosheev, T1026:28–47 (Day SA9).
- <sup>239</sup> Exhibit 9-0009, SA.0008.001.3104\_R.
- <sup>240</sup> Exhibit 9-0031, Annexure 2, CTJH.500.16001.0037.
- <sup>241</sup> Exhibit 9-0031, Annexure 2, CTJH.500.16001.0037 at 0057.
- <sup>242</sup> Transcript of S Cain, T1384:47–T1385:20 (Day SA12).
- <sup>243</sup> Exhibit 9-0031, Statement of S Cain, CTJH.500.16001.0001 at [10].
- <sup>244</sup> Exhibit 9-0031, Statement of S Cain, CTJH.500.16001.0001 at [16].
- <sup>245</sup> Exhibit 9-0031, Statement of S Cain, CTJH.500.16001.0001 at [18].

- <sup>246</sup> Exhibit 9-0031, Statement of S Cain, CTJH.500.16001.0001 at [24].
- <sup>247</sup> Exhibit 9-0031, Statement of S Cain, CTJH.500.16001.0001 at [25].
- <sup>248</sup> Exhibit 9-0031, Statement of S Cain, CTJH.500.16001.0001 at [25].
- <sup>249</sup> Exhibit 9-0031, Statement of S Cain, CTJH.500.16001.0001 at [26].
- <sup>250</sup> Exhibit 9-0031, Statement of S Cain, CTJH.500.16001.0001 at [31].
- <sup>251</sup> Exhibit 9-0031, Statement of S Cain, CTJH.500.16001.0001 at [32].
- <sup>252</sup> Exhibit 9-0031, Statement of S Cain, CTJH.500.16001.0001 at [134].
- <sup>253</sup> Exhibit 9-0031, Statement of S Cain, CTJH.500.16001.0001 at [32].
- <sup>254</sup> Exhibit 9-0031, Statement of S Cain, CTJH.500.16001.0001 at [83].
- <sup>255</sup> Exhibit 9-0031, Statement of S Cain, CTJH.500.16001.0001 at [84].
- <sup>256</sup> Exhibit 9-0031, Statement of S Cain, CTJH.500.16001.0001 at [85].
- <sup>257</sup> Exhibit 9-0032, Statement of P Wilson, CTJH.500.17001.0001 at [138]–[139].
- <sup>258</sup> Exhibit 9-0032, Statement of P Wilson, CTJH.500.17001.0001 at [95].
- <sup>259</sup> Exhibit 9-0031, Statement of S Cain, CTJH.500.16001.0001 at [37]–[38].
- <sup>260</sup> Exhibit 9-0031, Statement of S Cain, CTJH.500.16001.0001 at [49].
- <sup>261</sup> Exhibit 9-0032, Statement of P Wilson, CTJH.500.17001.0001 at [96].
- <sup>262</sup> Exhibit 9-0031, Statement of S Cain, CTJH.500.16001.0001 at [112].
- <sup>263</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [6].
- <sup>264</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [12].
- <sup>265</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [15].
- <sup>266</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [16].
- <sup>267</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [27]–[28].
- <sup>268</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [32].
- <sup>269</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [39].
- <sup>270</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [40].
- <sup>271</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [40].
- <sup>272</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [42].
- <sup>273</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [51].
- <sup>274</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [46].
- <sup>275</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [60].
- <sup>276</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [61].
- <sup>277</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [69].
- <sup>278</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [70]–[71].
- <sup>279</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [102].
- <sup>280</sup> Exhibit 9-0009, CTJH.140.01001.0876\_E\_R.
- <sup>281</sup> Exhibit 9-0009, CTJH.140.01001.0827\_R.
- <sup>282</sup> Transcript of S Cain, T1412:18–T1413:3 (Day SA12).
- <sup>283</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [104].
- <sup>284</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [107].
- <sup>285</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [107].
- <sup>286</sup> Transcript of S Cain, T1401:39–43 (Day SA12).
- <sup>287</sup> Exhibit 9-0036, Statement of LO, STAT.0217.001.0001\_R at [56]; Exhibit 9-0038, Statement of LJ, STAT.0219.001.0001\_R at [54].
- <sup>288</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [130]; Exhibit 9-0037, Statement of LQ, STAT.0217.001.0001\_R at [24].
- <sup>289</sup> Exhibit 9-0032, Statement of P Wilson, CTJH.500.17001.0001 at [154].
- <sup>290</sup> Exhibit 9-0032, Statement of P Wilson, CTJH.500.17001.0001 at [85].
- <sup>291</sup> Exhibit 9-0036, Statement of LO, STAT.0217.001.0001\_R at [63].
- <sup>292</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [87].
- <sup>293</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [84].
- <sup>294</sup> Exhibit 9-0011, Statement of H Gitsham, STAT.0198.001.0001\_R at [86]; Exhibit 9-0036, Statement of LO, STAT.0217.001.0001\_R at [63].
- <sup>295</sup> Transcript of P Wilson, T1460:40–41 (Day SA12).

- <sup>296</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001.
- <sup>297</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [99]; [101]–[104].
- <sup>298</sup> Exhibit 9-0032, Statement of P Wilson, CTJH.500.17001.0001 at [35].
- <sup>299</sup> Exhibit 9-0009, CTJH.140.01007.0005.
- <sup>300</sup> Exhibit 9-0032, Statement of P Wilson, CTJH.500.17001.0001 at [35]; Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [168]–[169].
- <sup>301</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [170]; Exhibit 9-0009, SA.0003.002.0875.
- <sup>302</sup> Exhibit 9-0027, Statement of P Sharkey, CTJH.500.14001.0001 at [51].
- <sup>303</sup> Exhibit 9-0027, Tab 8, CTJH.500.14001.0001.
- <sup>304</sup> Exhibit 9-0032, Statement of P Wilson, CTJH.500.17001.0001 at [149].
- <sup>305</sup> Exhibit 9-0008, Statement of LH, STAT.0200.09.
- <sup>306</sup> Exhibit 9-0010, Statement of LK, STAT.0199.001.0001\_R at [28].
- <sup>307</sup> Exhibit 9-0010, Statement of LK, STAT.0199.001.0001\_R at [29].
- <sup>308</sup> Exhibit 9-0010, Statement of LK, STAT.0199.001.0001\_R at [41].
- <sup>309</sup> Exhibit 9-0010, Statement of LK, STAT.0199.001.0001\_R at [82].
- <sup>310</sup> Exhibit 9-0010, Statement of LK, STAT.0199.001.0001\_R at [85].
- <sup>311</sup> Exhibit 9-0036, Statement of LO, STAT.0217.001.0001\_R at [10].
- <sup>312</sup> Exhibit 9-0036, Statement of LO, STAT.0217.001.0001\_R at [11].
- <sup>313</sup> Exhibit 9-0036, Statement of LO, STAT.0217.001.0001\_R at [16].
- <sup>314</sup> Exhibit 9-0036, Statement of LO, STAT.0217.001.0001\_R at [19].
- <sup>315</sup> Exhibit 9-0036, Statement of LO, STAT.0217.001.0001\_R at [21].
- <sup>316</sup> Exhibit 9-0036, Statement of LO, STAT.0217.001.0001\_R at [22].
- <sup>317</sup> Exhibit 9-0036, Statement of LO, STAT.0217.001.0001\_R at [24].
- <sup>318</sup> Exhibit 9-0036, Statement of LO, STAT.0217.001.0001\_R at [28].
- <sup>319</sup> Exhibit 9-0037, Statement of LQ, STAT.0217.001.0001\_R at [8].
- <sup>320</sup> Exhibit 9-0037, Statement of LQ, STAT.0217.001.0001\_R at [10].
- <sup>321</sup> Exhibit 9-0037, Statement of LQ, STAT.0217.001.0001\_R at [11].
- <sup>322</sup> Exhibit 9-0038, Statement of LJ, STAT.0219.001.0001\_R at [8].
- <sup>323</sup> Exhibit 9-0038, Statement of LJ, STAT.0219.001.0001\_R at [23].
- <sup>324</sup> Exhibit 9-0038, Statement of LJ, STAT.0219.001.0001\_R at [11].
- <sup>325</sup> Exhibit 9-0038, Statement of LJ, STAT.0219.001.0001\_R at [19].
- <sup>326</sup> Exhibit 9-0038, Statement of LJ, STAT.0219.001.0001\_R at [34].
- <sup>327</sup> Exhibit 9-0039, Statement of LN, STAT.0220.001.0001\_R at [12].
- <sup>328</sup> Exhibit 9-0039, Statement of LN, STAT.0220.001.0001\_R at [17].
- <sup>329</sup> Exhibit 9-0039, Statement of LN, STAT.0220.001.0001\_R at [23].
- <sup>330</sup> Exhibit 9-0039, Statement of LN, STAT.0220.001.0001\_R at [31].
- <sup>331</sup> Exhibit 9-0039, Statement of LN, STAT.0220.001.0001\_R at [47].
- <sup>332</sup> Exhibit 9-0039, Statement of LN, STAT.0220.001.0001\_R at [49].
- <sup>333</sup> Exhibit 9-0036, Statement of LO, STAT.0217.001.0001\_R; Exhibit 9-0038, Statement of LJ, STAT.0219.001.0001\_R; Exhibit 9-0039, Statement of LN, STAT.0220.001.0001\_R; Exhibit 9-0037, Statement of LQ, STAT.0218.001.0001\_R; Exhibit 9-0035, Statement of LM, STAT.0216.001.0001\_R.





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