

Submission to the Office of the Children's Guardian
on the "Regulating Child Safe Organisations
Discussion paper for consultation"

Submission by Lara Kaput and Steven Unthank

4 April 2019

Janet Schorer
NSW Children's Guardian
The Office of the Children's Guardian

Via email: policyteam@kidsguardian.nsw.gov.au

We thank the Office of the Children's Guardian for inviting us to provide a submission in relation to *Regulating Child Safe Organisations Discussion paper for consultation*.

While our submission addresses each of the 10 questions asked within the discussion paper, it also draws attention to some of the current and related problems faced by children, parents, and survivors from within the religion of Jehovah's Witnesses in Australia. Of particular concern is the current corporate climate and culture that exists within the religion's administrative management corporations: Watchtower Bible and Tract Society of Australia Limited, and their controlling parent organisation Watch Tower Bible and Tract Society of Pennsylvania, Inc.¹

Our primary concern is that the leaders of Jehovah's Witnesses have:

- refused to acknowledge child sexual abuse from within their own institution,
- refused to meet with child sexual abuse survivors,
- shunned child abuse victims within their own religion,
- shunned, and in some cases excommunicated, members of the religion who have campaigned to have child safe standards adopted into the religion,
- refused to say sorry to anyone for holding the statistical record for having the most child abuse victims per membership number of all institutions within Australia (see Figure 1 below for a summary of the Jehovah's Witnesses child sexual abuse statistics among their 68,000 members within Australia),
- refused to join the Redress Scheme,
- refused to comply with the mandatory Reportable Conduct Scheme in Victoria²,
- refused to adopt any of the recommendations of the *Royal Commission into Institutional Responses to Child Sexual Abuse*,
- refused to treat child sexual abuse as a crime,
- policies that are inconstant with Australian-based child safe standards³, and
- have a court documented history or refusing to comply with mandatory child protection laws within Australia.

¹ The umbrella and parent corporation for the worldwide church of Jehovah's Witnesses is the Watch Tower Bible and Tract Society of Pennsylvania, Inc. ("Watch Tower Society"). The Watch Tower Society is not registered with the Australian Securities and Investment Commission (ASIC) as a foreign corporation operating within Australia, despite the fact that it maintains an Australian branch and has appointed as direct agents and religious office holders (elder) each individual member of Watchtower Bible and Tract Society of Australia Limited.

² See YouTube video: "*The Reportable Conduct Scheme and Jehovah's Witnesses – Part 1*" which discusses the ongoing failure of Jehovah's Witnesses to comply with the scheme. 19 February 2019. Produced by Responsible Witness and Say Sorry. <https://youtu.be/IF9wOOn2Hws>

³ See YouTube video: "*Jehovah's Witnesses Child Protection Policy – Do you really know what it is and where to find it?*" 16 November 2018. Produced by Responsible Witness and Say Sorry. <https://youtu.be/buncJ86tdRc>
See also: <https://www.jw.org/en/news/legal/legal-resources/information/packet-jw-scripturally-based-position-child-protection/>

Child Abuse Royal Commission – Church of Jehovah’s Witnesses Summary of Findings

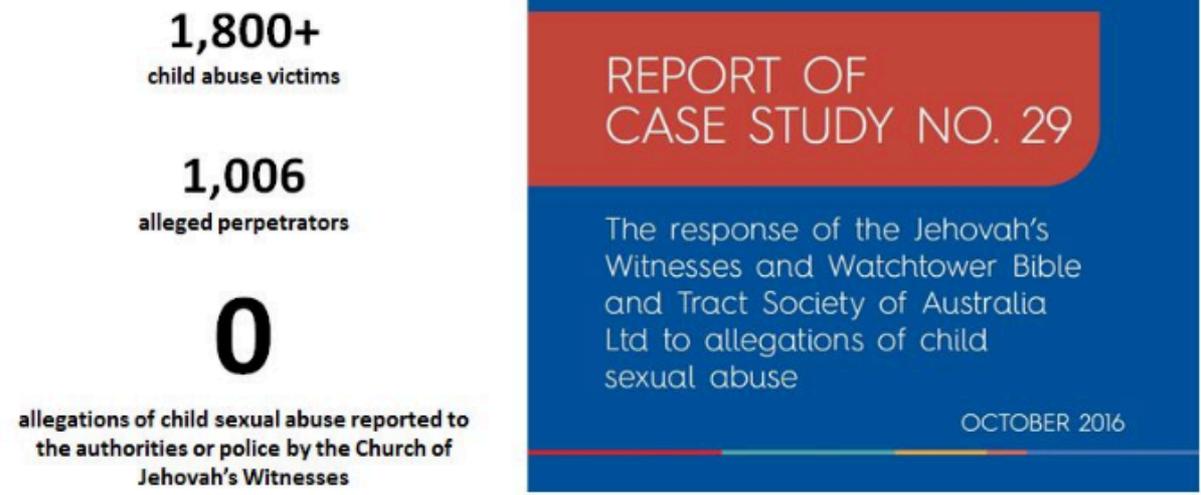


Figure 1. Summary of findings in relation to Jehovah’s Witnesses in Australia

The Australian *Royal Commission into Institutional Responses to Child Sexual Abuse* (“CARC”) stated in its Final Report, published in December 2017, that the Jehovah’s Witnesses in Australia had a reported 1,800 child sexual abuse victim files⁴ and “over 1,000 alleged perpetrators”⁵ within a membership of 68,000. By contrast, the Catholic Church in Australia had a reported 4,444 child sexual abuse victim files⁶ within a membership of 5.3 million.

A total of 70 survivors of Jehovah’s Witnesses attended a private session with the CARC.⁷ 57 congregations of Jehovah’s Witnesses across Australia were the subject of those private sessions.⁸ In its Final Report the CARC stated, “We found no evidence of the Jehovah’s Witness organisation reporting allegations of child sexual abuse to police or other civil authorities.”⁹

Lara Kaput and Steven Unthank

Email: lara@saysorry.org

⁴ *Final Report Preface and executive summary*. Royal Commission into Institutional Responses to Child Sexual Abuse, 2017, p 76.

See also: <https://www.childabuseroyalcommission.gov.au/case-studies/case-study-29-jehovahs-witnesses>

⁵ *Ibid*, p 76.

⁶ <https://www.abc.net.au/news/2017-02-06/child-sex-abuse-royal-commission:-data-reveals-catholic-abuse/8243890>

⁷ *Final Report Preface and executive summary*. Royal Commission into Institutional Responses to Child Sexual Abuse, Table 2, p 45.

⁸ *Ibid*, p 45.

⁹ *Ibid*, p 76.

Table of Contents

<i>Lara Kaput and Steven Unthank: Our background</i>	<i>5</i>
<i>The Jehovah's Witness organisation</i>	<i>6</i>
Organisational structure.....	6
The Jehovah's Witnesses in Australia	7
<i>Key Jehovah's Witness beliefs limiting compliance with the Child Safe Standards</i>	<i>7</i>
Jehovah's witnesses policies relating to child sexual abuse	8
The "two-witness" rule	9
<i>CASE STUDY 1 - Jehovah's Witnesses and mandatory working with children laws</i>	<i>10</i>
Who Will Protect Our Children?	10
"A vast array of laws"	10
Criminal breaches of the Victorian working with children laws.....	11
Religious harm against children and adults who requested child protection compliance	12
<i>CASE STUDY 2 – Jehovah's Witnesses and the Redress Scheme</i>	<i>13</i>
Jehovah's Witnesses teachings restrict redress and legal action via the courts	14
What does "taking a brother to court" mean within the religion of Jehovah's Witnesses?.....	14
<i>CASE STUDY 3 - The Victorian Reportable Conduct Scheme</i>	<i>15</i>
<i>Approach to regulating child safe organisations – OCG questions.....</i>	<i>16</i>
Q1: In what ways is a principle-based approach a good fit for regulating child safe organisations in NSW?	16
Q2: In what ways would a different approach be a better fit for regulating child safe organisations in NSW?	16
Q3: What types of organisations should be regulated to meet child safe standards in NSW?....	16
Q4: What types or organisations should not be regulated to meet child safe standards in NSW?	17
Q5: What sorts of organisations should help to co-regulate child safe standards?	18
Q6: How should the OCG support organisations to build their capacity to meet the child safe standards?	18
Q7: How should the OCG roll out regulation of the child safe standards so that organisations have time to plan and make changes if required?.....	20
Q8: What powers should the regulator have to monitor the child safe standards?	20
Q9: What powers should the regulator have to enforce the child safe standards?	20
Q10: How can the OCG support parents, families and communities to encourage organisations to be child safe?	21

Lara Kaput and Steven Unthank: Our background

We are former Jehovah's Witnesses. We are both child sexual abuse survivors from within the religion of Jehovah's Witnesses, who now use our time and resources to advocate for fellow victims and survivors of institutional child sexual abuse, regardless of the institution or religion.

For the past 10 years we have, either individually or as a team, provided up-to-date factual and unique information to local and international law enforcement agencies, government bodies, politicians, inquiries, royal commissions, law firms, and the media in relation to Jehovah's Witnesses and the Watch Tower Society. We also provide advice for investigations, civil lawsuits, class actions, and prosecutions involving the Watch Tower Society and the Church of Jehovah's Witnesses, globally.

Over the past seven years we have made written submissions to, or appeared before, the *Protecting Victoria's Vulnerable Children Inquiry*, the *Victorian Inquiry into the Handling of Child Abuse by Religious and Other Non-government Organisations*, the *Royal Commission into Institutional Responses to Child Sexual Abuse*, and the recent *Joint Select Committee on the Royal Commission into Institutional Responses to Child Sexual Abuse – oversight of redress related recommendations*.

We currently operate under the unincorporated name "Say Sorry".

In 2017, we were invited to a global event, co-hosted by a London law firm and a US media entity, about the Jehovah's Witness cover-ups, convened in London.¹⁰

In August 2018, the largest ever peaceful protest against the cover-ups of child sexual abuse within the Jehovah's Witnesses faith took place, with global attendees. Due to this and because our legal systems are similar, we both travelled through the United Kingdom and continental Europe in relation to our advocacy work.¹¹

On 22 October 2018 we were both invited by the Prime Minister and the Attorney-General, as victims and advocates, to attend the *National Apology to victims and survivors of institutional child sexual abuse* at Parliament House, Canberra.¹²

Our purpose, as explained on our SaySorry.org website states:

¹⁰ "Reveal event aims to pry loose documents in Jehovah's Witnesses cover-up". The Center for Investigative Reporting. Trey Bundy. May 3, 2017. <https://www.revealnews.org/blog/reveal-event-aims-to-pry-loose-documents-in-jehovahs-witness-cover-up/>

¹¹ Say Sorry. 2018. Blog on the *Say Sorry International Schedule*. Lara Kaput and Steven Unthank. <https://saysorry.org/2018/11/04/say-sorry-international-schedule/> Accessed 2 April 2019.

¹² Say Sorry. 2019. Blog on the *National Apology to Victims and Survivors of Institutional Child Sexual Abuse*. Lara Kaput and Steven Unthank. <https://saysorry.org/2019/03/31/national-apology-to-victims-and-survivors-of-institutional-child-sexual-abuse/> Accessed 2 April 2019.

“‘Say Sorry’ exposes and holds accountable the Watch Tower Society and those leaders within the Jehovah’s Witnesses organization that disregard or violate the laws of the land, and that cause harm to sections of the community. Accountability and change has been achieved by the Say Sorry Team through a range of activities including: awareness, education, campaigns, public speaking, conferences, submissions to parliamentary inquiries, assisting with the Australian Child Abuse Royal Commission, working with governmental and statutory authorities, advising law enforcement agencies, lobbying, legal action, and prosecutions.”¹³

The Jehovah’s Witness organisation

Organisational structure

The Jehovah’s Witness organisation was founded in the United States in the late 19th century. The organisation has been active in Australia since 1896. The organisation’s Australian legal entity is the Watchtower Bible and Tract Society of Australia Ltd (Watchtower Australia).

Watch Tower Bible and Tract Society of Pennsylvania, Inc. controls and appoints all executive corporate officers and voting members of Watchtower Bible and Tract Society of Australia Ltd. All members must also be appointed elders of Watch Tower Bible and Tract Society of Pennsylvania, Inc.

The worldwide activities of the Jehovah’s Witness organisation are overseen by the Governing Body, which is a council of Jehovah’s Witness elders who look to Jehovah (God) and to Jesus Christ for direction in all matters. The Governing Body is based in the United States and supervises more than 90 branches worldwide. The Governing Body is responsible for providing definitive and authoritative interpretation of the Scriptures, and for developing and disseminating the policies of the organisation.

In each country, a Branch Office sits below the Governing Body. The Branch Office is overseen by a Branch Committee. The Branch Office has responsibility for each congregation of Jehovah’s Witnesses in its country or geographical area.

Congregations are groups of members of the Jehovah’s Witness organisation. A congregation’s members are known as ‘publishers’. A congregation comprises publishers, ministerial servants and elders.

Congregational responsibilities sit with elders and ministerial servants, which are roles that can only be filled by male members of the congregation. A body of elders ‘shepherds’ the congregation and oversees spiritual matters, while ministerial servants provide ministerial support and practical assistance to the congregation.

¹³ Say Sorry. <https://saysorry.org/about/> Accessed 2 April 2019.

The Jehovah's Witnesses in Australia

There are currently 821 congregations in Australia with over 68,000 active members.¹⁴ Each congregation in Australia is, in the legal sense, a voluntary association and a separately registered charity.¹⁵

The Governing Body oversees the work of the Australia Branch Office. The Australia Branch Office is responsible for all congregations in Australia.

The Jehovah's Witness organisation's Australian legal entity is the Watchtower Bible and Tract Society of Australia Ltd (Watchtower Australia). Watchtower Australia facilitates the production and distribution of Bible-based literature for the Jehovah's Witness organisation throughout Australasia.¹⁶ Watchtower Australia is a public company limited by guarantee and is a registered charity.¹⁷ In this submission, unless otherwise specified, a reference to the Branch Office or Australia Branch Office is also a reference to Watchtower Australia.

The Australia Branch Office relevantly comprises the following structures:

- the Branch Committee, which is an ecclesiastical body of 12 full-time elders (at the time of the public hearing)¹⁸ and which oversees and manages the operation of the Australia Branch Office¹⁹
- the Legal Department²⁰
- the Service Department and Desk, which care for all aspects of the spiritual activities of the Jehovah's Witness organisation.

The controlling corporate organisation for the Australian Branch Office and for Watchtower Australia rests firmly with Watch Tower Bible and Tract Society of Pennsylvania, Inc.

Key Jehovah's Witness beliefs limiting compliance with the Child Safe Standards

- literal interpretation of the bible and reliance on 1st century principles to set practice, policy and procedure;
- millenarianism, or the belief that the end of the world is imminent;
- 'male headship', or the belief in a strict patriarchal authority structure involving obedience and submission in both the organisation and the family;

¹⁴ Transcript of TJ O'Brien, Case Study 29, 5 August 2015, 15844:11-16; Exhibit 29-0024, 'Statement of TJ O'Brien', Case Study 29, STAT.0592.001.0001_R at [6].

¹⁵ Exhibit 29-0024, 'Statement of TJ O'Brien', Case Study 29, STAT.0592.001.0001_R at [23].

¹⁶ Exhibit 29-0024, 'Statement of TJ O'Brien', Case Study 29, STAT.0592.001.0001_R at [23], [21].

¹⁷ Exhibit 29-0003, Case Study 29, WAT.0009.001.0001; Exhibit 29-0003, Case Study 29, WAT.0001.001.0001 at 0005.

¹⁸ Transcript of TJ O'Brien, Case Study 29, 5 August 2015, 15815:10-12, 40-2.

¹⁹ Exhibit 29-0024, 'Statement of TJ O'Brien', Case Study 29, STAT.0592.001.0001_R at [8]; Exhibit 29-0025, 'Second Statement of TJ O'Brien', Case Study 29, STAT.0592.002.0001 at [9]; Exhibit 29-0003, Case Study 29, WAT.0013.001.0001 at 0012, 0037-0038.

²⁰ Transcript of RP Spinks, Case Study 29, 4 August 2015, 15656:37-40.

- maintaining a separateness from, and exercising caution in associating with, those who are not members of the organisation;
- the importance of door-to-door preaching, or evangelising;
- refusal to accept blood transfusions, even in life threatening situations, including those involving children;
- refusal to vote or get involved in lobbying;
- former members of the religion are ‘mentally diseased’;
- covering up of child sexual abuse within the organisation²¹;
- ‘theocratic warfare’ in which lying and deception are acceptable practices²²;
- treating child sexual abuse as a ‘sin’;
- the belief that governments and the media are under the control of Satan; and
- that demons are currently active on earth engaging in the sexual abuse of men, women, and children.²³

Jehovah’s witnesses policies relating to child sexual abuse

The Jehovah’s Witness organisation relies primarily on bible passages to set policies and procedures, including those for responding to child sexual abuse. The Governing Body generally issues policies, and Branch Offices may adjust them locally to meet the requirements of local laws. Views to the contrary of the Governing Body’s interpretation of the Scriptures are not tolerated. This is also the case for the organisation’s policies, procedures, and practices on responding to allegations of child sexual abuse.

There is limited flexibility in relation to the Jehovah’s Witness organisation’s scripturally based policies and procedures for responding to child sexual abuse.

The official public position of the Jehovah’s Witness organisation is that it abhors child sexual abuse and that it will not protect any perpetrator. When an allegation of child sexual abuse is made to elders, the Jehovah’s Witness organisation conducts a ‘spiritual investigation’. Once a congregation member has reported an allegation to elders, the member is advised to leave the matter in the hands of the elders and ‘trust in Jehovah that it will be resolved’.

The Jehovah’s Witness organisation mandates that every allegation of child sexual abuse should be investigated by two (male) elders in order to establish the truth of the allegation. Before about 1998, it was the policy of the Jehovah’s Witness organisation to require a complainant of child sexual abuse to make their allegation in the presence of both the investigating elders and their alleged perpetrator. The CARC heard that the organisation no longer requires this of complainants of child sexual abuse. However, evidence, including an

²¹ See Attachment A. *Submission in support of complaint to the New York State Attorney General, via the New York State Legislature, requesting a special Charities Bureau investigation into Watchtower Bible & Tract Society of New York, Inc., et al. in relation to serious allegations of unlawful conduct and the covering up of criminal activities committed by up to 775 United States citizens.* May 14, 2018. Document prepared by Steven Unthank.

²² *Ibid*, pp 88-92. Chapter: *Jehovah’s Witnesses: perverting the course of justice by “theocratic warfare”.*

²³ *Spirits of the Dead*, p 12. “Demons Are Killers! Demons Are Real!” 2005. Watch Tower Bible and Tract Society of Pennsylvania, Inc. <https://www.jw.org/en/publications/books/spirits-of-the-dead/demons-are-killers/>

audio recording of a child rape judicial hearing, exist that shows the practice was still in use as late as 2007 within Australia.

Investigating elders may take further action only if the truth of an allegation can be established according to the scriptural standards of proof. For those standards to be met, the elders must receive a confession by the accused and/or the testimony of two or three 'credible' eyewitnesses to the abuse. Investigating elders may also consider the evidence of two or three witnesses to separate but similar incidents of the same kind of abuse.

The evidence before the CARC is that it is not the practice of the Jehovah's Witness organisation to report child sexual abuse to authorities unless it is required by law to do so. At the time of the public hearing, the Jehovah's Witness organisation in Australia had recorded allegations, reports or complaints of child sexual abuse made against 1,006 members of the organisation. There was no evidence before the CARC that the organisation reported any of those allegations to police or any other secular authority.

The "two-witness" rule

Of major concern is a number of teachings within the Jehovah's Witnesses religion that are not compatible with the Child Safe Standards as proposed by the Office of the Children's Guardian.

The "two-witness" rule, as enforced by the Governing Body of Jehovah's Witnesses, is a procedural rule that requires, in the absence of a confession, there be two or more 'credible' eyewitnesses to an act of child sexual abuse, or to the testimony of two witnesses to the same kind of wrongdoing, before an allegations is accepted as truthful. Allegations are investigated by church elders who have no relevant training. Child sexual abuse is treated as a 'sin' and not as a crime within the church. In commenting on the "two-witness" rule the Royal Commission into Institutional Responses to Child Sexual Abuse ("Child Abuse Royal Commission" or "CARC") stated:

"Regardless of the biblical origins of the two-witness rule, the Jehovah's Witness organisation's retention of and continued application of the rule to a complaint of child sexual abuse is wrong. It fails to reflect the learning of the many people who have been involved in examining the behaviour of abusers and the circumstances of survivors. It shows a failure by the organisation to recognise that the rule will more often than not operate in favour of a perpetrator of child sexual abuse, who will not only avoid sanction but will also remain in the congregation and the community with their rights intact and with the capacity to interact with their victim."

And,

"A complainant of child sexual abuse whose allegation has not been corroborated by confession by their abuser or a second 'credible' eyewitness is necessarily disempowered and subjected to ongoing traumatising. To place a victim of child sexual abuse in such a position is today, and was 30 years ago, unacceptable and wrong."²⁴

²⁴ Report of Case Study No. 29 - The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse, October 2016, p 65.

Not surprisingly, the CARC recommended the abandoning of the “two-witness” rule in relation to allegations of criminal child sexual abuse. The Governing Body of Jehovah’s Witnesses have refused to adopt the recommendation.

CASE STUDY 1 - Jehovah’s Witnesses and mandatory working with children laws

Current Child Safe Standards, and those proposed by the Office of the Children’s Guardian for adoption, are in direct conflict with the corporate culture that exists within Watch Tower Bible and Tract Society of Pennsylvania, Inc., the US-based parent organisation for Jehovah’s Witnesses worldwide.

Who Will Protect Our Children?

In 1999 the Governing Body of Jehovah’s Witnesses, through their administrative corporation, Watch Tower Bible and Tract Society of Pennsylvania, Inc., published the following observation in one of their journals:

“There are those who seek a better life for children by passing legislation to protect them ... while we all no doubt applaud such efforts to rid society of child abuse, we must be realistic and acknowledge that child abuse has very deep roots in human society. It would be naive to think that a simple solution such as legislation will provide complete protection for our children. Many laws have already been passed, and yet the problem persists. It is really an indictment of the world’s delinquent adults that the natural right to childhood has to be protected by a vast array of laws.”²⁵

“A vast array of laws”

The Victorian *Working with Children Act 2005* commenced in April 2006.²⁶ Section 1 of *the Act* states:

“The main purpose of this Act is to assist in protecting children from sexual or physical harm by ensuring that people who work with, or care for, them are subject to a screening process.”²⁷

On 1 July 2008 the Victorian working with children laws became mandatory for religious organisations.²⁸ The entire religion of Jehovah’s Witnesses in Victoria, the Governing Body of Jehovah’s Witnesses, Watchtower Bible and Tract Society of Australia Ltd, the parent organisation Watch Tower Bible and Tract Society of Pennsylvania, Inc, and every single one of their ministers of religion (elders) who were directly engaged to work with children within the religion refused to comply with the mandatory working with children legislation.

²⁵ Who Will Protect Our Children? *Awake!* magazine, April 8, 1999, p. 8. Watch Tower Bible and Tract Society of Pennsylvania, Inc. <https://wol.jw.org/en/wol/d/r1/lp-e/101999243?q=%22it+is+really+an+indictment+of+the+world%27s+delinquent+adults+that+the+natural+right+to+childhood+has+to+be+protected+by+a+vast+array+of+laws%22&p=par> Accessed 2 April 2019.

²⁶ Working with Children Act. Working with Children Check. State Government of Victoria. <http://www.workingwithchildren.vic.gov.au/home/about+the+check/purpose/working+with+children+act/> Accessed 2 April 2019.

²⁷ http://www6.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/wwca2005232/s1.html

²⁸ http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/wwca2005232/s9.html

Criminal breaches of the Victorian working with children laws

Between 1 July 2008 and 12 December 2011, the Jehovah's Witness organisation engaged 2,000 elders to work with children as ministers of religion, despite none of them possessing a current working with children "assessment notice". For the criminal offence under section 35 of the *Working with Children Act 2005* to have occurred there need to be an actual child, thereby creating both the offender and the child victim.²⁹

These 2,000 elders serving as a "minister of religion" directly engaged in child-related work within the Church of Jehovah's Witnesses in over 170 congregations and over 200 Ministry Schools with 1000's of enrolled children, in the State of Victoria that had not complied with the *Working with Children Act 2005* from July 1, 2008 up until the filing of criminal charges against the church on July 26, 2011.³⁰

In early 2011 an application was made³¹ for the bringing of criminal charges against the religious institution and the entire committee of management were in the Magistrates' Court of Victoria. The criminal charges were approved and laid on 26 July 2011, under section 35 of the Victorian *Working with Children Act 2005*.³²

A total of 35 charges were brought individually against the following legal entities and committees of management within the religion of Jehovah's Witnesses. These were:

- Christian Congregation of Jehovah's Witnesses (unincorporated);
- Governing Body of Jehovah's Witnesses (as the committee of management - unincorporated);
- Faithful and discreet slave class (as a religious body - unincorporated);
- Watchtower Bible and Tract Society of Australia Ltd (incorporated); and
- Watch Tower Bible and Tract Society of Pennsylvania, Inc. (incorporated).³³

²⁹ WORKING WITH CHILDREN ACT 2005 - SECT 35

Offence to engage in child-related work a person who does not have an assessment notice

- (1) A person is guilty of an offence if—
- (a) the person engages, or continues to engage, another person (the worker) in child-related work, knowing that it is child-related work; and
 - (b) the worker does not have a current assessment notice; and
 - (c) the person engaging, or continuing to engage, the worker knows that the worker does not have a current assessment notice or is reckless as to whether or not he or she has one.

http://www6.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/wwca2005232/s35.html

³⁰ Submission 28. 'JW Survivors Submission in Response to the Consultation Paper for the establishing of the "Terms of Reference" for the Child Abuse Royal Commission". November 26, 2012. Submission prepared by Steven Unthank. <https://www.childabuseroyalcommission.gov.au/sites/default/files/file-list/Issues%20Paper%201%20-%20Submission%20-%2028%20Jehovahs%20Witness%20Survivors%20Victim%20Advocacy%20Group.pdf>

³¹ Letter issued by The Hon. Robert Clarke MP, Attorney-General of Victoria to Neale Burgess MP confirming that criminal charges have been requested. 1 May 2011. <https://jwleaks.files.wordpress.com/2012/06/letter-issued-by-attorney-general-to-member-of-parliament-over-failure-of-jehovahs-witnesses-to-comply-with-child-protection-laws-may-2011-pdf.pdf>

³² Victorian *Working with Children Act 2005* http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/wwca2005232/s35.html

³³ Case numbers: B12083527, B12082206, B12083367, B12083108, and B12083833. The prosecutor in all five criminal cases was Steven Unthank.

On 12 December 2011 the entire religion of Jehovah's Witnesses within the State of Victoria were forced to comply with the mandatory child protection laws. All 2,000 ministers within the Jehovah's Witnesses in Victoria were forced to obtain their working with children card.³⁴ The following year, once confirmation of compliance with the legislation was obtained, the prosecution was discontinued by the Director of Public Prosecutions.

Had the entire religion not been charged with criminal offences they would never have complied with the mandatory child protection laws. The Governing Body of Jehovah's Witnesses have refused to say sorry to the thousands of children directly affected by the non-compliance with the legislation.

Religious harm against children and adults who requested child protection compliance

On 1 January 2012 a group of children and their parents, within the religion of Jehovah's Witnesses in Victoria, wrote a two-page *Open Letter from the Children of Jehovah's Witnesses to the Governing Body of Jehovah's Witnesses*³⁵ over the non-compliance with the mandatory working with children laws and the criminal charges that had been filed.³⁶ In this letter the children asked the governing body to 'say sorry' for breaking the law. No apology was forthcoming.

Instead, every single child and parent involved in the letter were targeted and thrown out of the religion of Jehovah's Witnesses. They have been shunned ever since. As for the young children, they are growing up having spent no time since 2012 with their grandparents who are still members of the religion and are complying with the forced shunning.

The Governing Body of Jehovah's Witnesses still refuses to say sorry.

The blame for the ongoing religious harm these young children are continually suffering falls squarely on Victoria Police and the Victorian Department of Justice, both of whom refused to enforce the mandatory child protection laws found within the Victorian *Working with Children Act 2005*.

With the above in mind, the Office of the Children's Guardian needs to be aware that any member of the Jehovah's Witnesses, who raises concern within the religion about any perceived non-compliance with the Child Safe Standards, and then reports such non-compliance may be subject to disciplinary action by church leaders.

³⁴ Letter issued by The Hon. Robert Clarke MP, Attorney-General of Victoria to Mr Bill Hahn confirming the commencement of compliance with working with children laws by Jehovah's Witnesses, 10 April 2012. <https://jwleaks.files.wordpress.com/2012/06/letter-issued-by-attorney-general-confirming-jehovahs-witnesses-and-watchtower-agreed-to-comply-with-child-protection-laws-2012-pdf1.pdf>

³⁵ *An Open Letter from the Children of Jehovah's Witnesses to the Governing Body of Jehovah's Witnesses*, 1 January 2012. <https://jwleaks.files.wordpress.com/2012/06/an-open-letter-from-the-children-of-jehovahs-witnesses.pdf>

³⁶ Criminal Charge Sheet. Magistrates' Court of Victoria. 26 July 2011. Seven charges against the Governing Body of Jehovah's Witnesses. <https://jwleaks.files.wordpress.com/2012/06/governing-body-of-jehovahs-witnesses-charge-sheet-and-summons-magistrates-court-australia-2011-pdf1.pdf>

CASE STUDY 2 – Jehovah’s Witnesses and the Redress Scheme

This case study discusses the attitude of redress for child sexual abuse survivors within the Jehovah’s Witnesses. It is included to highlight a corporate culture within Watch Tower Bible and Tract Society of Pennsylvania, Inc. and Watchtower Bible and Tract Society of Australia Ltd, that shows very little regard towards child sexual abuse survivors, many of whom are also actively seeking a religious environment that minimizes or reduces the opportunity for abuse to occur.

Just prior to the commencement of Case Study 29 into *“The response of the Jehovah’s Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse”*, the Governing Body of Jehovah’s Witnesses published on their network, JW Broadcasting, a negative inference to allegations of child sexual abuse within the religion as being *“apostate-driven lies and dishonesties”*. In the broadcast, Governing Body member Stephen Lett added:

“any human who tries to get us to compromise Bible principles really is an agent of Satan”.³⁷

For any of the 1,800 alleged victims within the Jehovah’s Witness religion in Australia, a major hurdle to change, or the adoption of a proactive child safe culture, has to be overcome by children and families in that the Governing Body of Jehovah’s Witnesses have endorsed a blanket denial that there are actual child sexual abuse survivors from within their institution.

The above coupled with the requirements that the crime be treated as a ‘sin’ and that the victim satisfies the religious procedural “two-witness” rule creates an almost insurmountable obstacle to having child safety embedded in leadership of Jehovah’s Witnesses.

Concern has been raised by a number of survivors, including ourselves, when the CARC took the view that any consideration of an institution’s culpability should not form part of a redress scheme,³⁸ and that the standard of proof should be based on an assessment of the ‘reasonable likelihood’ for determining applications for redress.³⁹

Such ‘reasonable likelihood’ allows the Jehovah’s Witnesses’ organisation to potentially apply within their assessment of an application for redress the “two-witness” rule.

This then leaves the option of civil redress on a case-by-case basis, with disputes to be settled or determined in the courts.

³⁷ Bundy, Trey. 6 March 2015. Jehovah’s Witness leader says child sex abuse claims are ‘lies’. Reveal News. <https://www.revealnews.org/article/jehovahs-witness-leader-says-child-sex-abuse-claims-are-lies/>

³⁸ Redress and Civil Litigation Report (2015). Royal Commission into Institutional Responses to Child Sexual Abuse, pp 242-3.

³⁹ *Ibid*, p 187.

Jehovah's Witnesses teachings restrict redress and legal action via the courts

In the event that the Jehovah's Witness organisation refuses to join the Redress Scheme, the current members of the religion who are institutional survivors, and who seek redress, but cannot satisfy the "two-witness" rule requirement to produce 'credible' eyewitnesses to the abuse, are left with two options:

1. give up in the seeking of redress or compensation, or
2. commence legal action (civil lawsuit).

The Jehovah's Witness organisation has adapted the following bible passage in relation to the commencing of lawsuits against fellow members of the religion: "it is already a defeat for you when you have lawsuits with one another. Why not rather let yourselves be wronged? Why do you not rather let yourselves be defrauded?"⁴⁰

In commenting on taking legal action, members of the religion of Jehovah's Witnesses, including child sexual abuse survivors, are advised:

"If we are thinking about taking legal action, we should consider the possible effects on us personally, on the other person or persons, on the congregation, and on outsiders. Pursuing compensation could consume much of our time, energy, and other resources. It might result only in enriching attorneys and other professionals. Sadly, some Christians have sacrificed theocratic privileges because of becoming overly absorbed in these things. Our being side-tracked in this manner must make Satan happy, but we want to make Jehovah's heart rejoice. (Proverbs 27:11) On the other hand, accepting a loss may spare us heartaches and save much time for us and for the elders. It will help to preserve the congregation's peace and will enable us to keep on seeking first the Kingdom."⁴¹

And,

"Discernment can safeguard us from taking action that may put the congregation in a bad light. Paul advised fellow Christians to let themselves be wronged and even defrauded instead of taking a brother to court.—1 Corinthians 6:7."⁴²

What does "taking a brother to court" mean within the religion of Jehovah's Witnesses?

The Jehovah's Witnesses elder manual, Shepherd the Flock of God, states that "there is no difference between taking an individual brother or sister to court and taking to court a corporation whose owners are all Jehovah's Witnesses."⁴³ See Figure 2 below.

⁴⁰ <https://www.jw.org/en/publications/bible/study-bible/books/1-corinthians/6/#v46006007>

⁴¹ <https://wol.jw.org/en/wol/d/r1/lp-e/1997204?q=%22if+we+are+thinking+about+taking+legal+action+we+shoud+consider+the+possible+effects%22&p=par>

⁴² <https://wol.jw.org/en/wol/d/r1/lp-e/1997204?q=%22discernment+can+safeguard+us+from+taking+action+that+may+put+the+congregation+in+a+bad+light%22&p=par>

⁴³ Shepherd the Flock of God, 2012 edition, p 133. Watch Tower Bible and Tract Society of Pennsylvania, Inc. <https://www.childabuseroyalcommission.gov.au/sites/default/files/WAT.0003.001.0001.pdf>

Taking Brothers to Court

22. At 1 Corinthians 6:1-8, the apostle Paul gave strong counsel that Christians should not take other Christians before secular courts to settle personal disputes that should be settled with the help of the congregation elders.—w97 3/15 pp. 21-22; w86 11/15 p. 20; g83 2/8 pp. 13-15; w73 11/15 pp. 703-704.

- If an individual ignores God’s Word on this matter, it *may* affect his congregation privileges.
- There is no difference between taking an individual brother or sister to court and taking to court a corporation whose owners are all Jehovah’s Witnesses. The spirit of 1 Corinthians 6: 1-8 would be violated by relying on the secular courts to settle business disputes among corporations that are made up entirely of brothers.

Figure 2. Facsimile extract from page 133 of the elder’s manual Shepherd the Flock of God (2012).

Actively defying such instructions can result in a member of Jehovah’s Witnesses, even a child sexual abuse survivor, being excommunicated from the religion under a charge of ‘brazen conduct’, thereby subjecting the individual to shunning, including from family members. The CARC heavily criticized the practice of shunning in Case Study 29.⁴⁴ There are many stories, on social media platforms and in forums, which articulate these complaints by child sexual abuse survivors.

CASE STUDY 3 - The Victorian Reportable Conduct Scheme

This case study discusses the current attitude of Jehovah’s Witnesses towards compliance with child protection laws and provides evidence that enforcement options need to be strong enough, and seriously considered, so as to ensure the Child Safe Standards are met within the religion of Jehovah’s Witnesses.

On 1 January 2019 it became mandatory in the State of Victoria for religious organisations to comply with the Reportable Conduct Scheme.⁴⁵ The scheme is overseen by the Commission for Children and Young People.

Jehovah’s Witnesses refused to implement the mandatory scheme and refused to comply with the mandatory scheme. As referenced earlier we have published on YouTube, in association with Responsible Witness, a special video entitled “*The Reportable Conduct Scheme and Jehovah’s Witnesses—Part 1*”⁴⁶. This video documents the level of non-

⁴⁴ Report of Case Study No. 29 - The response of the Jehovah’s Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse, October 2016, pp 70-71.

⁴⁵ <https://ccyp.vic.gov.au/reportable-conduct-scheme/>

⁴⁶ See YouTube video: “*The Reportable Conduct Scheme and Jehovah’s Witnesses – Part 1*” which discusses the ongoing failure of Jehovah’s Witnesses to comply with the scheme. 19 February 2019. Produced by Responsible Witness and Say Sorry. <https://youtu.be/IF9wOOn2Hws>

compliance with the scheme, and the associated disregard that the Jehovah's Witnesses' organisation has for compliance, in general, with child protection laws and schemes.

The Jehovah's Witnesses and their administrative corporations, Watchtower Bible and Tract Society of Australia Ltd, and Watch Tower Bible and Tract Society of Pennsylvania, Inc., have a well-documented history of refusing to comply with mandatory child protection laws, including the working with children check within the State of Victoria, until forced to by criminal prosecution.⁴⁷

Approach to regulating child safe organisations – OCG questions

Q1: In what ways is a principle-based approach a good fit for regulating child safe organisations in NSW?

It may be that a principle-based approach is the only generic approach for regulating child safe organisations in NSW.

Recommendation 1.

A principle-based approach be balanced with very strong legislated enforcement options.

Q2: In what ways would a different approach be a better fit for regulating child safe organisations in NSW?

"Regulation can also be 'principle-based'. These regulatory models have clearly defined principles but allow regulated entities or organisations the flexibility to comply with regulation in ways that make sense in their context.

A principle-based approach to regulating child safe standards was recommended by the Child Abuse Royal Commission because not all organisations providing services to children are the same.

Q3: What types of organisations should be regulated to meet child safe standards in NSW?

Any use of the term "providing services to children" in relation to an organisation potentially allows for the circumvention child safe standards by the organisation, by a simple statement to the effect of 'we do not work with children'.

A religion, by its very basic structure, is a family-based institution, and must be regulated.

⁴⁷ On 26 July 2011 a total of five separate legal entities of Jehovah's Witnesses were charged and prosecuted in the Magistrates' Court of Victoria, under the *Working with Children Act 2005* (Vic), for refusing to comply with the mandatory working with children check, as it applied to 2,000 church ministers of religion who worked with children. The total number of all criminal charges was 35. The time period of non-compliance was from 1 July 2008 onwards until the charges were filed. Case numbers: B12083527, B12082206, B12083367, B12083108, and B12083833. The prosecutor in all five criminal cases was Steven Unthank.

Recommendation 2.

The organisations that we recommend be regulated include:

- Child protection services within the NSW Department of Family and Community Services and Justice)⁴⁸
- Child care services as referred to in section 194 of the A New Tax System (Family Assistance) (Administration) Act 1999 (*Cth*)⁴⁹
- Children’s services
- Educational institutions
- Remand centres, youth residential centres, youth training centres
- Refuges or other residential facilities used by children
- Paediatric wards of public hospitals and private hospitals
- Chaplaincy service provider organisations, including under the National School Chaplaincy Program
- Clubs, associations or movements (including of a cultural, recreational or sporting nature) that provided services or conduct activities for, or directed at, children or whose membership is mainly comprised of children
- Religious organisations and institutions
- Activities of a religious nature in which children can participate or be involved in, including evangelising
- Charities registered with the Australian Charities and Not-for-profit Commission which allow children to be members of, or to associate with
- Clubs, associations, movements or religious organisations that utilise or avail itself of volunteer labour provided by children
- Baby sitting or child minding services
- Fostering children
- NSW Rural Fire Service
- Counselling or other support services for children, including family counselling
- Overnight camps for children
- School crossing services
- Entertainment or party services specifically for children
- Commercial play centres
- Talent or beauty competitions for children
- Legal services for children

Q4: What types or organisations should not be regulated to meet child safe standards in NSW?

Safe Work NSW, government and non-government procurement practices, local governments (excluding child care and day care services), and insurance companies (excluding religious-based insurance companies and religious-based in-house insurance schemes or arrangements be they licensed or unlicensed).

⁴⁸ Government Gazette of the State of New South Wales, 2 April 2019, p 7-8.

<https://www.legislation.nsw.gov.au/regulations/2019-159.pdf>

⁴⁹ http://www6.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/antsaa1999509/s194a.html

Q5: What sorts of organisations should help to co-regulate child safe standards?

Existing regulatory bodies.

Q6: How should the OCG support organisations to build their capacity to meet the child safe standards?

Standard 2: Children's participation and empowerment of the CARC's *Final Report, Volume 6, Making institutions child safe*, stated:

Children participate in decisions affecting them and are taken seriously

Children are safer when institutions acknowledge and teach them about their right to be heard, listened to, and taken seriously. Article 12 of the UNCRC⁵⁰ details the right of a child to express their views and participate in decisions that affect their lives. Enabling children and young people to understand, identify and raise their safety concerns with a trusted adult and to feel safe within the institution is important."^[157]⁵¹

In the CARC's *Final Report, Volume 6, Making institutions child safe*, the commission reported that:

*"In Case Study 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse (Jehovah's Witnesses), we heard that all decision making was undertaken by male elders, and that women could not be part of any process that would require a decision to be made. [85]"*⁵²

The implementing of Child Safe Standards within a religious organisation, in compliance with legislation, is not a religious undertaking that is the domain of a male-dominated religious hierarchy, such as exists within the Jehovah's Witnesses. This was evidenced by the testimony of Geoffrey Jackson of the Governing Body of Jehovah's Witnesses during questioning by Justice Peter McClellan.

Justice McClellan: Mr Jackson, is there any biblical impediment to a woman being appointed to investigate an allegation [of child sexual abuse]?

⁵⁰ Article 12 states:

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

⁵¹ Royal Commission into Institutional Responses to Child Sexual Abuse. *Final Report, Volume 6, Making institutions child safe*, 2017, p 157.

⁵² Royal Commission into Institutional Responses to Child Sexual Abuse. *Final Report, Volume 6, Making institutions child safe*, 2017, p 153. See also *Report of Case Study 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*, 2016, p 67.

Jackson: There is no biblical impediment to a woman being involved with the investigation.⁵³

The above testimony of Geoffrey Jackson of the Governing Body of Jehovah's Witnesses establishes that women can be involved in non-religious activities within congregations of Jehovah's Witnesses, such as the implementing and managing of Child Safe Standards, in investigating an allegation of child sexual abuse, and in reporting an allegation of child sexual abuse in compliance with a Reportable Conduct Scheme.

For an understanding on the role of women within the Jehovah's Witnesses religion see the SaySorry.org article, "*Australia | Reproductive Coercion: The Hidden Threat*".⁵⁴

Recently the religion of Jehovah's Witnesses, in their official internal study magazine stated that child sexual abuse is "a sin against the secular authorities" and that it is carried out by "wicked men and imposters" who "may try to enter the congregation" or may profess "to be a part of the congregation".⁵⁵

This published claim by the religion of Jehovah's Witnesses in conjunction with the Watch Tower Bible and Tract Society of Pennsylvania Inc., and Watchtower Bible and Tract society of Australia Ltd, is at complete odds with the official findings of the *Report of Case Study 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse, 2016*⁵⁶ which reported that child sexual abuse was primarily committed by members of the congregation within the congregation as part of the congregation, as opposed to those who 'may try to enter the congregation', or who may profess 'to be a part of the congregation'.

Recommendation 3.1

That the Child Safe Standards and principles stipulate that decision making in relation to the implementing of the standards and principles include the participation of men, women, and children within the organisation, or in the case of a registered charity, all voting members.

Recommendation 3.2

That organisations, such as religious institutions, also have a nominated female contact person for matters pertaining to Child Safe Standards, the Reportable Conduct Scheme, and child safety.

⁵³ Transcript of GW Jackson, Case Study 29, 14 August 2015, 15954:8-12. *Case Study 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse.*

⁵⁴ Say Sorry. 2018. *Australia | Reproductive Coercion: The Hidden Threat*. Accessed 2 April 2019. <https://saysorry.org/2018/11/27/shining-a-light-on-reproductive-coercion-white-paper/>

⁵⁵ *The Watchtower—Study Edition*, May 2019, p 8, par 3, and p 9, par. 7. Watch Tower Bible and Tract Society of Pennsylvania, Inc. <https://www.jw.org/en/publications/magazines/watchtower-study-may-2019/love-justice-face-of-wicked-ness/>

⁵⁶ *Case Study 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse. 2016.* <https://www.childabuseroyalcommission.gov.au/sites/default/files/file-list/Case%20Study%2029%20-%20Findings%20Report%20-%20Jehovahs%20Witnesses.pdf>

Q7: How should the OCG roll out regulation of the child safe standards so that organisations have time to plan and make changes if required?

In a similar pattern to the roll out of the working with children laws.

Q8: What powers should the regulator have to monitor the child safe standards?

In the CARC's *Final Report, Volume 6, Making institutions child safe*, the commission stated that "risks to children are increased when institutions are shielded from public scrutiny and the community's protective role is diminished."⁵⁷ In support of this statement the CARC's report also evidenced *Case Study No 29: The response of the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd to allegations of child sexual abuse*.

In the State of Victoria, the Commissioner for Children and Young People administers the Child Safe Standards, incorporating the Reportable Conduct Scheme. Legislative restrictions are in place that prevent the commissioner informing members of the public, including affected children, of complaints relating to non-compliance with the Reportable Conduct Scheme. This creates an environment in which institutions are shielded from public scrutiny and the community's protective role is diminished.

Under Victorian laws institutions are not required to confirm if they are compliant with the Child Safe Standards or the Reportable Conduct Scheme.

It is very difficult to obtain from the Victorian Commissioner for Children and Young People answers on the level of compliance within institutions. A complaint alleging non-compliance by an institution with the Child Safe Standards or the Reportable Conduct Scheme are often met with silence. This is our personal experience.

Recommendation 4

The making available of a publicly accessible database, or search engine, that allows institutions to be researched for the compliance in relation to meeting the criteria for being a Child Safe organisation.

Q9: What powers should the regulator have to enforce the child safe standards?

The *Regulating Child Safe Organisations Discussion paper for consultation* states that "Enforcement options, when available, are always the last resort."⁵⁸

Under Part 2, section 6 of the NSW *Child Protection (Working With Children) Act 2012*, child-related work is defined as work in a specific, child-related role or face-to-face contact with children in a child-related sector.⁵⁹

⁵⁷ Royal Commission into Institutional Responses to Child Sexual Abuse. *Final Report, Volume 6, Making institutions child safe*, 2017, p 44.

⁵⁸ *Regulating Child Safe Organisations Discussion paper for consultation*. 2019. Office of the Children's Guardian, p 3.

⁵⁹ *Child Protection (Working With Children) Act 2012*. <https://www.legislation.nsw.gov.au/#/view/act/2012/%2051/part2>. See also the *Child Protection (Working With Children) Regulation 2013*. <https://www.legislation.nsw.gov.au/#/view/regulation/2013/156>.

The *Children and Young Persons (Care and Protection) Act 1988*⁶⁰ grants the Office of the Children’s Guardian authority to administer the Working With Children Check.

Recommendation 5.1

That the *Children and Young Persons (Care and Protection) Act 1988* be amended to make it an offence for an employer to employ, or continue to employ, a worker or volunteer in child-related work if the employer knows or has reasonable cause to believe that there are no Child Safe Standards, or that any Reportable Conduct Scheme is not being met.

Recommendation 5.2

That the *Child Protection (Working With Children) Act 2012* be amended to allow for the disqualifying or prohibition of, institutions that are non-compliant with the Child Safe Standards, from employing, or continuing to employ, a worker in child-related work.

Recommendation 5.3

That the *Child Protection (Working With Children) Act 2012* be amended in section 9 to raise the maximum penalty for breaches of *the Act* to 1000 penalty units, in the case of a corporation, and 250 penalty units in any other case.

Q10: How can the OCG support parents, families and communities to encourage organisations to be child safe?

Organisations should be required to educate parents, families and communities to be child safe, and that relevant organisational information be readily and publicly available. Children’s safety and their best interests must be at the core of all child-related institutions’ operation and purpose.⁶¹

Well-designed Child Safe Standards will be effective only if they are implemented and regulated in a way that considers the diversity of institutions implementing the standards.⁶²

The CARC recommended that an independent oversight body in each state and territory should be responsible for monitoring and enforcing the Child Safe Standards (see Recommendations 6.10 and 6.11).

The oversight body should be able to delegate functions to sector regulators, such as school registration authorities, to capitalise on existing regulatory regimes.⁶³

* * *

⁶⁰ *Children and Young Persons (Care and Protection) Act 2012*. <https://www.legislation.nsw.gov.au/#/view/act/1998/157>

⁶¹ Royal Commission into Institutional Responses to Child Sexual Abuse. *Final Report, Volume 6, Making institutions child safe*, 2017, p 14.

⁶² *Ibid*, p 16.

⁶³ *Ibid*, p 16.

Document prepared by the Lara Kaput and Steven Unthank.