



**ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES
TO CHILD SEXUAL ABUSE
AT SYDNEY**

COMMONWEALTH OF AUSTRALIA

Royal Commissions Act 1902

**PUBLIC HEARING INTO
THE JEHOVAH'S WITNESSES AND
WATCHTOWER BIBLE AND TRACT SOCIETY OF AUSTRALIA LTD
CASE STUDY 54**

OPENING ADDRESS BY SENIOR COUNSEL ASSISTING

A. INTRODUCTION

1. This is the Royal Commission's 54th case study.
2. This public hearing will inquire into the Jehovah's Witnesses and the Watchtower Bible and Tract Society of Australia Ltd (which I will call **Watchtower Australia**). It follows the Royal Commission's inquiry into the Jehovah's Witnesses and Watchtower Australia in Case Study 29.
3. Case Study 29 concerned the responses of the Jehovah's Witnesses and Watchtower Australia to allegations, reports and complaints of child

sexual abuse within the organisation. That public hearing took place in Sydney in July and August of 2015. The report was tabled in Parliament on 28 November 2016.

4. In this hearing, the Royal Commission will inquire into the following topics:
 - a. the current policies and procedures of the Jehovah's Witnesses and Watchtower Australia in relation to child protection and child-safe standards, including responding to allegations of child sexual abuse;
 - b. factors that may have affected the institutional response of the Jehovah's Witnesses and Watchtower Australia to child sexual abuse;
 - c. the responses of the Jehovah's Witnesses and Watchtower Australia to Case Study 29 and other Royal Commission reports;
 - d. how the Jehovah's Witnesses and Watchtower Australia have addressed, or propose to address, each of the elements that the Royal Commission considers necessary in creating a child safe institution; and
 - e. the issue of redress and the responses of the Jehovah's Witnesses and Watchtower Australia to civil claims by survivors of child sexual abuse.

5. The Royal Commission will hear evidence from two senior members of the Jehovah's Witnesses:
 - a. Mr Terrence O'Brien, a director of Watchtower Australia and a member and the Co-ordinator of the Australian Branch Committee;
and
 - b. Mr Rodney Spinks, a senior Service Desk minister of Watchtower Australia.
6. I will now briefly explain the structure and governance of the Jehovah's Witnesses organisation.

B. THE JEHOVAH'S WITNESSES TODAY

7. The Jehovah's Witnesses were founded in the United States in the late 19th century and have been active in Australia since 1896. Watchtower Australia is the legal entity of the Jehovah's Witnesses in Australia.
8. The worldwide activities of the Jehovah's Witnesses are overseen by the Governing Body, which is a council of elders based in the United States. The Governing Body is responsible for providing definitive and authoritative interpretation of the Scriptures and for developing and disseminating the policies of the Jehovah's Witnesses. The Governing

Body supervises more than 90 branches worldwide, including the Australia Branch.

9. Given that the Governing Body is based in the United States, the Royal Commission does not have the power to compel a member of the Governing Body to give evidence in this hearing. Nevertheless, on 16 January 2017, the Royal Commission wrote to Watchtower Australia requesting that a member of the Governing Body be available to give evidence at this hearing whether in person or by video link. On 31 January 2017, Watchtower Australia informed the Royal Commission that a member of the Governing Body would not be available to give evidence. That is a matter of considerable regret given the degree to which the Australia Branch is subject to the control of the Governing Body on matters of policy, procedure and practice.
10. The Australia Branch Office is the headquarters for the Jehovah's Witnesses in Australia. The Australia Branch Office is managed by the Australia Branch Committee and coordinates the activities of all congregations in Australia.
11. Congregations are groups of members of the Jehovah's Witnesses comprising 'publishers', 'ministerial servants' and 'elders'. Currently,

there are about 821 congregations in Australia with approximately 67,000 active members.

12. Congregational responsibilities sit with 'elders' and 'ministerial servants', who can only be male members of the congregation. Each congregation is overseen by a body of elders who 'shepherd' the congregation and oversee spiritual matters. Ministerial servants provide administrative support and practical assistance to the elders and service to the congregation.
13. The key beliefs of the Jehovah's Witnesses include literal interpretation of the Bible and reliance on 1st century Biblical principles to set practice, policy and procedure.

C. CASE STUDY 29

14. Among other matters, Case Study 29 inquired into the experiences of some survivors of child sexual abuse within the Jehovah's Witness organisation. This involved an examination of the systems, policies and procedures in place within the organisation for raising and responding to allegations of child sexual abuse and for the prevention of child sexual abuse within the organisation.

15. The Royal Commission found that the Jehovah's Witnesses did not respond adequately to child sexual abuse and did not adequately protect children from the risk of sexual abuse. In particular, the Royal Commission found the following problematic policies and practices in the Jehovah's Witnesses' response to child sexual abuse:
- a. the organisation does not have a practice of reporting child sexual abuse to police or any other authority;
 - b. before 1998, a survivor of child sexual abuse was required to make her allegation in the presence of her abuser;
 - c. if the accused does not confess, there is an inflexible requirement that there be at least two eyewitnesses to an incident of child sexual abuse, or two or more witnesses to a different incident of child sexual abuse, before the accused can be dealt with by internal disciplinary system of the organisation (I will call this the **two-witness rule**);
 - d. women are absent from the decision-making processes of the internal disciplinary system;
 - e. there is no clear provision for a survivor to be accompanied by a support person during the internal disciplinary process;

- f. the organisation has limited and ineffective risk management practices; and
 - g. the organisation has a policy and practice of socially shunning those who wish to leave the organisation, including survivors of child sexual abuse.
16. During the course of the public hearing in Case Study 29, senior representatives of the Jehovah's Witnesses gave a series of commitments in relation to proposed reforms to Jehovah's Witnesses' child protection policies and procedures, including in relation to:
- a. Mandatory reporting;
 - b. The consolidation of multiple sources of policies and procedures into a user-friendly source, not only for elders but also for survivors and parents; and
 - c. The role of women in the investigation of child sexual abuse.
17. Each of these matters will be explored during the course of this hearing.

D. CURRENT POLICIES AND PROCEDURES

18. This review hearing will examine the actions taken by the Jehovah's Witnesses in response to the findings, recommendations, and commitments made during Case Study 29.

19. The Royal Commission is expected to hear evidence that the Jehovah's Witnesses learnt from their participation in Case Study 29 that "some of their policies and procedures on child sexual abuse were not correctly understood and ... needed to be better communicated to elders and members of the congregation".
20. The Royal Commission will hear that in response to Case Study 29, the Jehovah's Witnesses have "reviewed, clarified, refined and consolidated" their policies and procedures on child sexual abuse to ensure "as far as possible" the safety of children, "as far as [the Jehovah's Witnesses] are able to do so consistent with [their] Bible-based beliefs".
21. The Royal Commission will hear evidence that, since Case Study 29, the Jehovah's Witnesses have published two new documents which together outline how the organisation is child safe:
 - a. first, a letter from Watchtower Australia to All Bodies of Elders entitled 'protecting minors from abuse' dated 1 August 2016 which, as the Royal Commission will hear, was sent in similar form to congregation elders worldwide to assist elders to respond to allegations of child sexual abuse; and
 - b. secondly, *Child Protection Guidelines for Branch Office Service Desks*, which was sent to branch offices worldwide to promote

compliance with the policies and procedures recorded in the letter of 1 August 2016.

22. In addition, the Royal Commission is expected to hear that the Jehovah's Witnesses have published and distributed articles and videos to educate parents and children about the dangers of child sexual abuse and to promote child safety.
23. This public hearing will examine the adequacy of these policies. The Royal Commission will hear that there is a difference in the level of policy detail communicated to Service Desks and elders, as compared to the congregations.
24. This week Watchtower Australia furnished to the Royal Commission a document titled *Child Safeguarding Policy of Jehovah's Witnesses in Australia*. It is understood to be a recently adopted policy for distribution to congregations in Australia. There will be evidence about this document.

E. RESPONSE TO FINDINGS & RECOMMENDATIONS

25. The Royal Commission is expected to hear evidence that the Jehovah's Witnesses believe there are no impediments to developing and implementing responses to *most* of the concerns raised in Case Study 29. Despite this evidence, the Royal Commission will hear that the Jehovah's

Witnesses have failed to address many of the recommendations arising from Case Study 29.

Complainant to face abuser

26. First, the Royal Commission recommended that the Jehovah's Witnesses' written policies should clearly state that a complainant of child sexual abuse is no longer required to confront her abuser, and that members of the organisation should be informed of this right. The Royal Commission is expected to hear that although this policy has been amended accordingly, it has to date only been communicated in writing to elders and not to members of the Jehovah's Witnesses more generally.

Two-witness rule

27. Secondly, the Royal Commission recommended that the Jehovah's Witnesses revise and modify their application of the "two-witness rule" in cases involving complaints of child sexual abuse. The Royal Commission is expected to hear that Jehovah's Witnesses consider that they are "prohibited by Scripture from altering the application of the ... two witness rule".

Exclusion of women

28. Thirdly, the Royal Commission recommended that the Jehovah's Witnesses explore ways to involve women in the investigation and assessment of the credibility of allegations of child sexual abuse. The Royal Commission is expected to hear that the Jehovah's Witnesses restrict the participation of women to presenting allegations to elders and supporting the complainant.

Support person

29. Fourthly, the Royal Commission recommended that the Jehovah's Witnesses formally document their stated policy of allowing survivors to have a support person present during the internal disciplinary process. The Royal Commission is expected to hear that the new guidelines for Service Desks provide that "*mature*" minors now have the right to have a non-parent adult present with them during an interview in the investigation of an allegation of child sexual abuse. However, the Royal Commission will hear that the policies remain silent as to the provision of support to younger survivors other than by a parent during the investigation stage and to any survivors appearing before a judicial committee hearing.

Reporting to authorities

30. Fifthly, the Royal Commission recommended that the Jehovah's

Witnesses:

- a. report to authorities all allegations of child sexual abuse where the complainant is a minor or there is an ongoing risk to children; and
- b. actively seek the consent of adult victims to report their alleged child sexual abuse to authorities.

31. In Case Study 29, Watchtower Australia produced 5,000 documents comprising, among other things, case files relating to 1,006 alleged perpetrators of child sexual abuse dating back to 1950. Officers at the Royal Commission reviewed these case files and as a result the Royal Commission referred information in relation to 514 alleged perpetrators to police in accordance with its power under 6P(1) of the *Royal Commissions Act 1902*.

32. Of the remaining 492 alleged perpetrators identified in the case files, officers at the Royal Commission determined that there was either insufficient evidence in the case files to warrant referring matters to police or that the matters had already come to the attention of police.

33. The Jehovah's Witnesses will give evidence that they comply with mandatory reporting laws. The Royal Commission is expected to hear that the policies of the Jehovah's Witnesses now provide that "the victim and her parents have the absolute right to report an allegation to the authorities". Further, the Royal Commission will hear that when responding to allegations of child sexual abuse, elders are required to inform the victim or in the case of a child victim, his or her parents, that he or she has the absolute right to report the matter to the authorities and that he or she will be supported by the elders in that decision.
34. The Royal Commission will hear evidence that of the 17 allegations of child sexual abuse that the Jehovah's Witnesses in Australia have received since Case Study 29, they have reported 15 allegations to the authorities. In both cases that were not reported, the adult survivors of historical abuse elected not to report and the Jehovah's Witness organisation abided their decisions.

Shunning

35. Finally, the Royal Commission found that the Jehovah's Witnesses' practice of shunning members who disassociate from the organisation potentially puts survivors in an untenable position. It is anticipated that the Royal Commission will hear that while it is not the Jehovah's

Witnesses' policy to shun a victim of child sexual abuse, the organisation has failed to address the particularly devastating practice of shunning survivors who dissociate from the organisation because of their abuse.

F. CHILD SAFE ELEMENTS

36. In July 2016, the Royal Commission published ten elements which should be present in a child safe institution (the **Child Safe Elements**). Those elements are that:

- a. Child safety is embedded in institutional leadership, governance and culture;
- b. Children participate in decisions affecting them and are taken seriously;
- c. Families and communities are informed and involved;
- d. Equity is promoted and diversity respected;
- e. People working with children are suitable and supported;
- f. Processes to respond to complaints of child sexual abuse are child focused;
- g. Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training;
- h. Physical and online environments minimize the opportunity for abuse to occur;

- i. Implementation of child safe standards is continuously reviewed and improved; and
 - j. Policies and procedures document how the institution is child safe.
37. The Royal Commission is expected to hear evidence that the Jehovah's Witnesses consider that many of the Child Safe Elements have limited application to the Jehovah's Witnesses because the organisation does not operate or sponsor programs or activities which separate children from their families, nor does it have any positions that provide access to children without their parents. As a result, the Jehovah's Witnesses will give evidence that the organisation does not maintain or operate the "institutional settings" that present opportunities for predatory sexual behaviour.
38. The Royal Commission will hear evidence that the child safe standards promoted and promulgated to the Jehovah's Witnesses community by the organisation are derived from the Bible.
39. The level of compliance of the Jehovah's Witnesses with the Child Safe Elements will be examined during the course of this hearing.

G. PRIVATE SESSIONS AND CORRESPONDENCE TO THE ROYAL COMMISSION

40. Since the Royal Commission's commencement, 57 private sessions have been held with survivors of child sexual abuse within the Jehovah's Witness organisation.

41. Since 2015, the Royal Commission has received more than 1,165 items of correspondence in relation to the Jehovah's Witnesses and Watchtower Australia. This correspondence has been received from all over the world including from the United Kingdom, Austria, France, Germany, Italy, Spain, Belgium, the Netherlands, New Zealand, South Africa, Brazil, the Dominican Republic, Canada, and the United States of America. The correspondence has been overwhelmingly critical of the Jehovah's Witnesses' institutional response to child sexual abuse.

H. REQUEST FOR DETAILS AND SUBMISSIONS

42. In November 2016, the Royal Commission called for submissions from individuals and institutions on the current child protection policies and procedures and child safe standards of a number of institutions, including the Jehovah's Witnesses and Watchtower Australia.

43. A number of submissions were received. Nearly all the submissions called for major changes to the Jehovah's Witnesses' policies and procedures for responding to child sexual abuse.
44. Concerns were expressed over the institutional culture of not reporting allegations of child sexual abuse to secular authorities, and instead having elders conduct internal investigations into those allegations.
45. The conduct of internal investigations was also a major issue of concern. In particular, the most problematic policies and procedures of the Jehovah's Witnesses' internal disciplinary system were considered to be:
 - a. survivors being required to confront their abusers;
 - b. the application of the two witness rule;
 - c. women being absent from positions of authority; and
 - d. the absence of clear provision for a survivor to have a support person.
46. The practice of 'shunning' anyone, including a victim of child sexual abuse, who wishes to leave the Jehovah's Witnesses was considered to be one of the most damaging practices. Great concern was also expressed over the practice of 'reproval' which allows a repentant perpetrator to remain within a congregation and, consequently, at risk of reoffending.

47. The submissions also raised concerns that the Jehovah's Witnesses are yet to establish any redress scheme, or communicate what processes and procedures apply to claims arising from child sexual abuse.
48. These matters will be examined during the course of this hearing.

I. REDRESS

49. During the public hearing in Case Study 29, Mr O'Brien gave evidence that the Jehovah's Witnesses in Australia do not have a redress scheme for victims of child sexual abuse because, at that time, the organisation had never received a redress claim. Mr O'Brien also gave evidence that he would recommend that the Jehovah's Witnesses implement their own redress scheme to care for victims of child sexual abuse.
50. The Royal Commission will hear evidence that, since Case Study 29, the Jehovah's Witnesses continue to handle redress for victims of child sexual abuse on a case-by-case basis. We are also expected to hear that the Australia Branch Office will consider the details of any National Redress Scheme that the government may propose to enact.
51. In November 2016, the Commonwealth Government announced a Commonwealth Redress Scheme for survivors of child sexual abuse in institutional contexts. The approach that the Jehovah's Witnesses intend

to take to the government's national scheme will be explored in this public hearing.

Angus Stewart SC

Senior Counsel Assisting the Royal Commission

10 March 2017