



Submission to the Joint Select Committee on
Implementation of the National Redress Scheme

JEHOVAH'S WITNESSES AND THE NATIONAL REDRESS SCHEME

Prepared by Steven Unthank
for Say Sorry

13 June 2020



Elie Wiesel, Nobel Prize winner and Holocaust survivor, writes:

"The duty of the survivor is to bear testimony to what happened . . .
You have to warn people that these things *can* happen,
that evil can be unleashed."

As quoted in *The Watchtower*, the official magazine of Jehovah's Witnesses¹

SaySorry.org

¹ *The Watchtower* magazine. 15 June 1995, p 4. <<https://wol.jw.org/en/wol/d/r1/lp-e/1995440?#h=20>>

Senator Dean Smith, Chair
Ms Sharon Claydon MP, Deputy Chair
and Committee Members

Joint Select Committee on the Implementation
of the National Redress Scheme

We thank the Joint Select Committee for allowing us the opportunity to provide a submission in relation to the committee's current inquiry on Implementation of the National Redress Scheme.

Our submission reiterates some of the ongoing concerns that we raised in previous inquiries in relation to institutions joining the National Redress Scheme and addresses some new recommendations. Our concerns, as regularly highlighted within the media², are primarily in relation to the religion of Jehovah's Witnesses, its administrative management corporation, Watchtower Bible and Tract Society of Australia Limited, their controlling parent organisation Watch Tower Bible and Tract Society of Pennsylvania, Inc.,³ and the Governing Body of Jehovah's Witnesses.

Our primary concern to date remains the same in that the leaders of Jehovah's Witnesses:

- Continue to remain silent in relation to the National Redress Scheme,
- Continue to refuse to join the National Redress Scheme,
- Continue to refuse to meet with child sexual abuse survivors,
- Continue to shun child abuse victims and their families from within their own religion and treat victims in an "unloving way",
- Continue to refuse to say sorry to child sexual abuse victims and survivors,

² Megan Neil. AAP. 'Abuse victim threatened for redress money'. 19 March 2020. Quote: "One is the Jehovah's Witnesses, with survivor and advocate Larissa Kaput warning the organisation will never voluntarily join the redress scheme." <<https://7news.com.au/politics/law-and-order/abuse-victim-threatened-for-redress-money-c-752475>>

Rachel Eddie. *The New Daily*. 'We don't need to give them more time': Survivors on shaming redress laggards. Published interview with Jehovah's Witnesses abuse survivor Lisa Blair. 28 February 2019. <<https://thenewdaily.com.au/news/national/2019/02/28/national-redress-scheme-reaction/>>

Luke Michael. *Probono Australia*. Government Names and Shames Organisations Yet to Join Redress Scheme. 28 February 2019. <<https://probonoaustralia.com.au/news/2019/02/government-names-shames-organisations-yet-join-redress-scheme/>>

³ 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 Exchange Commission (ASIC) as a foreign corporation operating within Australia, despite the fact that it maintains an Australian branch and has appointed as a direct agent and religious office holder (elder) each individual member of Watchtower Bible and Tract Society of Australia Limited.

- Continue to attack the findings credibility and of the Royal Commission in relation to the Jehovah's Witnesses institution⁴, and
- Continue to fail to adopt any of the recommendations of the Royal Commission despite deceptive claims to the contrary.⁵

Since our submission to the previous Joint Select Committee inquiry on the National Redress Scheme we have contributed to over 140 investigations commenced by authorities within Australia in relation to non-compliance with statutory laws by Jehovah's Witnesses legal entities and charities operating within Australia. If requested we can provide a copy of a report on these investigations, the agencies involved, and the level of non-compliance with child protection laws by the Jehovah's Witnesses organisation within Australia.

The Royal Commission into Institutional Responses to Child Sexual Abuse ("Royal Commission") 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 files⁶ and "over 1,000 alleged perpetrators"⁷ within a membership of 68,000. By contrast, the Catholic Church in Australia had a reported 4,444 child sexual abuse victim files⁸ within a membership of 5.3 million.

70 survivors of Jehovah's Witnesses attended a private session with the Royal Commission.⁹ 57 congregations of Jehovah's Witnesses across Australia were the subject of those private sessions.¹⁰ In its *Final Report* the Royal Commission stated, "We found no evidence of the Jehovah's Witness organisation reporting allegations of child sexual abuse to police or other civil authorities."¹¹

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⁴ JWLEAKS.org 'Jehovah's Witnesses commission secret legal report critical of the Child Abuse Royal Commission'. 25 January 2020. <https://jwleaks.org/2020/01/25/jehovahs-witnesses-commission-secret-legal-report-critical-of-child-abuse-royal-commission/>

⁵ Second Annual report by Jehovah's Witnesses in response to the Royal Commission's Final Report. Royal Commission into Institutional Responses to Child Sexual Abuse. 1 November 2019. Jehovah's Witnesses response to Recommendations 16:28-29.

<<https://www.childabuseroyalcommissionresponse.gov.au/sites/default/files/2019-12/Jehovah%27s%20Witnesses%20Annual%20Progress%20Report%20Oct%202019.pdf>>

⁶ 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>>

⁷ *Ibid*, p 76.

⁸ ABC News. 8 February 2017. <<https://www.abc.net.au/news/2017-02-06/child-sex-abuse-royal-commission:-data-reveals-catholic-abuse/8243890>>

⁹ Final Report Preface and executive summary. Royal Commission into Institutional Responses to Child Sexual Abuse. Table 2, p 45.

¹⁰ *Ibid*, p 45.

¹¹ *Ibid*, p 76.

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1. Executive Summary

This July 2020 will mark the five-year anniversary of the commencement of public hearings in the Jehovah's Witnesses institution undertaken by the Royal Commission into Institutional Responses to Child Sexual Abuse. On numerous occasions during those public hearings, and the follow up public hearing on 10 March 2017, it was presented to the Jehovah's Witnesses organisation to join a redress Scheme. There has been no favourable response.

Since the commencement of the National Redress Scheme numerous attempts have been made by the Government to encourage the Jehovah's Witnesses institution to join the Scheme. Similarly, there has been no favourable response.

Over the past year Government, media, and public pressure has been placed on the Jehovah's Witnesses institution to join the National Redress Scheme. The institution refused to join the Scheme.

On 14 August 2015, the possibility of the Jehovah's Witnesses organisation joining the National Redress Scheme was put to Mr Geoffrey Jackson of the Governing Body of Jehovah's Witnesses by the Chair of Royal Commission, Justice Peter McClellan AM. Mr Jackson replied by stating

we would need to see that nothing was scripturally against us doing that.¹²

To date, the Governing Body of Jehovah's Witnesses and the Jehovah's Witnesses organisation have failed to put forward any reason for not joining the National Redress Scheme, this despite having the past five-years to search for, or create, a doctrinal teaching for the purpose of denying redress to child sexual abuse survivors.

The current attitude of the Governing Body of Jehovah's Witnesses and the Jehovah's Witnesses institution towards the ever-growing number of child sexual abuse allegations levelled at the institution is: denial. For example, on the weekend of the 6th and 7th of July 2019 the following deflection of blame, as authorised by the Governing Body of Jehovah's Witnesses, was read out verbatim in all congregations of Jehovah's Witnesses in Australia:

Sadly, child sexual abuse is a worldwide plague, and true Christians have been affected by this plague. Why? Wicked men and impostors abound, and some may try to enter the congregation. In addition, some professing to be a part of the congregation have succumbed to perverted fleshly desires and have sexually abused children.

¹² Transcript. Day 155. Royal Commission into Institutional Responses to Child Sexual Abuse. Public hearing into Jehovah's Witnesses. 14 August 2015 (Day 155), p 15986 G W JACKSON

The above statement appears in the May 2019 issue of *The Watchtower* magazine.¹³ The Governing Body of Jehovah’s Witnesses, the Jehovah’s Witnesses religion, and the leaders of the Watch Tower Society “are essentially abuse deniers”.¹⁴

The same *Watchtower* magazine also claimed that child sexual abuse is “a sin against the secular authorities.”¹⁵ Democratic governments, and the laws they enact, deal with child sexual abuse as a crime, not a ‘sin’.

Sadly, child sexual abuse within the Jehovah’s Witnesses institution is a worldwide plague, and the leaders are blaming it on *imposters*; those *professing to be a part of the congregation*; and those who *try to enter the congregation*— thereby denoting they never actually became a part of the Jehovah’s Witnesses institution, but only tried.

The above claims by the Governing Body of Jehovah’s Witnesses belie the overall evidence presented during the Royal Commission, including the evidence and findings presented in relation to the Jehovah’s Witnesses institution. The Royal Commission also reported that there was no evidence that any of the child sexual abuse allegations within the Jehovah’s Witnesses institution were reported to police or any other secular authority by the religion. If these alleged perpetrators were indeed *imposters* or falsely *professing to be a part of the congregation* then there was no need to conceal or cover up the child sexual abuse by the avoidance of reporting a single incident to the police or any other secular authority.

The Governing Body of Jehovah’s Witnesses are in denial, and as a result are refusing to accept liability or responsibility, or even apologise in relation to even one single child sexual abuse incident within the institution.

In its *Final Report*, the Royal Commission warned the Government of the clear and ongoing danger that the Jehovah’s Witnesses organisation poses to the protection of children in the Australian community, when it warned:

We considered a number of factors that may have contributed to the occurrence of child sexual abuse in religious institutions or to inadequate institutional responses to such abuse. The Jehovah’s Witness organisation addresses child sexual abuse in accordance with scriptural direction, relying on a literal interpretation of the Bible and 1st century principles to set practice, policy and procedure. These include the two-witness rule, the principle of male headship, the sanctions of reproof and disfellowshipping, and the practice of shunning. We consider that as long as the Jehovah’s Witness organisation continues to apply these practices in its response to

¹³ *The Watchtower* magazine May 2019, p 8, par 3. <<https://wol.jw.org/en/wol/d/r1/lp-e/2019405#h=8>>

¹⁴ Ms Larissa Kaput, *Committee Hansard*, 19 March 2020, p 38.

¹⁵ *The Watchtower* magazine May 2019, p 9, par 7. Subheading, A sin against the secular authorities. <<https://wol.jw.org/en/wol/d/r1/lp-e/2019405?q=%22a+sin+against+the+secular+authorities%22&p=par>>

allegations of child sexual abuse, **it will remain an organisation that fails to protect children and does not respond adequately to child sexual abuse.**¹⁶ (bold added)

We repeat the above warning that the Jehovah's Witnesses institution 'will remain an organisation that fails to protect children and does not respond adequately to child sexual abuse'. We also add that the institution has not adopted a single one of the relevant recommendations that the Royal Commission made, despite the institution claiming otherwise in its 2018 and 2019 Annual Reports to the Royal Commission, of which reports also denied that the child safe standards apply to the Jehovah's Witnesses institution.¹⁷

It is time for the Government to take decisive action against the Jehovah's Witnesses institution to hold them to account for refusing to join the National Redress Scheme, for failing to comply with mandatory child protection laws, and for having the most shocking member statistics of child sexual abuse for any institution in Australia. See Figure 1 below.

This submission submits a number of general recommendations for all institutions that have not joined the Scheme, and some tailored recommendations towards redress for child sexual abuse victims from within the Jehovah's Witnesses institution.

Say Sorry

13 June 2020

¹⁶ Final Report: Religious Institutions, Volume 16: Book 3. Royal Commission into Institutional Responses to Child Sexual Abuse. 2017, p 108.

¹⁷ First Annual report by Jehovah's Witnesses in response to the Royal Commission's Final Report. 2018. Royal Commission into Institutional Responses to Child Sexual Abuse. 2018. Jehovah's Witnesses Response to Recommendations 16:31-58.

<https://www.childabuseroyalcommissionresponse.gov.au/sites/default/files/2018-12/jehovahs_witnesses_annual_report_2018.pdf>

Second Annual report by Jehovah's Witnesses in response to the Royal Commission's Final Report. 2019. Royal Commission into Institutional Responses to Child Sexual Abuse. 1 November 2019. Jehovah's Witnesses response to Recommendations 16:28-29.

<<https://www.childabuseroyalcommissionresponse.gov.au/sites/default/files/2019-12/Jehovah%27s%20Witnesses%20Annual%20Progress%20Report%20Oct%202019.pdf>>

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

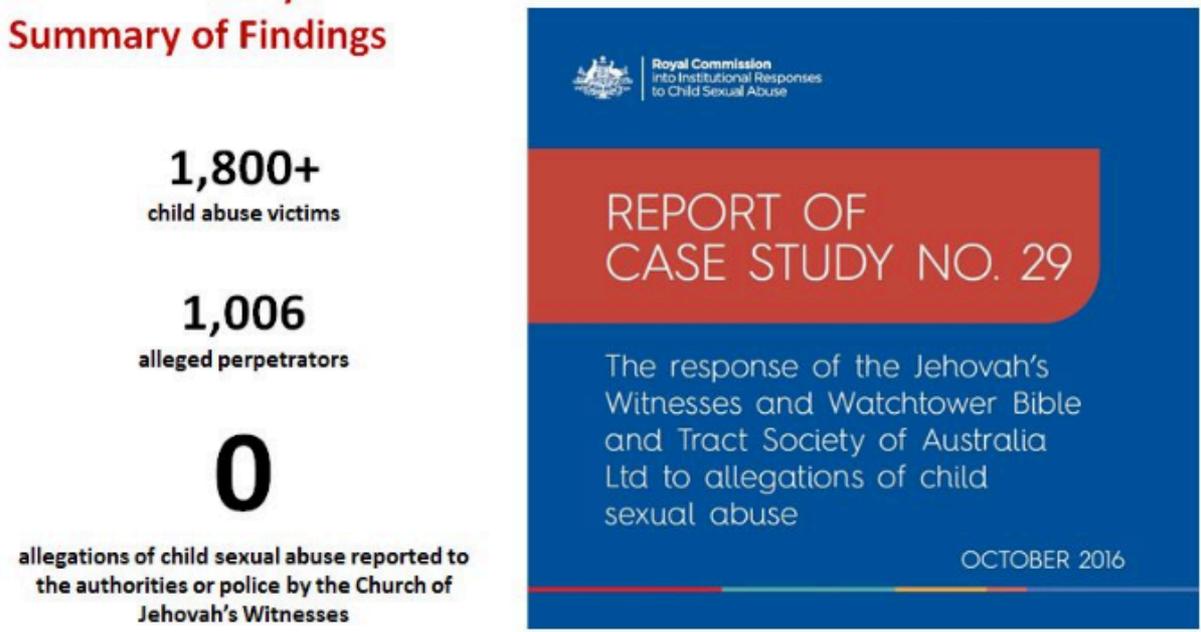


Figure 1. Summary of findings in relation to the Jehovah’s Witnesses organisation. 2016.

NOTES

The Royal Commission in its *Final Report* published in December 2017, stated that the Jehovah’s Witnesses institution had a reported 1,800 child sexual abuse victim files¹⁸ and “over 1,000 alleged perpetrators”¹⁹ within a membership of 68,000.

A total of 70 survivors of Jehovah’s Witnesses attended a private session with the Royal Commission.²⁰ 57 congregations of Jehovah’s Witnesses across Australia were the subject of those private sessions.²¹ In its *Final Report* the Royal Commission stated

We found no evidence of the Jehovah’s Witness organisation reporting allegations of child sexual abuse to police or other civil authorities.²²

¹⁸ 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>>

¹⁹ *Ibid*, p 76.

²⁰ Final Report Preface and executive summary. Royal Commission into Institutional Responses to Child Sexual Abuse. Table 2, p 45.

²¹ *Ibid*, p 45.

²² *Ibid*, p 76.

2. Our Recommendations

Recommendation 1 Institutions that failed to voluntarily join the National Redress Scheme prior to 1 July 2020 and were named in the Royal Commission into Institutional Responses to Child Sexual Abuse, or are identified in any application for redress, have their tax concessions, charitable status, and Government contracts revoked.

Recommendation 2 Institutions that fail to voluntarily join the National Redress Scheme prior to 1 July 2020, and are referred to in recommendation 17.2 and 17.3 by the Royal Commission into Institutional Responses to Child Sexual Abuse to lodge an Annual Report in response to Recommendation 17.3 of the Royal Commission’s Final Report: Volume 17, Beyond the Royal Commission, be audited in relation to their level of compliance with the recommendations applicable to them.

Recommendation 3 The National Redress Scheme implement a recovery rights system in which the Scheme pays claimant’s redress and pursues that payment and administration costs from any institution that failed to voluntarily join the National Redress Scheme prior to 1 July 2020 and were named in the Royal Commission into Institutional Responses to Child Sexual Abuse and that could reasonably be expected to participate in the scheme, and the institution

- has had reasonable opportunity to join the redress scheme; and
- has not been declared as a participating institution in the National Redress Scheme for Institutional Child Sexual Abuse Declaration 2018.

That consideration be given that the above claimants receive a payment increase (‘loading’) of 50% in lieu of a direct personal response from the institution.

Recommendation 4 Funding and support services be made available for groups or classes of persons to explore the option of a group or class action as a recovery right for Redress in circumstances in which they had their familial child sexual abuse allegations handled, or mishandled, at an

institutional level and that institution was identified, or was the subject of a public hearing, by the Royal Commission into Institutional Responses to Child Sexual Abuse and evidence was presented, or findings made, that the institution handled, mishandled, or investigated their childhood sexual abuse in an institutional setting.

Recommendation 5 That legislated mechanisms be put in place to prevent organisations that join the National Redress Scheme from opting out of the scheme after having accepted an application for processing or consideration. This recommendation is to prevent institutions from joining the scheme under pretence so as to access applications from child sexual abuse victims for a purpose other than the assessment of a payment under the scheme.

Recommendation 6 Institutions that failed to voluntarily join the National Redress Scheme prior to 1 July 2020 and were named in the Royal Commission into Institutional Responses to Child Sexual Abuse, or are identified in any application for redress, be subject to scrutiny and investigation by ASIC, the ACNC, the AFP, and other federal or state law enforcement agencies.

Recommendation 7 Institutions that failed to voluntarily join the National Redress Scheme prior to 1 July 2020 be subject to auditing at a federal and state level for compliance with mandatory child protection laws, the child safe standards, working with children laws, privacy laws, and any reportable scheme relating to child protection.

Recommendation 8 Institutions that fail to voluntarily join the National Redress Scheme prior to 1 July 2020, and were named in the Royal Commission into Institutional Responses to Child Sexual Abuse and have not yet issued a public apology to the victims and survivors of child sexual abuse within that institution, be asked by the Minister for Families and Social Services if they intend to issue a formal apology, and if so, when, and if not, why not?

3. Introduction

A staggering 20% of all 2,562 cases²³ of child sexual abuse referred to the police by the Royal Commission into Institutional Responses to Child Sexual Abuse, were from within the Jehovah's Witnesses religion. In commenting on police referrals, the Royal Commission reported:

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*.²⁴

These institutional child sexual abuse victims and survivors are entitled to redress and are deserving of a direct apology from the Governing Body of Jehovah's Witnesses.

4. Steven Unthank and Lara Kaput:

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.

4.1 Our background

For the past 11 years, either individually or as a team, we have 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 non-legal advice for investigations, civil lawsuits, class actions, and prosecutions involving the Watch Tower Society and the Church of Jehovah's Witnesses, globally.

Since 2011 we have made written submissions to, or appeared before numerous inquiries, committees, and royal commissions, including:

- Protecting Victoria's Vulnerable Children Inquiry

²³ In its 'Final information update' the Royal Commission into Institutional Responses to Child Sexual Abuse reported: "During our five-year inquiry ... we have referred 2,562 matters to police." 2017.

<https://www.childabuseroyalcommission.gov.au/sites/default/files/final_information_update.pdf>

²⁴ Opening Address by Senior Counsel Assisting, Public Hearing into the Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd, Case Study 54, Royal Commission into Institutional Responses to Child Sexual Abuse. 2017, p 12, par 31.

- Victorian Inquiry into the Handling of Child Abuse by Religious and Other Non-government Organisations
- Joint Select Committee on oversight of the implementation of redress related recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse
- Joint Select Committee on the Royal Commission into Institutional Responses to Child Sexual Abuse – oversight of redress related recommendations
- Royal Commission into Institutional Responses to Child Sexual Abuse
- Inquiry into Modern Slavery Act 2018 and associated matters
- Royal Commission into Victoria’s Mental Health System

Our purpose, as explained on our website [SaySorry.org](https://saysorry.org), states:

‘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.

We currently operate under the unincorporated name Say Sorry (formerly JW Survivors).

4.2 [Say Sorry’s involvement with the current Pennsylvania, USA, Grand Jury Investigation into Jehovah’s Witnesses](#)

On 14 May 2018 an extensive 112-page submission²⁵, prepared by Steven Unthank, was submitted to the New York State Attorney requesting a special investigation into the Jehovah’s Witnesses organisation, including its parent organisation Watch Tower Bible and Tract Society of Pennsylvania, Inc. (**Watch Tower**), in relation to “serious allegations of unlawful conduct and the covering of criminal activities” involving child sexual abuse within the religion in the United States.

The submission, documentation, evidence, and accompanied report was the culmination of many years of research by Steven Unthank and Barbara Anderson.²⁶ A copy of the

²⁵ <https://saysorrycampaign.files.wordpress.com/2019/05/new-york-attorney-general_submission_watch-tower_by_steven_unthank.pdf>

²⁶ Anderson, Barbara. 2020. “Barbara Anderson was a member of Jehovah’s Witnesses from 1954 through 1997. She worked at Watchtower’s headquarters in Brooklyn, NY, from 1982 to 1992 where during her last four years there, she researched the movement’s official history (published in 1993) and did research as well as wrote a number of articles for their Awake! magazine. While working in the organization’s Writing Department, Barbara discovered that the Watchtower organization covered up child sexual molestation committed by Jehovah’s Witnesses. Rather than becoming discouraged over this discovery, she became a

submission was provided to the Pennsylvania Attorney General Josh Shapiro accompanied with a request for a Grand Jury investigation.

In January 2019 discussions commenced with the Pennsylvania Bureau of Criminal Investigations in relation to the submission, the request for a Grand Jury investigation and the pursuit of criminal charges against Watch Tower leaders and the members of the Governing Body of Jehovah's Witnesses.

On 6 March 2019 Steven Unthank travelled to the United States for a meeting with the Assistant Chief Deputy Attorney-General of Pennsylvania, Daniel Dye, and investigators from the Pennsylvania Bureau of Criminal Investigations for the purpose of advancing a Grand Jury investigation into the Jehovah's Witnesses organisation and Watch Tower.

Investigations continued and soon thereafter, 23 grand jurors had empanelled and the 45th Investigative Grand Jury of the State of Pennsylvania had commenced. The Hon. J. Wesely Oler Jr. was appointed as the supervising judge.

On 8 February 2020, following approval by Judge Oler, knowledge of the Grand Jury investigation was made public and reported by US media.²⁷

5. Removal of charity status and financial concessions for non-government institutions that do not join the National Redress Scheme

The current Australian leaders, branch committee members, and boards of directors of the numerous Jehovah's Witnesses' legal entities that operate out of the Australia headquarters of Jehovah's Witnesses are all members of the USA-based Worldwide Order of Special Full-

champion for change. This issue caused her to exit the religion and eventually become an outspoken critic of Jehovah's Witnesses' sexual abuse policies that she's extensively researched." [Accessed 4 May 2020]
<<https://watchtowerdocuments.org>>

²⁷ Trey Bundy. Pennsylvania opens grand jury investigation into Jehovah's Witnesses' cover-up of child sex abuse. Reveal News. 8 February 2020.
<<https://www.revealnews.org/article/pennsylvania-opens-grand-jury-investigation-into-jehovahs-witnesses-cover-up-of-child-sex-abuse/>>

David Gambacorta. A Pennsylvanian grand jury is investigating Jehovah's Witnesses for alleged sex-abuse cover-up. The Philadelphia Inquirer. 8 February 2020.
<<https://www.inquirer.com/news/pennsylvania-grand-jury-investigating-jehovah-witnesses-sex-abuse-cover-up-20200209.html>>

Marisa Kwiatkowski, Marisa. Jehovah's Witnesses reportedly under investigation by Pennsylvania attorney general. USA Today. 8 February 2020.
<<https://www.usatoday.com/story/news/investigations/2020/02/08/jehovahs-witnesses-under-investigation-pennsylvania-attorney-generals-office/2425260001/>>

Time Servants of Jehovah's Witnesses ("the Order"). They have taken a vow of poverty. Members of the Order, particularly the leaders, receive no remuneration but do receive a monthly stipend. As such they rely heavily on the financial viability and sustainability of the current charity status and tax concessions enjoyed by the religious entities they control and administer for their own 'sustenance and covering'. The Jehovah's Witnesses organisation do not have a salaried clergy nor any paid employees.

The lifestyle currently maintained by the leaders of Jehovah's Witnesses is cognizant on the institution maintaining its charity status and financial concessions.

The removal of the Jehovah's Witnesses organisation charity status and financial concessions will have a direct impact on the bottom line of US-based parent organisation, Watch Tower Bible and Tract Society of Pennsylvania, Inc. one of the primary beneficiaries of overseas donations and aid; and the UK-based International Bible Students Association ("IBSA") which is registered in Australia with the ACNC and operates in Australia as a trustee for real assets, including the Australian headquarters complex for Jehovah's Witnesses and a new \$10M animation and film production studio²⁸ scheduled to be built in NSW with the benefits of GST tax concessions. IBSA also provides gratis accommodation to the board of directors, officers and voting members of the main Jehovah's Witnesses' legal entities that operate out of the Australian headquarters of Jehovah's Witnesses. Other benefits, such as motor vehicles, are provided to the leaders of the Jehovah's Witnesses and representatives of the Governing Body of Jehovah's Witnesses in Australia. Watchtower Australia receives FBT Rebate tax concessions as well as GST tax concessions.

IBSA works closely in the UK with Watch Tower Bible and Tract Society of Britain ("Watch Tower Britain") and have a financial donation arrangement in place between them in conjunction with the Jehovas Zeugen in Germany for the exchange of goods and services under a donation arrangement. This arrangement allows for the transferring of monies between Jehovah's Witnesses' legal entities under a donation arrangement with all funds coming under the direct control of the eight members of the Governing Body of Jehovah's Witnesses, the same men who have the final say on whether the Jehovah's Witnesses institution joins the National Redress Scheme.

Watchtower Australia, and the various main legal entities they have administrative oversight of in Australia, are not entitled to receive tax deductible gifts as they do not possess a Deductible Gift Recipient Status. Therefore, the removal of the charity status and tax concessions of all Jehovah's Witnesses institutional legal entities will have no impact on taxpayers who may seek to avail themselves of any DGR status as they have never been able to claim such donations.

²⁸ Development Application. <<https://jwleaks.files.wordpress.com/2020/06/ibsa-australia-development-application-for-zouch-road-denham-court.pdf>>

The Governing Body of Jehovah's Witnesses control the entire global Worldwide Fund of Jehovah's Witnesses. Despite the existence of various legal entities around the world, the Jehovah's Witnesses institution claim that all monies are dedicated funds that belong to the entire organisation. Lay members of the Jehovah's Witnesses, and the various legal entities of the institution, are regularly reminded of this. An example of this in practice is found in the following instructions sent out to all congregations and charities of Jehovah's Witnesses worldwide in relation to bequests:

Any bequests to a legal entity used by Jehovah's Witnesses are dedicated funds that belong to Jehovah's organization.²⁹

The removal of the charity status and financial concessions of the entire Jehovah's Witnesses institution in Australia will directly impact on the leaders of Jehovah's Witnesses at the highest levels of the hierarchy. This is essential so as to hold them to account for not joining the National Redress Scheme and for not acknowledging or recognising the collective pain and suffering of child sexual abuse victims from the Jehovah's Witnesses institution.

This is not a tax on religion this is a tax on corporate child abuse.

For the purpose of this discussion, and as a reference for this submission, Recommendation 2 and 3 of the inquiry report, *Getting the National Redress Scheme Right: An Overdue Step Towards Justice* of the Joint Select Committee on oversight of the implementation of redress related recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, are republished below:

Recommendation 2

- 8.31 The committee recommends that Commonwealth, state, and territory governments place and maintain pressure on all relevant institutions to join the redress scheme as soon as practicable.

Recommendation 3

- 8.32 Noting that such a mechanism should only be applied in the context of the National Redress Scheme, the committee recommends that the government consider mechanisms and their efficacy, including those available under the *Charities Act 2013*, to penalise all relevant institutions that fail to join the scheme, including the suspension of all tax concessions for, and for the suspension of charitable status of, any institution that:
- could reasonably be expected to participate in the scheme, including because the institution was named in the Royal

²⁹ <<https://wol.jw.org/en/wol/d/r1/lp-e/202012206?q=%22Any+bequests+to+a+legal+entity+used+by+Jehovah's+Witnesses+are+dedicated+funds+that+belong+to+Jehovah's+organization%22&p=par>>

Commission into Institutional Responses to Child Sexual Abuse, or an application for redress names the institution;

- has had reasonable opportunity to join the redress scheme; and
- has not been declared as a participating institution in the National Redress Scheme for Institutional Child Sexual Abuse Declaration 2018.³⁰

5.1 Support for the removal of the charity status and tax concession of institutions the fail to join the Scheme

There is overwhelming support —academic, legal, state, and political— for the removal of the charity status of institutions that fail to, or refuse to, join the National Redress Scheme.

Mr Frank Golding OAM, Honorary Research Fellow at Federation University Victoria, in his submission to the Senate Standing Committee on Community Affairs Legislative Committee Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017, stated:

It is unconscionable to allow offending bodies to determine whether they will be held responsible for the damage they have done to children in the past. Many Care Leavers wonder why churches in particular continue to be blessed with taxation exemptions and taxpayer funded grants and other benefits, especially when they treat crimes against children as mere sins to be absolved by internal church rituals, as if the laws of the land do not apply to them.³¹

In commenting on the above concerns raised in Mr Golding's submission, the Senate Standing Committee on Community Affairs in their 2018 report stated that:

The recommendation to remove non-participating institutions tax deductible charity status or otherwise mandate institutional participation was also made by Australian Lawyers Alliance, Berry Street, Mr David O'Brien, In Good Faith Foundation, and Maurice Blackburn Lawyers, among others.³²

³⁰ Joint Select Committee on oversight of the implementation of redress related recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. *Getting the National Redress Scheme Right: An Overdue Step Towards Justice*, Parliament of Australia, Canberra, April 2019, p 132. <www.aph.gov.au/Parliamentary_Business/Committees/Joint/Royal_Commission_into_Institutional_Responses_to_Child_Sexual_Abuse/RoyalCommissionChildAbuse/~/_media/Committees/royalcommission_childabuse_ctte/report.pdf>

³¹ Submission 42, Senate Standing Committee on Community Affairs Legislative Committee Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017, pp 5-6. <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/AbuseRedressScheme/Submissions>

³² Senate Community Affairs Legislation Committee, Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017, Report (2018), p 17. <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/AbuseRedressScheme/Final_Report>

In one major submission to the *Joint Select Committee on oversight of the implementation of redress related recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse*, knowmore raised the importance of having the Jehovah's Witnesses institution join the National Redress Scheme:

It is concerning that there are some institutions who have not yet given any indication about whether or not they will be joining the Scheme. For example, we know of no indication as to whether the Jehovah's Witness institution intends to participate in the scheme or not. Any ultimate decision by this institution not to participate would be very concerning to our client group, particularly in light of the finding made by the Royal Commission that it did "...not consider the Jehovah's Witness organisation to be an organisation which responds adequately to child sexual abuse".

The Royal Commission also found:

"The organisation's internal disciplinary system for addressing complaints of child sexual abuse is not child or survivor focused in that it is presided over by males and offers a survivor little or no choice about how their complaint is addressed.

The organisation relies on outdated policies and practices to respond to allegations of child sexual abuse. Also, those policies and practices are not subject to ongoing and continuous review. The policies and practices are, by and large, wholly inappropriate and unsuitable for application in cases of child sexual abuse. The organisation's retention and continued application of policies such as the two-witness rule in cases of child sexual abuse shows a serious lack of understanding of the nature of child sexual abuse."

These findings reflect that at the time of the Commission reporting the internal avenues for redress within the Jehovah's Witness organisation were inadequate, and illustrate the importance of an inclusive National Redress Scheme accessible by survivors of abuse for which this institution is responsible.

knowmore is highly supportive of the steps taken so far by State and Territory governments to influence non-government institutions to join the scheme, and we commend the actions of those that have announced their intent to do so and which have followed up such announcements with positive action. However, knowmore is of the view that the current legislative framework could be amended to further and appropriately encourage participation by non-government institutions.

We support the following:

...

- The appropriateness of government funding, contracts or financial concessions being provided to non-government institutions that are delivering child-related services, but do not participate in the Scheme.³³

In their most recent submission to this current Joint Select Committee, knowmore have reiterated that they “strongly support financial consequences to compel institutions to join the NRS, particularly reviewing the appropriateness of government funding for these institutions, and suspending their tax concessions and charitable status.”³⁴

Shine Lawyers, in their submission to this current Joint Select Committee, confirmed their longstanding view that:

[I]nstitutions who refuse or otherwise fail to join the national redress scheme by 30 June 2020 should be stripped of charitable status. This should include those institutions who have been named in an application to the National Redress Scheme (prior to 30 June 2020) or a report of abuse to the Royal Commission. We see no reason this should not commence on 1 July 2020 as these institutions have had sufficient notice.³⁵

The Rationalist Society of Australia made the following recommendations regarding institutions that refuse to join the National Redress Scheme by 30 June 2020, namely that they should be:

1. Disqualified from tax exemptions otherwise available to charities under federal law, state or territory laws
2. Disqualified from tendering for federal, state or territory government contracts and from receiving any federal, state or territory government grants
3. Subject to a financial penalty of 150% of the amount they would otherwise contribute to the National Redress Scheme.³⁶

³³ Submission No. 31 by knowmore to the Joint Select Committee: Inquiry into the Implementation of the Redress Related Recommendations of the Royal Commission, August 2018, p. 12.

<www.aph.gov.au/DocumentStore.ashx?id=fb63cd88-4da9-412c-896f-450c82bf0d8a&subId=659185>

³⁴ Submission No. 20 by knowmore to the Joint Select Committee on Implementation of the National Redress Scheme. 28 April 2020, p 8. *See also* Joint Select Committee on Implementation of the National Redress Scheme, Proof Committee Hansard — Monday, 6 April 2020, Evidence of Mr W Strange, p 38; and Submission No. 31 by knowmore to the Joint Select Committee: Inquiry into the Implementation of the Redress Related Recommendations of the Royal Commission, August 2018, which used the term “financial concessions”.

³⁵ Submission No. 13 by Shine Lawyers to the Joint Select Committee on Implementation of the National Redress Scheme. Submission in support of evidence given to the Committee by Lisa Flynn and Katrina Stouppos. 14 April 2020, p 2.

<<https://www.aph.gov.au/DocumentStore.ashx?id=100ef29c-e349-495f-ab6d-f1f71362917a&subId=680267>>

³⁶ Dr Meredith Doig AOM FAICD, President, Rationalist Society of Australia. Submission: Inquiry into Implementation of the National Redress Scheme. 23 May 2020.

<<https://www.rationalist.com.au/submission-inquiry-into-implementation-of-the-national-redress-scheme/>>

Say Sorry agrees with the above cited recommendations and also applauds the Victorian Government's strong statement as issued by Victorian Attorney-General Jill Hennessey:

My expectation is that Victorian institutions who have not yet signed up to the scheme do so immediately – refusing to sign up is just not acceptable.

It is deeply disappointing that institutions which have the capacity to join the scheme and have had ample time since being notified of their potential redress liability have not done so.³⁷

Say Sorry also supports the following remedy put forward by the Victorian Government:

Victorian organisations who do not sign up to the National Redress Scheme will risk losing government funding, under tough new sanctions.³⁸

Despite this however, we despair that such sanctions would have no effect on the Jehovah's Witnesses institution as the Jehovah's Witnesses organisation does not receive direct state government funding. They do, however, have formal state contracts for the provision of voluntary services, including chaplaincy services and pastoral care services. We have managed to obtain copies of Victorian contracts under the Victorian freedom of information laws.³⁹

We are yet to find any evidence of the Jehovah's Witnesses organisation holding Federal Government contracts or obtaining government funding. This did not surprise us as we do not believe such government funding arrangements exists since this would place the Jehovah's Witnesses organisation under Government oversight and accountability.

With reference to the able our recommendation to the Joint Select Committee is that institutions that are capable of joining the National Redress Scheme, that could reasonably be expected to participate in the Scheme, have their charity status and all tax concessions suspended from 1 July 2020 onwards.

Recommendation 1

Institutions that failed to voluntarily join the National Redress Scheme prior to 1 July 2020 and were named in the Royal Commission into Institutional Responses to Child Sexual Abuse, or are identified in any application for redress, have their tax concessions, charitable status, and government contracts revoked.

³⁷ Attorney-General Jill Hennessey, Media Release: Organisations on Notice to Join National Redress Scheme, 19 April 2020, <www.premier.vic.gov.au/organisations-on-notice-to-join-national-redress-scheme/>

³⁸ *Ibid.*

³⁹ Freedom of Information Act 1982 (Vic).

<http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/foia1982222/>

Recommendation 2

Institutions that fail to voluntarily join the National Redress Scheme prior to 1 July 2020, and are referred to in recommendation 17.2 and 17.3 by the Royal Commission into Institutional Responses to Child Sexual Abuse to lodge an Annual Report in response to Recommendation 17.3 of the Royal Commission's Final Report: Volume 17, Beyond the Royal Commission, be audited in relation to their level of compliance with the recommendations applicable to them.

6. Jehovah's Witnesses religious teachings restrict redress and legal action

In the event that the Jehovah's Witnesses institution continues to refuse to join the National Redress Scheme beyond the 30th of June 2020, the current members of the religion who are institutional survivors, and who seek redress, are currently 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 rhetorical bible passage as a principle in relation to the commencing of lawsuits against fellow members of the religion:

[I]t 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 considering commencing legal action members of the religion of Jehovah's Witnesses, including child sexual abuse survivors, are strongly warned by the Governing Body of Jehovah's Witnesses:

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.

...

⁴⁰ 1 Corinthians 6:7 <<https://www.jw.org/en/library/bible/study-bible/books/1-corinthians/6/#v46006007>>

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 6:7.⁴¹

The above policy is however one-directional. What does ‘taking a brother to court’ mean within the religious institution of Jehovah’s Witnesses? The Jehovah’s Witnesses elder’s 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.⁴²

The above *strong counsel* has been removed from the latest version of the Jehovah’s Witnesses elder’s manual. This does not mean that the Governing Body of Jehovah’s Witnesses prohibition on *taking a brother to court* has been abandoned, but rather the administering of church discipline and sanctions, including shunning, are now under control of the Jehovah’s Witnesses institution at levels higher than those of congregation elders.

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 further shunning, including from family members. The Royal Commission heavily criticised the practice of institutional shunning in Case Study 29.⁴³ There are many stories, in the news media, on social media platforms, and in forums which articulate these complaints by child sexual abuse survivors.

On 26 June 2015, Solicitor Assisting the Royal Commission, Tony Giugni, wrote to Mr Terrence O’Brien, Director of Watchtower Bible and Tract Society of Australia Ltd and the leader of Jehovah’s Witnesses in Australia, seeking a request for statements in relation to a series of subjects. The letter stated in part:

The Royal Commission requests that you prepare a statement which addresses the following matters:

...

M. Any claim(s) for compensation or redress of any kind, whether in a court of law or otherwise, arising from an allegation or allegations of child sexual abuse within the Church, including the outcome of those claims.⁴⁴

In a signed statement dated 10 July 2015, Mr Terrence O’Brien answered:

⁴¹ See <<https://wol.jw.org/en/wol/d/r1/lp-e/1997204>>

⁴² *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>>

⁴³ 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.

⁴⁴ STAT.0592.001.0021_R - 0023_R, pp 1-3. Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) Case Study 29 (Jehovah’s Witnesses) – request for statements

M. CLAIM(S) FOR COMPENSATION OR REDRESS

97. I am not aware of any claims for redress or compensation having been made in relation to child sexual abuse concerning Jehovah's Witnesses in Australia.⁴⁵

Despite having up to 1800+ potential claims of redress or compensation for child sexual abuse victims within the religion, the Jehovah's Witnesses organisation stated to the Royal Commission that there had not one single claim for redress or compensation in relation to any child sexual abuse. Such is the real fear that child sexual abuse survivors have of being shunned. The shunning is real. The shunning is intended to never end.

We submit no recommendations to the Committee in relation to these concerns but rather wish to draw the attention of the Committee to potential outcomes and hurdles child sexual abuse survivors from the Jehovah's Witnesses institution are facing in the event that the institution does not join the National Redress Scheme.

6.1 The 'two-witness' rule

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 allegation is accepted as potentially truthful. Allegations are investigated by church elders who have no relevant training. In commenting on the 'two-witness' rule the Royal Commission 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.⁴⁶

⁴⁵ STAT.0592.001.0001_R - .0020_R, pp 1 and 20. Statement in the matter of Watchtower Bible & Tract Society of Australia, Statement of Terrence John O'Brien. 10 July 2015.

⁴⁶ 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 Royal Commission 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.

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 even went as far as to add: 'any human who tries to get us to compromise Bible principles really is an agent of Satan'.⁴⁷

For any of the 1,800 alleged victims within the Jehovah's Witness religion in Australia, a major hurdle to redress or compensation has to be overcome by survivors in that the Governing Body of Jehovah's Witnesses have endorsed a blanket denial that there are actual survivors from within their institution. This 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 redress.

Concern has been raised by a number of survivors, including ourselves, when the Royal Commission took the view that any consideration of an institution's culpability should not form part of a redress scheme,⁴⁸ and that the standard of proof should be based on an assessment of the 'reasonable likelihood' for determining applications for redress.⁴⁹

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, unless other options for redress under the National Redress Scheme are explored.

We submit no recommendations to the Committee in relation to these concerns but rather wish to draw the attention of the Committee to potential outcomes and hurdles child sexual abuse survivors from the Jehovah's Witnesses institution are facing.

⁴⁷ Trey Bundy. 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/>>

⁴⁸ Redress and Civil Litigation Report (2015). Royal Commission into Institutional Responses to Child Sexual Abuse, pp 242-3.

⁴⁹ *Ibid*, p 187.

6.2 Jehovah's Witnesses institution withhold information on the National Redress Scheme

Current members of the Jehovah's Witnesses religion who are institutional survivors are unlikely to find out about the potential opportunity for Redress.

No information has ever been supplied to members at a congregational level via what is considered their primary approved sources of information - JW.org, *The Watchtower* magazine or the *Awake!* magazine. No announcements have been made a charity level. When attempts have been made to inform current members by non-members, these non-members have been called 'apostates'.

We submit no recommendations to the Committee in relation to these concerns but rather wish to draw the attention of the Committee to potential outcomes and hurdles child sexual abuse survivors from the Jehovah's Witnesses institution are facing, including being referred to as "mentally diseased" if they even make reference to the Redress Scheme.⁵⁰

7. The Jehovah's Witnesses institution's financial exposure under the National Redress Scheme

Ideally, we would like to see the Governing Body of Jehovah's Witnesses authorise the joining up to the National Redress Scheme prior to 1 July 2020 or immediately thereafter, and then to allocate a small proportion of the billions of dollars⁵¹ that they control for the establishing of redress scheme fund similar to those established by the Anglican Church of Australia⁵² and the Uniting Church of Australia.⁵³

Given that to date the Governing Body of Jehovah's Witnesses has refused to publicly address the issue of redress, other options for compensation to child sexual abuse victims and survivors from with the Jehovah's Witnesses in Australia must be considered.

The Royal Commission in their 'National Redress Scheme Participant and Cost Estimates' report, dated July 2015, stated:

⁵⁰ <<https://wol.jw.org/en/wol/d/r1/lp-e/2011524#h=9>>

⁵¹ The Jehovah's Witnesses institution "property sales in Australia have been approximately \$38 million, but globally their sales property portfolio is approximately A\$6.5 billion." Ms Larissa Kaput, *Committee Hansard*, 19 March 2020, p 38.

⁵² The Anglican Representative (National Redress Scheme) Ltd is a company established by the Anglican Church of Australia to be the representative entity for the Anglican Participating Group in the Scheme. The entity assesses and accepts participating members (Anglican dioceses, schools and agencies) in order to coordinate the provision of redress for survivors.

⁵³ The UCA Redress Limited is a company that has been established by the Uniting Church in Australia. The company's purpose is to be the national body for the Uniting Church to respond to, and provide support for, children and vulnerable persons who have suffered abuse at the hands of the Uniting Church or its institutions, including by participation in a nationally consistent equitable redress scheme.

In Section 7 the report assumed an average monetary payment amount of \$65,000 per claim.
 In Section 8 the report estimated a cost of counselling of \$5,500 per claim.
 In Section 9 the report estimated an administrative cost of \$3,000 per claim.
 This brings the estimated combined cost per participant in the Scheme to \$73,500.⁵⁴

The National Redress Scheme newsletter of 8 May 2020 reports that as of 24 April 2020, the Scheme:

- had received 6,716 applications
- had made 2,093 decisions, including 1,751 payments totalling over \$136.8 million
- had made 370 offers of redress, which applicants have six months to consider
- was processing 3,843 applications
- had 859 applications on hold, including 526 because one or more institution named had not yet joined; and
- the average payment under the Scheme was \$81,289. See Figure 2 below.

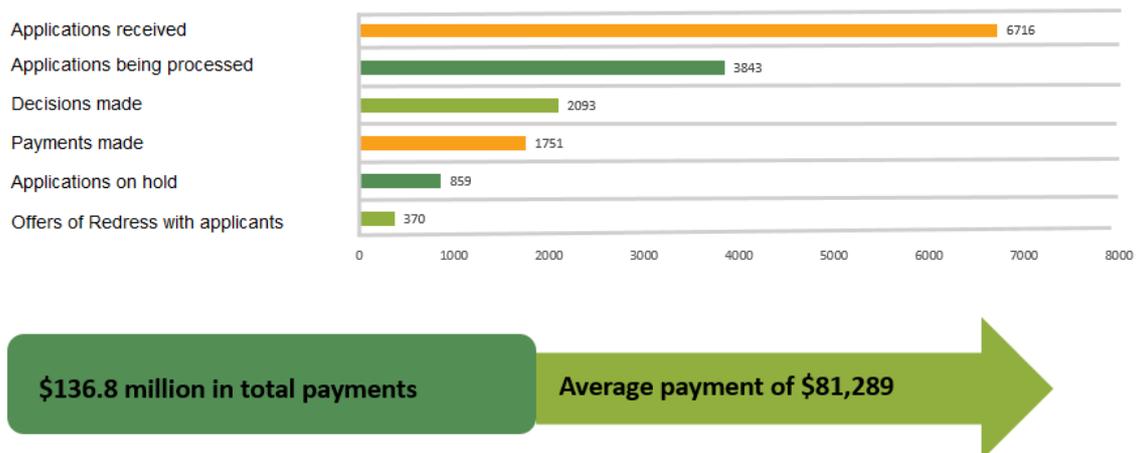


Figure 2. The National Redress Scheme newsletter, 8 May 2020.

Taking into account the legislated requirements of the *Commonwealth Redress Scheme for Institutional Child Sex Abuse Act 2018* and the current National Redress Scheme Application for Redress Form with regards to question 8 below:

8 Was an institution responsible for bringing you into contact with the person or people who sexually abuse you?⁵⁵

we have revised the number of potential Scheme applicants in relation to the Jehovah's Witnesses institution to < 756. This number was calculated by the removal of familial abuse

⁵⁴ Redress and Civil Litigation Report (2015). Royal Commission into Institutional Responses to Child Sexual Abuse, p 59.
⁵⁵ National Redress Scheme application. NRS001.1902 <<https://www.nationalredress.gov.au/document/76>>

within the religion despite the perpetrator being an ordained minister of the religion, or in circumstances in which the religion took ownership of the child sexual abuse investigation rather than report the allegations to secular authorities, and maintained records as such.

With regards to the above, we have revised the estimated maximum potential financial exposure to the Redress Scheme for the Jehovah's Witnesses institution and Watch Tower Bible and Tract Society of Pennsylvania, Inc., to a quantifiable **\$63.7 million**.⁵⁶

In calculating the above we also took into consideration the National Redress Scheme Participant and Cost Estimates report, dated July 2015, and the following observations:

The purpose of this report is to provide an estimate of the volume of participants that might report into an Australian National Redress Scheme covering the victims of institutional child sexual abuse as well as an estimate of the possible profile of these participants. In addition, this report discusses the potential cost of such a scheme, considering the monetary payments, counselling and support services and administrative costs together with an estimate of where the burden of funding responsibility might fall depending on the scheme structure. This report is intended to facilitate discussion and inform estimates to be presented to the Government in August 2015 ("the Commission report").

And,

We note that it is not possible to estimate the volume of participants and costs of a theoretical National Redress Scheme with any certainty. Actual outcomes are heavily dependent on a broad range of largely unknown factors including the number of institutional child sexual abuse victims, the numbers that will participate in a National Redress Scheme as well as the severity of abuse experienced by victims and the impact that this has had. The outcomes for a Scheme will also be impacted by the details and design of the Scheme itself including eligibility criteria, administrative processes adopted, the level of evidence required and the monetary payments available. There is limited information on which to develop assumptions and significant extrapolation from known statistics using judgment has been required. Deviations from our estimates are expected and could be material.⁵⁷

Given their potential financial exposure to the National Redress Scheme, it is unlikely that the Jehovah's Witnesses institution will voluntarily join the Scheme, the downside being the denying of simplified redress to victims and survivors.

Despite providing compensation to survivors of child sexual abuse the National Redress Scheme was not established to replace civil litigation. Given the current refusal of the

⁵⁶ Formula: (\$81,289 per average payment + \$3,000 admin) x 756 JW victims = \$63,720,216.00

⁵⁷ Redress and Civil Litigation Report (2015). Royal Commission into Institutional Responses to Child Sexual Abuse, p 4.

Governing Body of Jehovah's Witnesses to give approval for the Jehovah's Witnesses institution to join the scheme, survivors from within the Jehovah's Witnesses would be left with no option but to pursue civil litigation against the church, at potentially a great sacrifice to themselves.

Extended civil litigation is the preferred option of the worldwide controlling corporation of Jehovah's Witnesses, Watch Tower Bible and Tract Society of Pennsylvania, Inc., one of the most litigious religious corporations within the United States. In the past two years Watch Tower has commenced 60 individual legal proceedings before the United States District Court⁵⁸ that have the propensity to harassing, intimidating, and silencing former members, including whistleblowers and child abuse victims. Among those that Watch Tower commenced court action in relation to include the author of this submission.

This civil litigation is not surprising as the history of both Watch Tower and the Jehovah's Witnesses organisation is tied up in litigation and legal wrangling. Commencing in 1916, following the death of the church's founder, Pastor Charles Taze Russell, and the seizing of control of the publishing organisation and real estate by the church's lawyer, J. F. Rutherford, Rutherford immediately embarked on a campaign to bully out all potential rivals and to remove from the boards of directors all those who did not support him. Following his gaining of control Rutherford adopted the title Judge Rutherford and thereupon divided the church landscape into 'circuits' and 'districts', in mimic of the court system within the United States, with himself as the ultimate 'judge'.

Extended litigation allows the Jehovah's Witnesses organisation to dubiously claim 'religious persecution' which not only feeds the religion's persecution complex but creates an enemy of the person seeking lawful relief, an 'apostate', for whom the leaders of the church can demonise and cause to be shunned. It is this fear, especially the shunning, including being shunned by immediate family members, that greatly inhibits the seeking of compensation by survivors of childhood sexual abuse within the Jehovah's Witnesses institution.

7.1 Recovery Rights and Funder of Last Resort Provisions

The Royal Commission's *Final Report- Redress and Civil Litigation Report* stated in Recommendation 36 that:

The Australian Government and state and territory governments should provide 'funder of last resort' funding for the redress scheme or schemes so that the governments will meet any shortfall in funding for the scheme or schemes.⁵⁹

⁵⁸ United States District Court for the Southern District of New York. Accessed 13 March 2020. <<https://ecf.nysd.uscourts.gov/cgi-bin/ShowIndex.pl>>

⁵⁹ Royal Commission into Institutional Child Sexual Abuse, *Final Report- Redress and Civil Litigation Report*, Recommendation 36, p 34. <https://www.childabuseroyalcommission.gov.au/sites/default/files/file-list/final_report_-_redress_and_civil_litigation.pdf>

Page 34 of the *Redress and Civil Litigation Report* contains a very short sentence that we would like the Committee to consider in light of our recommendation in relation to this section of our Submission. This sentence states:

Any legislation that establishes a redress scheme could also provide recovery rights against institutions.

The *First Interim Report* of this Committee made the following comments in relation to the Funder of Last Resort Provisions:

Legislation considerations

6.2 Part 6-2 of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* provides that where a Commonwealth, state or territory government institution is equally responsible for the child sexual abuse of a person with a now defunct non-government institution, the government will pay the defunct institution's share of redress in addition to any existing liability. A defunct organisation is defined as one 'which no longer exists. It can be either a government or a non-government institution.' The legislation is clear that the funder of last resort provision does not apply when institutions choose not to join the National Redress Scheme (NRS).

6.3 The Department of Social Services (DSS) clarified that the legislation requires government involvement, not that the government managed or operated an institution. The department noted this could include an example where children who were a ward of the state were referred to a now defunct care facility. DSS noted that in a situation like this, the relevant government would need to agree to be part of the funder of last resort processes.

6.4 Current operating arrangements are narrower than Recommendation 36 of the Royal Commission into Institutional Responses to Child Sexual Abuse, which stipulated that governments should act as a funder of last resort for all institutions irrespective of whether the government was equally responsible for the abuse.⁶⁰

Civil litigation should not be the only available means of redress for survivors of institutional child sexual abuse where that institution has not joined the Redress Scheme; was named in the Royal Commission into Institutional Responses to Child Sexual Abuse; is not defunct; and has the ability to pay Redress.

To date, civil litigation is the only option available for survivors from the Jehovah's Witnesses institution.

⁶⁰ *First Interim Report of the Joint Select Committee on Implementation of the National Redress Scheme*. Joint Select Committee on Implementation of the National Redress Scheme. April 2020, p 65-66.
<https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Redress_Scheme/NationalRedressScheme/Interim_Report/section?id=committees%2Freportjnt%2F024473%2F73061>

Recommendation 3 The National Redress Scheme implement a recovery rights system in which the scheme pays claimant’s redress and pursues that payment and administration costs from any institution that failed to voluntarily join the National Redress Scheme prior to 1 July 2020 and were named in the Royal Commission into Institutional Responses to Child Sexual Abuse and that could reasonably be expected to participate in the scheme, and the institution

- has had reasonable opportunity to join the redress scheme; and
- has not been declared as a participating institution in the National Redress Scheme for Institutional Child Sexual Abuse Declaration 2018.

That consideration be given that the above claimants receive a payment increase (‘loading’) of up to 50% in lieu of a direct personal response from the institution.

Potential Government costs

The costs to the Government in directly making these Redress payments in relation to the Jehovah’s Witnesses institution would be: **\$94.5 million** with a 50% loading in lieu of a direct response, or **\$63.7 million**⁶¹ without the loading and no possibility of a direct response.

Average payment:	\$81,289
Loading at 50%:	\$40,644
Administration:	\$3,000
	\$124,933 x 756 Redress applications = \$94,449,348

A significant benefit to the Government is that redress payments would enter back into the economy thereby providing further social and economic benefits during the current COVID-19 pandemic and economic situation.

Monies paid out by the Government can then be pursued, along with further administration costs, directly from the Jehovah’s Witnesses institution. In this matter Say Sorry is willing to assist the Government in identifying various Jehovah’s Witnesses institutional corporations, trusts, and charities operating in Australia under the direction or control of the eight male members of the US-based Governing Body of Jehovah’s Witnesses. In addition, we can provide further evidence that these eight men own and control all assets under the unincorporated name ‘faithful and discreet slave’.

⁶¹ \$63,722,248

Notwithstanding the above, we wish to draw the Committee's attention to the following part of our submission which discusses additional hurdles victims and survivors who desire for redress from the Jehovah's Witnesses institution face.

8. Class Action as a Recovery Right

The main objects of the National Redress Scheme legislation are:

- (a) to recognise and alleviate the impact of past institutional child sexual abuse and related abuse; and
- (b) to provide justice for the survivors of that abuse.⁶²

The legislated process for establishing the National Redress Scheme 'was extremely rushed'⁶³ and other potential forms of redress were not included.

For some time Say Sorry has explored as to whether a class action could be launched as a recovery right against institutions, such as the Jehovah's Witnesses organisation, that failed to join the Scheme.

Our idea of a class action as a form of recovery rights was presented to the Joint Select Committee on 19 March 2020 by Lara Kaput but not expanded on. The official Hansard recorded the following exchange between Senator Siewert and Lara Kaput:

Senator SIEWERT: Can I go back to your comment on the issue around changing the legislation to enable class actions. Could you articulate a bit further about what you are looking for or what is needed, in your view, and why changes are needed to the legislation? What is needed and why is it needed to enable class actions?

Ms Kaput: Yes, but I can't speak to that today, because the original submission that I made was in conjunction with a friend, Steven Unthank, and that recommendation came from Steven. What I could do is ask him to articulate that further for you. Then we can consider it with the rest of our points today, if that is okay with you.

Senator SIEWERT: That would be fantastic.⁶⁴

⁶² Section 3. National Redress Scheme for Institutional Child Sexual Abuse Act 2018.

<https://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/num_act/nrsficsaa2018583/s3.html>

⁶³ Joint Select Committee on oversight of the implementation of redress related recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. *Getting the National Redress Scheme Right: An Overdue Step Towards Justice*, Parliament of Australia, Canberra, April 2019, p 129.

<www.aph.gov.au/Parliamentary_Business/Committees/Joint/Royal_Commission_into_Institutional_Responses_to_Child_Sexual_Abuse/RoyalCommissionChildAbuse/~/_media/Committees/royalcommission_childabuse_ctte/report.pdf>

⁶⁴ Senator Siewert and Ms Larissa Kaput, *Committee Hansard*, 19 March 2020, p 41.

In response to the above, we wish to draw to the attention of the Joint Select Committee and Senator Siewert the previous chapter of this Submission and in particular Recommendation 3 in conjunction with our following thoughts on a class action:

We have carefully considered the potential of Redress for all 1,800 alleged child sexual victims within the Jehovah's Witnesses religion and have, in relation to our Submission, found two distinct classes, which we respectfully describe as victim groups.

Victim Group 1 (approx. 756 persons) – in which the institution was responsible for bringing the alleged victim into contact with the person who sexually abused them⁶⁵

Victim Group 2 (approx. 1,044 persons) – comprising familial abuse in which the institution formally investigated the allegations, failed to report the allegations to the police, concealed the child sexual abuse, and in many cases literally tipped off the perpetrator as to the allegations.

The Senate Community Affairs Legislation Committee, Commonwealth Redress Scheme for Institutional Child Sex Abuse Bill 2017 expressed the Committee view that:

2.28 The option for the Redress Scheme to include funding for legal advice for civil litigation options for survivors where the responsible institution has not elected to participate in the Redress Scheme is discussed in chapter three. It would be an incentive for NGIs to participate in the Redress Scheme as an alternative to such civil litigation.⁶⁶

Should legal advice recommend that a class action be pursued as a recovery right we request that consideration be that the class can access government backed financial support services as an extension of the National Redress Scheme.

The Australian Government Department of Social Services have contributed \$130 million to fund redress support services, legal support services, and financial support services as outlined in its submission to Community Affairs Legislation Committee, Commonwealth Redress Scheme for Institutional Child Sex Abuse Bill 2017:

14. Redress Support Services

As recommended by the Royal Commission, community-based support services will be available to support survivors applying to the Scheme. Three types of

⁶⁵ *Commonwealth Redress Scheme for Institutional Child Sex Abuse Act 2018* and the current National Redress Scheme Application for Redress Form with regards to question 8 of the National Redress Scheme application. NRS001.1902 <<https://www.nationalredress.gov.au/document/76>>

⁶⁶ *Senate Community Affairs Legislation Committee, Commonwealth Redress Scheme for Institutional Child Sex Abuse Bill 2017 Report (2018)*, Committee view 2.28, p 17. <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/AbuseRedressScheme/Final_Report>

community-based support services will be available: redress support services, legal support services, and financial support services. As highlighted earlier, the Commonwealth will contribute \$130 million to fund support services.⁶⁷

The Redress Support Services comprise:

- Redress Support Services
- Legal Support Services
- Financial Support Services

These support services provide support to survivors of child sexual abuse before, during, and after their application for Redress.

A similar representative class action is currently before the Superior Court (Class Action), District of Montreal, Province of Quebec, Canada by child sexual abuse survivors from within the Jehovah's Witnesses institution. The plaintiff representing the class is Lisa Blais. The defendants are Watch Tower Bible and Tract Society of Pennsylvania, Inc. and Watch Tower Bible and Tract Society of Canada.⁶⁸ Steven Unthank has provided support for the plaintiff's lawyers in the class action.

Recommendation 4 Funding and support services be made available for groups or classes of persons to explore the option of a group or class action as a recovery right for Redress in circumstances in which they had their familial child sexual abuse allegations handled, or mishandled, at an institutional level and that institution was identified, or was the subject of a public hearing, by the Royal Commission into Institutional Responses to Child Sexual Abuse and evidence was presented, or findings made, that the institution handled, mishandled, or investigated their childhood sexual abuse in an institutional setting.

9. Protection of National Redress Scheme applicants

The *First Interim Report of the Joint Select Committee on Implementations of the National Redress Scheme*, in addressing survivor participation in the National Redress Scheme, stated:

⁶⁷ Submission 27, Department of Social Services. Senate Community Affairs Legislation Committee, Commonwealth Redress Scheme for Institutional Child Sex Abuse Bill 2017, p 11.
<<https://www.aph.gov.au/DocumentStore.ashx?id=4328d17f-f290-42fe-aa78-4a65e945d6c8&subId=563399>>

⁶⁸ No. 500-06-000886-172

Ms Larissa Kaput spoke of a range of factors for survivors of abuse by Jehovah's Witnesses not applying for redress:

Survivors understand that no Jehovah's Witnesses entities will ever sign up. They're daunted by the application form... They have a fear of being shunned... by their family and friends for taking their brother to court – that's a phrase known to Jehovah's Witnesses. And they have a fear of providing information about the organisation that could then be used against them.⁶⁹

A number of survivors of institutional abuse from within the Jehovah's Witnesses institution have expressed to us their concern that under the current format of the National Redress Scheme it is possible for the Jehovah's Witnesses institution to join the Scheme under the pretext of redress, access information pertaining to the circumstances of an applicant's childhood sexual abuse, then withdraw from the Scheme and have the information to pre-empt any civil claims, put pressure on potential witnesses, or even destroy evidence.

Recommendation 5 That legislated mechanisms be put in place to prevent organisations that join the National Redress Scheme from opting out of the scheme after having accepted an application for processing or consideration. This recommendation is to prevent institutions from joining the scheme under pretence so as to access applications from child sexual abuse victims for a purpose other than the assessment of a payment under the scheme.

10. Jehovah's Witnesses institution undermines the National Redress Scheme

On 28 August 2019 the Jehovah's Witnesses organisation commenced the Australia-wide destruction of crucial documents needed in relation to assessing applications under the National Redress Scheme, and in relation to civil litigation involving child sexual abuse. How was this achieved?

A few months earlier, on 12 April 2019 the Governing Body of Jehovah's Witnesses authorised the formation in Australia of yet another new not-for-profit company, 'Christian Congregation of Jehovah's Witnesses (Australasia) Ltd' (ACN. 632 883 133), which claims to administer congregations, congregation charities, and bodies of elders.

⁶⁹ *First Interim Report of the Joint Select Committee on Implementation of the National Redress Scheme*. Joint Select Committee on Implementation of the National Redress Scheme. April 2020, p 52.

On 15 April 2019 'Christian Congregation of Jehovah's Witnesses (Australasia) Ltd' (ACN. 632 883 133) commenced formally trading in Australia under the business name "Jehovah's Witnesses" despite that identical trading name being registered to Watchtower Bible and Tract Society of Australia Limited (**Watchtower Australia**) since 31 July 2000. Neither company operates out of each other premises, but rather operate out of premises in Denham Court, NSW, owned by the wealthy UK-based International Bible Students Association (IBSA), a registered ACNC basic religious charity in Australia headquartered in Denham Court, NSW.

IBSA claims to operate for the benefit of the general community in Australian. However, their primary purpose, after back-tracing through a tangled web of offshore registered asset holding companies, is to ultimately own and control real assets on behalf of the Governing Body of Jehovah's Witnesses and to receive donations from ACNC registered Jehovah's Witnesses charities operating in Australia. IBSA operates, on behalf of the Governing Body of Jehovah's Witnesses, a monetary exchange program that it internally calls a 'Wider Network'. Under the 'Wider Network' program IBSA facilitates the funnelling of international donations to Germany which has minimal religious charity financial disclosure laws. In 2013 IBSA entered into a formal arrangement with *Jehovas Zeugen in Deutschland* which allows IBSA to send money for the entity to use and distribute in accordance with IBSA aims and objectives.

The two Responsible Person of the IBSA charity, as registered with the ACNC, are Harold Mouritz who is the President of Watchtower Australia, and Terrence O'Brien who is a director of Watchtower Australia and the Branch Coordinator for Jehovah's Witnesses in Australia. Both are directly appointed elders/agents of the US-based Watch Tower Bible and Tract Society of Pennsylvania, Inc.

As a Jehovah's Witnesses institutional entity operating in Australia, IBSA hold sufficient assets and cash reserves to contribute towards compensation under the National Redress

At the time of the incorporating of 'Christian Congregation of Jehovah's Witnesses (Australasia) Ltd' (ACN. 632 883 133) there was a separate and distinct not-for-profit company and ACNC registered charity operating in Australia under the name 'Christian Congregation of Jehovah's Witnesses Ltd' (ACN. 315 750 845) which was registered with ASIC on 3 December 2012.

'Christian Congregation of Jehovah's Witnesses Ltd' (ACN. 315 750 845) is responsible for administering the activities of elders and congregations within Australia. Records and documents held by elders and congregations fall under the control of the corporation and are subject to the *Privacy Act 1988 (Cth)* including in relation to the retention of records.

In its 2019 application for registration as an Australian company⁷⁰ under the *Corporations Act 2001*, 'Christian Congregation of Jehovah's Witnesses (Australasia) Ltd (ACN. 632 883 133), in response to the following question "Is the proposed name identical to a registered business name(s)?" answered: "No."

However, both companies share an identical letterhead and registered trademark logo, which is registered to a third corporation, the US-based 'Christian Congregation of Jehovah's Witnesses, Inc.'

The above three legal corporations are not to be confused with the following unincorporated associations:

- Christian Congregation of Jehovah's Witnesses – to which members of the religion of Jehovah's Witnesses in Australia refer to themselves as being lay-members in the religious sense;
- Christian Congregation of Jehovah's Witnesses – which refers to the worldwide association of Jehovah's Witnesses, including those in Australia; and
- Christian Congregation of Jehovah's Witnesses – which, depending on the context, can refer only to the Governing Body of Jehovah's Witnesses.

Confusing? Consider, if a Jehovah's Witness was to receive instructions "from the Christian Congregation of Jehovah's Witnesses"- who actually issued the instructions?

Adding to the above, several years earlier on 5 November 2013, Watchtower Bible and Tract Society of Australia Ltd sent out a Body of Elders' letter instructing some 750 congregations in Australia to form as independent legal entities and charities and to register with the Australian Charities and Not-for-profits Commission ("ACNC"). The letter informed all congregations that this was a requirement of the ACNC, and that registration *must* be carried out prior to 2 December 2013. We have conducted a preliminary investigation into this matter and have found no evidence that the ACNC required this for proposed charities.

At the time of the letter the tax-exempt status of Jehovah's Witnesses congregations in Australia were based on their affiliation with the charitable religious activities of Watchtower Bible and Tract Society of Australia Ltd. When the *A New Tax System (Goods and Services Tax) Act 1999* commenced on 1 July 2000 Watchtower Australia reached an agreement with the ATO that all congregations be grouped within the Watchtower Society.

In 2013 the ACNC had provisions in place allowing Watchtower Australia and all congregations to form a reporting group⁷¹ rather than have to form individually registered

⁷⁰ ASIC document reference number: 4EAA19549

⁷¹ Commissioner's Policy Statement (CPS 2013/05). <<https://www.acnc.gov.au/about/corporate-information/corporate-policies/group-reporting>>

charities which placed all liability, such as compliance with working with children laws or any recommendations made by the Royal Commission, onto the members of the charity, namely the individual members of the congregation and the elders who volunteered in good faith to be the Responsible Person under the ACNC Act.

Just prior to these events in 2011 and 2012, Watchtower Bible and Tract Society of Australia Ltd were prosecuted in the Magistrates' Court of Victoria for non-compliance with the *Working with Children Act 2005* in relation to a congregation in the state of Victoria.

Further, at around the same time the Australian Privacy Commissioner, now the Office of the Australian Information Commissioner, determined that Watchtower Australia was subject to the *Privacy Act 1988* in relation to all congregation records. On becoming aware of this, concern was raised about the holding of child abuse records and notes by congregations and elders and back-and-forth discussions commenced between the following parties: Watchtower Australia, the World Headquarters of Jehovah's Witnesses, the Governing Body of Jehovah's Witnesses, and Watch Tower Bible and Tract Society of Pennsylvania, Inc.

The recommendations from the World Headquarters was to set up dummy not-for-profit corporations that held no assets and received little or no donations, thereby circumventing application of the *Privacy Act 1988*.

The introduction of the *Australian Charities and Not-for-profits Commission Act 2012* provided the Jehovah's Witnesses institution the ability to shift liability from Watchtower Australia and Watch Tower Pennsylvania to smaller charities that had no assets and held no insurance for child sexual abuse.

Between 2008 and 2012 Watchtower Bible and Tract Society of Australia Ltd commenced a review of records that it held on individual Australian citizens, including former members. In many cases, such as in disfellowshipping records, the original records were re-produced, and adjusted reasons created for the disfellowshipping. The original records were then destroyed. This effectively sanitised the records.

'Christian Congregation of Jehovah's Witnesses Ltd' (ACN. 315 750 845) was registered with ASIC on 3 December 2012 as a corporation whose structure allowed to take control of the management of all 800+ Jehovah's Witnesses basic religious congregation charities once they were all registered with the ACNC prior to 2 December 2013.

On 1 January 2014 'Christian Congregation of Jehovah's Witnesses Ltd' (ACN. 315 750 845) commenced taking control over congregation records, despite these congregations now being individual charities, and personal records of congregation members held by

Watchtower Bible and Tract Society of Australia Ltd. The persons being the subject of the records, including health records, were not notified of the transfer of their records. Records, including disfellowshipping records were transferred from the control of Watchtower Australia to the control of the Branch Committee of Jehovah's Witnesses and the Governing Body of Jehovah's Witnesses. The persons affected were not notified of the records transfer. It is believed that this action is in breach of the privacy principles within *Privacy Act 1988*.

11. Destruction of evidence crucial to assessing Redress Scheme applications

In an article published in *The Watchtower* magazine in 2013, Jehovah's Witnesses elders received the following instructions:

Elders . . . the direction that you receive from Jehovah's organization may seem strange or unusual. But all of us must be ready to obey any instructions we may receive, whether we agree with them or not.⁷²

What if those directions from the Jehovah's Witnesses organisation included instruction to destroy child sexual abuse records that could be used in relation to a civil claim for redress or in relation to the National Redress Scheme? Would the elders be expected to obey?

11.1 The letter dated 28 August 2019 ordering the destruction of records

In one of its first issued letters, the newly formed 'Christian Congregation of Jehovah's Witnesses (Australasia) Ltd' (A.C.N. 632 883 133), instructed all elders to review congregational records, their personal computers, hard copy files, and their meetings bags for the purpose of record destruction. This letter, dated 28 August 2019 stated:

To All Bodies of Elders

Re: Congregation Records

Dear Brothers:

We are writing to provide a few general reminders about confidential records. Please review these as a body of elders when you first have an opportunity.

. . .

Review of Current Records:

After discussing this letter as a body of elders, we would like the secretary along with the coordinator, or another assigned elder, to review what is currently in the congregation's confidential file. They should examine the contents of all sealed envelopes in the file to confirm that they contain only the documents mentioned in

⁷² <<https://wol.jw.org/en/wol/d/r1/lp-e/402013846#h=27>>

the Shepherd book, chapter 22, paragraphs 22-23. The assigned elders should adhere to the direction in paragraph 26 when determining if the entire contents of the envelope should be destroyed. If the elders are not sure if a particular document needs to be retained, they should feel free to contact the Service Department for assistance.

Please ensure that all records kept in the file are in harmony with what is outlined in the Shepherd book, chapter 22, and our comments above. Additionally, we ask that each elder check his personal computer, or hard copy files, and even his meeting bag, to ensure that no confidential correspondence is retained outside the congregation's confidential file. We would like the secretary to confirm with each elder that this has been done.

Your brothers,

Christian Congregation of Jehovah's Witnesses (Australasia)

Due to the serious nature of the letter, and the instructions to destroy records, a copy of the letter was promptly published on the JWLEAKS.org web site under the heading: "AUSTRALIA | Newly registered Jehovah's Witnesses legal entity issues instructions to destroy records".⁷³ Corporate documents relating to the new company were also published. Coverage by Australian media followed.⁷⁴

Immediately following the leaking of the letter, a number of congregations and Watchtower Australia itself received written requests from individuals for lawful access to documents, including judicial hearing records, as held on them before they were to be destroyed. These records as requested included child abuse records, personal records, family records, and divorce records. The right to access personal information and congregational records was asserted under the *Privacy Act 1988* and the Australian Privacy Principles.

The documents destroyed include documents that could also be crucial in proving a claim for Redress. Ironically, some of the documents may even disprove a claim. The destruction of records also undermines the legislated Victorian Reportable Conduct Scheme⁷⁵ and an organisation's ability to verify a child abuse report in an investigation.

It is worth highlighting here that the new company authorised for formation by the Governing Body of Jehovah's Witnesses, namely 'Christian Congregation of Jehovah's

⁷³ JWLEAKS.ORG <<https://jwleaks.org/2019/08/29/australia-newly-registered-jehovahs-witnesses-legal-entity-issues-elders-letter-to-destroy-records/>>

⁷⁴ Georgia Wilkins. Independent Inquiry Journalism. Crikey. 10 September 2019. Leaders of the Jehovah's Witnesses ordered to destroy confidential records. <<https://www.crikey.com.au/2019/09/10/leaders-of-the-jehovahs-witnesses-ordered-to-destroy-confidential-records/>>

⁷⁵ Commission for Children and Young People. Reportable Conduct Scheme. <<https://ccyp.vic.gov.au/reportable-conduct-scheme/>>

Witnesses (Australasia) Ltd' (A.C.N. 632 883 133), has no legitimate claim over the documents or evidence that has been destroyed.

Recommendation 6 Institutions that failed to voluntarily join the National Redress Scheme prior to 1 July 2020 and were named in the Royal Commission into Institutional Responses to Child Sexual Abuse, or are identified in any application for redress, be subject to scrutiny and investigation by ASIC, the ACNC, the AFP, and other federal or state law enforcement agencies.

12. Ongoing periodic reporting

The Royal Commission recommended that ongoing periodic reporting be undertaken by institutions that were named in by the Royal Commission. The rationale behind this was that

public reporting would help make institutions and their leaders accountable for their actions to their members and clients, as well as the public.⁷⁶

In relation to periodic reporting, the *Final Report* made the following recommendations:

Recommendation 17.2

The Australian Government and state and territory governments should, beginning 12 months after this Final Report is tabled, report on their implementation of the Royal Commission's recommendations made in this Final Report and its earlier Working With Children Checks, Redress and civil litigation and Criminal justice reports, through five consecutive annual reports tabled before their respective parliaments.

Recommendation 17.3

Major institutions and peak bodies of institutions that engage in child-related work should, beginning 12 months after this Final Report is tabled, report on their implementation of the Royal Commission's recommendations to the National Office for Child Safety through five consecutive annual reports. The National Office for Child Safety should make these reports publicly available. At a minimum, the institutions reporting should include those that were the subject of the Royal Commission's institutional review hearings held from 5 December 2016 to 10 March 2017.⁷⁷

⁷⁶ Final Report: Volume 17, Beyond the Royal Commission. Royal Commission into Institutional Responses to Child Sexual Abuse. 2017, p 53.

⁷⁷ Final Report: Volume 17, Beyond the Royal Commission. Royal Commission into Institutional Responses to Child Sexual Abuse. 2017, pp 53-54.

A review and analysis by Say Sorry of the 2019 Annual Report of the Jehovah's Witnesses institution has found substantial false assertions and claims made by the Jehovah's Witnesses institution as to their level of adoption of the recommendations made by the Royal Commission that apply to the institution. We also identified a knowingly false and misleading claim in the Jehovah's Witnesses 2019 Annual Report, which they then used to dismiss a total 28 recommendations made in the Final Report by the Royal Commission, including the adoption of Child Safe Standards. The Jehovah's Witnesses organisation misleadingly claimed:

Of the other 28 recommendations in the Final Report by the Royal Commission (16:31-58) for all religious institutions, inasmuch as Jehovah's Witnesses are not a religious institution that takes custody of children or that otherwise separates children from their parents, we believe we are fully compliant.⁷⁸

The Jehovah's Witnesses institution does indeed have the institutional settings and the environment that the National Redress Scheme was set up to cover. They are not 'fully compliant'.

In relation to the Jehovah's Witnesses level of non-compliance with the child safe standards: see the attached 20-page document, as provided by Say Sorry in a formal complaint to the Victorian Commission for Children and Young People in 2019. This document, the culmination of an extensive investigation by Say Sorry, lists 151 Jehovah's Witnesses charities and 5 unincorporated religious bodies operating in the State of Victoria that failed to, and refused to, comply with the legislated requirements of the *Child Wellbeing and Safety Act 2005 (Vic)* in relation to the mandatory adoption of the Child Safe Standards⁷⁹ and the Reportable Conduct Scheme⁸⁰ as they apply to religious bodies from 1 January 2019. These same identical religious bodies had also refused to comply with the mandatory Working with Children laws, as legislated in the *Working with Children Act 2005 (Vic)*, from 1 July 2008 onwards until criminal charges were brought against the Jehovah's Witnesses institution on 26 July 2011.

In its *Final Report*, the Royal Commission warned the Government of the clear and ongoing danger that the Jehovah's Witnesses institution poses to the protection of children in the Australian community, when it stated:

We considered a number of factors that may have contributed to the occurrence of child sexual abuse in religious institutions or to inadequate institutional responses to such abuse. The Jehovah's Witness organisation addresses child sexual abuse in

⁷⁸ Second Annual report by Jehovah's Witnesses in response to the Royal Commission's Final Report. 2019, p 3. <<https://jwleaks.files.wordpress.com/2020/01/jehovahs-witnesses-child-abuse-royal-commission-annual-progress-report-2019.pdf>>

⁷⁹ CCYP. <<https://ccyp.vic.gov.au/child-safety/being-a-child-safe-organisation/the-child-safe-standards/>>

⁸⁰ CCYP. Reportable Conduct Scheme. <<https://ccyp.vic.gov.au/reportable-conduct-scheme/>>

accordance with scriptural direction, relying on a literal interpretation of the Bible and 1st century principles to set practice, policy and procedure. These include the two-witness rule, the principle of male headship, the sanctions of reproof and disfellowshipping, and the practice of shunning. We consider that as long as the Jehovah's Witness organisation continues to apply these practices in its response to allegations of child sexual abuse, **it will remain an organisation that fails to protect children and does not respond adequately to child sexual abuse.**⁸¹ (bold added)

We repeat the above warning, namely that the Jehovah's Witnesses institution *will remain an organisation that fails to protect children and does not respond adequately to child sexual abuse.*

Recommendation 7 Institutions that failed to voluntarily join the National Redress Scheme prior to 1 July 2020 be subject to auditing at a federal and state level for compliance with mandatory child protection laws, the child safe standards, working with children laws, privacy laws, and any reportable scheme relating to child protection.

13. The Governing Body of Jehovah's Witnesses on joining the National Redress Scheme and the issuing of an apology

On 30 June 2015 the Royal Commission announced a public hearing into Jehovah's Witnesses and Watchtower Bible and Tract Society of Australia Ltd, later known as *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.*

In commenting on this case study, the Royal Commission's *Final Report* stated:

In July 2015, the Royal Commission held a public hearing inquiring into the responses of the Jehovah's Witness Church (Jehovah's Witness organisation) and its corporation, the Watchtower Bible and Tract Society of Australia Ltd (Watchtower Australia), to allegations, reports or complaints of child sexual abuse. The case study explored in detail:

- the experiences of two survivors of child sexual abuse in the Jehovah's Witness organisation and the response of the organisation to the survivors' complaints

⁸¹ Final Report: Religious Institutions, Volume 16: Book 3. Royal Commission into Institutional Responses to Child Sexual Abuse. 2017, p 108.

- the systems, policies and procedures in place in the Jehovah’s Witness organisation for raising and responding to allegations of child sexual abuse and for the prevention of child sexual abuse within the organisation.

Our findings are set out in the report on 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), which was published in October 2016.

In March 2017 we held a further public hearing in relation to the Jehovah’s Witness organisation in Case Study 54: Institutional review of Church of the Jehovah’s Witnesses and its corporation, the Watchtower Bible and Tract Society of Australia (Institutional review of the Jehovah’s Witnesses). This hearing provided the Jehovah’s Witness organisation with an opportunity to inform us of its current policies and procedures in relation to child protection and child safe standards, including responding to allegations of child sexual abuse.

In addition to the matters examined in the Jehovah’s Witnesses case study and Institutional review of the Jehovah’s Witnesses hearing, as of 31 May 2017 we had heard in private sessions from 70 survivors who told us about child sexual abuse in the Jehovah’s Witness organisation.⁸²

As part of the preparation for the Jehovah’s Witnesses public hearing, the Royal Commission compelled Watchtower Australia under subpoena to produce its child sexual abuse database and all documents relating to allegations of child sexual abuse. Watchtower Australia produced about 5,000 documents, which included case files pertaining to 1,006 alleged perpetrators of child sexual abuse within the religion in Australia. The Royal Commission analysed the files and produced a data base summary of all 1006 cases⁸³, of which were mostly uncontested by Watchtower Australia.

The public hearings into Jehovah’s Witnesses were held in Sydney from Monday 27 July to Wednesday 5 August 2015. On 10 August 2015 the Royal Commission issued a media release⁸⁴ stating that it anticipated that on 14 August 2015 the inquiry will hear from Jehovah’s Witnesses Governing Body member, Mr Geoffrey Jackson. Jackson appeared via video link from Toowoomba, Queensland, and was compelled to answer questions under oath.

⁸² Final Report: Religious Institutions, Volume 16: Book 3. Royal Commission into Institutional Responses to Child Sexual Abuse. 2017. Page 71.

⁸³ WAT.0021.001.0001-0015. Case Study 29. Royal Commission into Institutional Responses to Child Sexual Abuse. 2015. <<https://www.childabuseroyalcommission.gov.au/sites/default/files/WAT.0021.001.0001.pdf>>

⁸⁴ Public hearing into the Jehovah’s Witnesses to recommence. Royal Commission into Institutional Responses to Child Sexual Abuse 10 August 2015. <<https://www.childabuseroyalcommission.gov.au/media-releases/public-hearing-jehovahs-witnesses-recommence>>

Geoffrey Jackson, in his capacity as a member of the Governing Body of Jehovah's Witnesses, appeared before the Royal Commission on Friday, 14 August 2015. On Redress and the benefits of Redress, the following exchanges took place between Mr Jackson and Counsel Assisting the Royal Commission, Angus Stewart SC, and then between the Chair of the Royal Commission, Justice Peter McClellan AM, and Mr Jackson.

MR. STEWART:

Q. Do you recognise, Mr Jackson - and in asking this question, let me make it clear, I'm not suggesting it is peculiar to the Jehovah's Witness organisation, there are many, many organisations in this position - but do you accept that the Jehovah's Witness organisation has a problem with child abuse amongst its members?

A. I accept that child abuse is a problem right throughout the community and it's something that we've had to deal with as well.

Q. Do you accept that the manner in which your organisation has dealt with allegations of child sexual abuse has also presented problems?

A. There have been changes in policies over the last 20 or 30 years, where we've tried to address some of those problem areas, and by the fact that they have changed the policy would indicate that the original policies weren't perfect.

Q. And you accept, of course, that your organisation, including people in positions of responsibility, like elders, is not immune from the problem of child sexual abuse?

A. That appears to be the case.

Q. Do you accept, Mr Jackson, that many of the efforts that are being made by different people and organisations to highlight the issue of child sexual abuse and try and find solutions are genuine efforts to improve the situation?

A. I do accept that, and that's why I'm happy to testify.

Q. And that such efforts are not necessarily an attack on your organisation or its system of beliefs?

A. We understand that, too.

Q. You described earlier in your testimony that the work of this Royal Commission is beneficial. Do you accept, then, that the Royal Commission's efforts are genuine and well-intentioned?

A. I certainly do. And that's why we came in to the Royal Commission hoping that collectively something would come forward that would help us as well as everybody else.

Q. Would you disagree, then, with anyone who said that the efforts to highlight and deal with child sexual abuse in the Jehovah's Witness church are engaging in apostate lies?

A. I guess that's a broad question, because sometimes those who make these accusations make many other accusations as well. But let me assure you, the person making the accusation is not the main thing. The main thing is: is there some basis to the accusation. And if there is some way that we could improve, the Governing Body is always interested in seeing how we can refine our policies.

You see, Mr Stewart, could I just emphasise, as a religion, two very strong things we feel. One is, we try to keep a high moral standard. Secondly, there is love among the organisation. So we want to treat victims in a loving way.

Q. Just on that point, Mr Jackson, has the Governing Body considered apologising to survivors of child sexual abuse at the hands of elders within the organisation?

A. I haven't been in any discussions with regard to that.

Q. Is that something that you foresee might happen - in other words, that an apology at least be considered?

A. The Governing Body has apologised on other matters, so for me to say - I can't speak collectively for everybody, but we have apologised on things in the past, in other areas, so it is perceivable.

Q. Has the Governing Body considered the introduction of a scheme of paying compensation to people within the organisation who have suffered child sexual abuse at the hands of elders?

A. Well, let me say, there are many schemes that we've had with regard to humanitarian areas, like flood victims, and so on. I know this is not related, I'm just explaining. The Governing Body is happy for our organisation to spend money helping persons - how much more so someone who has been traumatised or affected in a bad way.

MR STEWART:

Those are my questions for Mr Jackson, your Honour.

THE CHAIR:

Q. You know, I suspect, Mr Jackson, that the Commission is considering a redress scheme for survivors. Are you aware of that?

A. I did hear it mentioned, your Honour, but I have no idea of the details.

Q. One of the suggestions is that there should be a scheme, national or otherwise, in which all of the institutions in which people were abused come together and provide for an independent decision-making process which would enable a fair distribution of compensation for those who were abused. Do you understand?

A. I do understand, your Honour.

Q. Would the Jehovah's Witnesses be prepared to cooperate in a joint scheme with other institutions where people were abused?

A. Your Honour, the answer is we would need to see the details. But the possibility of us making sure help is given to those that have been victims - certainly, that is a possibility.

Q. Does that mean that the Jehovah's Witnesses would not, as a matter of principle, decline to join with other institutions in a coordinated redress scheme?

A. Your Honour, we would need to see that nothing was scripturally against us doing that. But there are many times when we have to deal with others with regard to financial matters, so per se, it's not something that is totally out of the option pool.⁸⁵

Mr Terrence O'Brien, Director of Watchtower Bible and Tract Society of Australia Ltd, informed the Royal Commission during the public hearings into Jehovah's Witness that the involvement of the Jehovah's Witnesses institution in the Redress Scheme would require the approval of the 26 members of Watchtower Australia and the Governing Body of Jehovah's Witnesses.⁸⁶ No approval has been forthcoming.

To date, the Jehovah's Witnesses institution, and the Governing Body of Jehovah's Witnesses, have failed to put forward any reason for not joining the National Redress Scheme, this despite having the past five-years to search for, or create, a doctrinal teaching for the purpose denying redress to child sexual abuse survivors.

To date, the Jehovah's Witnesses institution and the Governing Body of Jehovah's Witnesses have issued no apology to institutional child sexual victims and survivors from the Jehovah's Witnesses institution. They refuse to say sorry.

⁸⁵ Transcript. Day 155. Royal Commission into Institutional Responses to Child Sexual Abuse. Public hearing into Jehovah's Witnesses. 14 August 2015 (Day 155), p 15984:6-15986:31 G W JACKSON

⁸⁶ Transcript. Day 153. Royal Commission into Institutional Responses to Child Sexual Abuse. Public hearing into Jehovah's Witnesses. 5 August 2015 (Day 153), p 15836:24-15837:3. T J O'BRIEN

We request that the Minister for Families and Social Services write to the Jehovah's Witnesses institution and the Governing Body of Jehovah's Witnesses and request a response as to whether the institution will issue an apology and say sorry to the victims and survivors of institutional child sexual abuse within the Jehovah's Witnesses.

Recommendation 8 Institutions that fail to voluntarily join the National Redress Scheme prior to 1 July 2020, and were named in the Royal Commission into Institutional Responses to Child Sexual Abuse and have not yet issued a public apology to the victims and survivors of child sexual abuse within that institution, be asked by the Minister for Families and Social Services if they intend to issue a formal apology, and if so, when, and if not, why not?

14. Are the members of the Governing Body of Jehovah's Witnesses corporate 'officers' of companies in Australia?

There are numerous Jehovah's Witnesses companies registered with ASIC or the ACNC as operating in Australia. Each company claims in its governance documents to operate under the direction of the US-based Governing Body of Jehovah's Witnesses.

In relation to Redress we believe that it is imperative that a determination be made as to whether the persons on the Governing Body of Jehovah's Witnesses are 'officers' of the various corporations as that term is defined in the *Corporations Act 2001*.

Such a determination will provide further evidence that can assist in placing a caveat over Jehovah's Witnesses real estate in Australia and in preventing the funnelling of funds to offshore Jehovah's Witnesses charities, including any attempt to avoid compensation under the Redress Scheme of which action would affect significantly the financial standing of Jehovah's Witnesses companies registered in Australia with ASIC.

In support of Recommendation 6 as discussed in section 11 of our submission, namely:

Institutions that failed to voluntarily join the National Redress Scheme prior to 1 July 2020 and were named in the Royal Commission into Institutional Responses to Child Sexual Abuse, or are identified in any application for redress, be subject to scrutiny and investigation by ASIC, the ACNC, the AFP, and other federal or state law enforcement agencies

. . . and the recommendation put forward by Lara Kaput in her appearance before the Committee on 19 March 2020, namely:

that the Joint Select Committee refers the structure of the Jehovah's Witnesses organisations to the Australian Securities and Investments Commission, ASIC, for investigation as to whether the individual members of the governing body of Jehovah's Witnesses and the members of the board of directors of the Watch Tower Bible and Tract Society of Pennsylvania are in fact officers as the term 'officer' is defined by section 9 of the Corporations Act 2001 of Watch Tower Australia⁸⁷

. . . we submit the following two subheading discussions for consideration: 14.1 How the Governing Body directly controls Jehovah's Witnesses corporations and 14.2 The *Corporations Act 2001* and its application to the members of the Governing Body of Jehovah's Witnesses.

14.1 How the Governing Body directly controls Jehovah's Witnesses corporations

The members of the Governing Body of Jehovah's Witnesses are Kenneth Cook, Jr., Samuel Herd, Geoffrey Jackson, Stephen Lett, Gerrit Lösch, Anthony Morris III, Mark Sanderson, and David Splane.⁸⁸

The hierarchical and corporate structure of the worldwide Jehovah's Witnesses organisation points to these eight men as being the custodial owners of all the religion's real estate and financial assets. It is these eight men that make the final decision as to whether the Jehovah's Witnesses institution joins the National Redress Scheme.

The Jehovah's Witnesses organisational manual 'Organized To Do Jehovah's Will', as referred to in all governance documents lodged with the ACNC by some 766 basic religious charities of Jehovah's Witnesses operating in Australia as congregations, identifies the Governing Body of Jehovah's Witnesses and their alter ego the 'faithful and discreet slave' as being the custodial owners of all assets, including:

facilities at the headquarters of Jehovah's Witnesses, along with branch offices, Kingdom Halls, and Assembly Halls worldwide.^{89 90}

The official web site of Jehovah's Witnesses adds:

The Governing Body is a small group of mature Christians who provide direction for Jehovah's Witnesses worldwide. Their work is twofold:

- They oversee the preparation of Bible-based instruction through the publications, meetings, and schools of Jehovah's Witnesses.— Luke 12:42.

⁸⁷ Ms Larissa Kaput, *Committee Hansard*, 19 March 2020, p 39.

⁸⁸ What is the Governing Body of Jehovah's Witnesses? JW.ORG [accessed 20 May 2020] <<https://www.jw.org/en/jehovahs-witnesses/faq/governing-body-jw-helpers/>>

⁸⁹ *Organized To Do Jehovah's Will*. 2005, p 16. Copyright by Watch Tower Bible and Tract Society of Pennsylvania, Inc.

⁹⁰ *The Watchtower* magazine (Study edition), February 15, 2009, p 26. <<https://wol.jw.org/en/wol/d/r1/lp-e/2009123#h=13>>

- They supervise the worldwide work of Jehovah’s Witnesses by directing our public ministry and overseeing the use of donated assets.⁹¹

In 2013 the Governing Body of Jehovah’s Witnesses exclusively bestowed upon themselves the religious title ‘faithful and discreet slave’.⁹² In February 2017 the Governing Body of Jehovah’s Witnesses stated that they were subject to the oversight of only themselves⁹³ and that:

“The Governing Body is neither inspired nor infallible. Therefore, it can err in doctrinal matters or in organizational direction.”⁹⁴

During the Royal Commission’s public hearing on 10 March 2017, the second case study into the Jehovah’s Witnesses institution, Counsel Assisting the Royal Commission, Mr Angus Stewart SC, explained the relevance of the Governing Body of Jehovah’s Witnesses to all six Commissioners when he said:

I will now briefly explain the structure and governance of the Jehovah's Witness organisation. 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.

The worldwide activities of the Jehovah's Witnesses are overseen by the Governing Body, which is a counsel 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 the disseminating the policies of the Jehovah's Witnesses. The Governing Body supervises more than 90 [branches] worldwide, including the Australia branch.

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 this year, 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 via videolink.

On 31 January, 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

⁹¹ What is the Governing Body of Jehovah’s Witnesses? JW.ORG [accessed 20 May 2020] <<https://www.jw.org/en/jehovahs-witnesses/faq/governing-body-jw-helpers/>>

⁹² Who is the faithful and discreet slave? *The Watchtower* magazine (Study edition), July 15, 2013, p 22. <<https://wol.jw.org/en/wol/d/r1/lp-e/2013533#h=18>>

⁹³ *The Watchtower* magazine. February 2017, p 26, par 11. “The Governing Body ... fed by the faithful slave and subject to its oversight.” <<https://www.jw.org/en/library/magazines/watchtower-study-february-2017/who-is-leading-gods-people-today/>>

⁹⁴ *Ibid.* p 26, par 12.

subject to the control of the Governing Body on matters of policy, procedure and practice.⁹⁵

In commenting on the authority that the Governing Body of Jehovah's Witnesses has over issuing orders and directions to various boards of directors, *The Watchtower* magazine states:

The Pennsylvania corporation is not the only legal entity used by Jehovah's Witnesses. There are others. One is the Watchtower Bible and Tract Society of New York, Incorporated. It facilitates our work in the United States. Jehovah's blessing has clearly been upon that corporation, though its directors and officers have been mainly of the "other sheep." The International Bible Students Association is used in Britain. Other legal entities are used to promote Kingdom interests in other lands. All of them harmoniously assist and have a role to play in getting the good news preached earth wide. No matter where they are located or who serve as directors or officers, these entities are theocratically guided and used by the Governing Body.⁹⁶

The Governing Body of Jehovah's Witnesses is not a legal instrument but rather a composite body of the individual members.⁹⁷ On 7 October 2000 the Governing Body announced that it was stepping away from being on the board of directors of Watch Tower Bible and Tract Society of Pennsylvania, Inc. the parent organisation of the worldwide Jehovah's Witnesses institution, and that in their place they were appointing representatives.⁹⁸

The current board of directors of Watchtower Bible and Tract Society of Australia Ltd (ACN: 002 861 225) are:

Harold Vivian Mouritz
Terrence John O'Brien
Alan John Wood
Daryn Bentley Gee
Tom Pecipajkovski⁹⁹

Their appointment and retention as members of the board are cognizant on their status of being an appointed elder within a congregation of Jehovah's Witnesses. The ultimate authority on the appointment or deletion of an elder within the Jehovah's Witnesses

⁹⁵ Transcript. Day 259. Royal Commission into Institutional Responses to Child Sexual Abuse. Public hearing into Jehovah's Witnesses. Case Study 54. 10 March 2017 (Day 259), p 26487-8.

⁹⁶ *The Watchtower* magazine. 15 January 2001, p 29. <<https://wol.jw.org/en/wol/d/r1/lp-e/2001051#h=15>>

⁹⁷ *The Watchtower* magazine, March 15, 1990, p 18. <<https://wol.jw.org/en/wol/d/r1/lp-e/1990204#h=20>>

⁹⁸ *The Watchtower* magazine, January 15, 2001, p 31. <<https://wol.jw.org/en/wol/d/r1/lp-e/2001053>>

⁹⁹ ASIC. Form 484, Corporations Act 2001. Document No. 7EAS47214. Lodgement date: 19 December 2019. <<https://jwleaks.files.wordpress.com/2020/01/watchtower-australia-change-to-company-details-form-484.pdf>>

institution rests with the Governing Body of Jehovah’s Witnesses.^{100 101} If at any given time a member of the board of directors, or a quorum of the board, fails to “remember the Governing Body by sticking closely to guidelines given to them,”¹⁰² such as instructions to transfers funds overseas or make a donation to another charity controlled by the Governing Body, then those board directors can be immediately removed by having their position as an elder deleted by the Governing Body or a represented typically a circuit overseer.¹⁰³

Articles 5 and 32(i) of the Articles of Association of Watchtower Bible and Tract Society of Australia, as filed with ASIC state:

- 5.
 - ... Only
 - (a) persons who hold a current appointment as elders in a congregation of Jehovah’s Witnesses and
 - (b) the Watch Tower Bible and Tract Society of Pennsylvania are eligible to be members.
- ...
- 32.
 - The office of an officer or a director shall become vacant if the director
 - ...
 - (i) ceases to be an elder of a congregation of Jehovah’s Witnesses as to which the certificate of the Watch Tower Bible and Tract Society of Pennsylvania shall be good prima facie evidence.

At the time of the lodging of the above Articles of Association the Governing Body of Jehovah’s Witnesses were all directors of Watch Tower Bible and Tract Society of Pennsylvania, Inc. which had its Australian office in Zouch Road, Denham Court NSW, owned by International Bible Students Association, and an address prior to that at 7 Beresford Road, Strathfield NSW.

Both historically and currently the Governing Body of Jehovah’s Witnesses, each as a person and successor, have always had, and still maintain, the capacity to affect significantly the financial standing of Watchtower Bible and Tract Society of Australia Ltd in addition to other Jehovah’s Witnesses companies registered with ASIC in Australia.

¹⁰⁰ How Does Jehovah Direct His Organization? <<https://wol.jw.org/en/wol/d/r1/lp-e/1102002074#h=15:0-15:724>>

¹⁰¹ *The Watchtower* magazine, January 15, 2001, p 15, par 15. <<https://wol.jw.org/en/wol/d/r1/lp-e/2001049#h=19>>

¹⁰² *The Watchtower* magazine, February 2017, p 28, par 17. <<https://wol.jw.org/en/wol/d/r1/lp-e/2017283#h=29>>

¹⁰³ How are elders and ministerial servants appointed in each congregation? *The Watchtower* magazine, November 15, 2019, p 28-30. <<https://wol.jw.org/en/wol/d/r1/lp-e/2014847>>

14.2 The *Corporations Act 2001* and its application to the members of the Governing Body of Jehovah's Witnesses

Section 9 of the *Corporations Act 2001* states an:

"officer" of a corporation means:

- (a) a director or secretary of the corporation; or
- (b) a person:
 - (i) who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the corporation; or
 - (ii) who has the capacity to affect significantly the corporation's financial standing; or
 - (iii) in accordance with whose instructions or wishes the directors of the corporation are accustomed to act (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the directors or the corporation).¹⁰⁴

Section 1551¹⁰⁵ of the *Corporations Act 2001* provides the following definition for term 'make':

"make", in relation to an order that is a direction, includes give.

An 'order' includes a direction.¹⁰⁶

In the lead up to the deadline for institutions to join the National Redress Scheme, the Governing Body of Jehovah's Witnesses have made a series of significant corporate, structural, position title, and religious changes that affect the Jehovah's Witnesses institution in Australia. Some of the most significant changes occurred during the months of April and May 2020.

On 6 May 2020, Watchtower Bible and Tract Society of Australia lodged with the Australian Charities and Not-for-profit Commission a revised constitution.¹⁰⁷ This governing document reiterates and clearly establishes that the Governing Body of Jehovah's Witnesses issue instructions, orders, directions, and make decisions as those terms are defined in the *Corporations Act 2001*.

¹⁰⁴ <http://www5.austlii.edu.au/au/legis/cth/consol_act/ca2001172/s9.html>

¹⁰⁵ <http://www5.austlii.edu.au/au/legis/cth/consol_act/ca2001172/s1551.html>

¹⁰⁶ *Ibid.*

¹⁰⁷ ACNC. <https://acncpubfilesprodstorage.blob.core.windows.net/public/77f70f2a-39af-e811-a963-000d3ad244fd-153f736b-a54f-4e99-b1c0-fa9292726c2a-Governing%20Document-df7d759d-388f-ea11-a811-000d3acb05bc-Constitution_of_Watchtower_Bible_and_Tract_Society_of_Australia.pdf>

This new Watchtower Australia constitution introduced the subtle term “spiritual direction of the Governing Body” in clause 6.3 of its preamble; and in clause 5 of its objects the phrase “the spiritual direction of the Governing Body” was introduced.

From time-to-time the Governing Body make decisions and then issue instructions, orders, and directions, to Jehovah’s Witnesses companies in Australia for the express purpose of making organisational changes, including in relation to the use of finances which is often described by the phrase “dedicated funds”.

A significant example of this corporate power in use to control Australian companies occurred in September and October 2015. The 2017 Yearbook of Jehovah’s Witnesses recorded the event as follows:

ON Wednesday, September 23, 2015, the Governing Body informed the worldwide Bethel family of a number of organizational changes that were being made in order to make the best use of dedicated funds. Then, on Saturday, October 3, 2015, an announcement from the Governing Body explained: “At Philippians 1:10, we are told to ‘make sure of the more important things.’ In harmony with this wise advice, we [the Governing Body] desire to give priority to those activities that contribute the most to the spiritual welfare of God’s people and the advancement of the global preaching work.”

Stephen Lett of the Governing Body further explained on JW Broadcasting: “The Governing Body is so serious about advancing Kingdom interests in the field that we have reanalyzed ways we can cut back at all the branches so as to redirect more funds to the field. For example, many long-standing Bethel routines and services are being reduced or eliminated. This will result in fewer members of the Bethel family being required.”

Hence, since September 2015, some 5,500 members of the worldwide Bethel family have returned to the field. Although these changes have required big adjustments, Jehovah’s blessing has been evident, and the changes have invigorated the preaching and teaching work.¹⁰⁸

The above Jehovah’s Witnesses Yearbook report concluded with an example of changes made within the Australian corporate headquarters of Jehovah’s Witnesses.¹⁰⁹

The newly adopted Constitution for Watchtower Bible and Tract Society of Australia also has a proviso that in the event that members of the corporation face internal discipline and a dispute arises the matter may be referred by the company directors under clause 17.4(e) to the Governing Body of Jehovah’s Witnesses for a decision:

¹⁰⁸ Highlights of the Past Year. 2017 Yearbook of Jehovah’s Witnesses. <<https://wol.jw.org/en/wol/d/r1/lp-e/302017037#h=3>>

¹⁰⁹ *Ibid.* <<https://wol.jw.org/en/wol/d/r1/lp-e/302017037#h=9>>

17. Disciplining members

- 17.1 In accordance with this clause, the directors may resolve to warn, suspend, or expel a member from the company if the directors conclude that:
- (a) the member has breached this constitution, or
 - (b) the member's behaviour is causing, has caused, or is likely to cause harm to the company.
- 17.2 At least 14 days before the directors' meeting at which a resolution under clause 17.1 will be considered, the secretary must notify the member in writing:
- (a) that the directors are considering a resolution to warn, suspend, or expel the member,
 - (b) that this resolution will be considered at a directors' meeting and the date of that meeting,
 - (c) what the member is said to have done or not done,
 - (d) the nature of the resolution that has been proposed, and
 - (e) that the member may provide an explanation to the directors, and details of how to do so.
- 17.3 Before the directors pass any resolution under clause 17.1, the member must be given a chance to explain or defend himself by:
- (a) sending the directors a written explanation before that directors' meeting, and/or
 - (b) speaking at the meeting.
- 17.4 After considering any explanation under clause 17.3, the directors may:
- (a) take no further action,
 - (b) warn the member,
 - (c) suspend the member's rights as a member for a period of no more than 12 months,
 - (d) expel the member,
 - (e) refer the decision to the Governing Body, or
 - (f) require the matter to be determined at a general meeting.¹¹⁰

Clause 17.4(e) can be invoked at any given time to remove any member or director of Watchtower Australia by having their status as an elder in a congregation revoked by any person of the Governing Body of Jehovah's Witnesses which thereby disqualifies the member from being a member of the corporation. There is no legal appeal for a member in relation to such a decision in any court of law in Australia as the decision is a *spiritual direction of the Governing Body* despite it being a corporate manoeuvre.

¹¹⁰ Constitution of Watchtower Bible and Tract Society of Australia Ltd. 6 May 2020. ACNC. <https://acncpubfilesprodstorage.blob.core.windows.net/public/77f70f2a-39af-e811-a963-000d3ad244fd-153f736b-a54f-4e99-b1c0-fa9292726c2a-Governing%20Document-df7d759d-388f-ea11-a811-000d3acb05bc-Constitution_of_Watchtower_Bible_and_Tract_Society_of_Australia.pdf>

As such it is beneficial that a determination be made by ASIC under the *Corporations Act 2001* that the persons of the Governing Body of Jehovah's Witnesses are officers of the corporation as the term is defined in section 9 of the *Corporations Act 2001*.

Such a determination will also assist in any consideration made by the Government to revoke the tax concessions and charity status of the entire Jehovah's Witnesses institution by allowing the Government to identify all companies and charities of the institution in the event that they fail to join the National Redress Scheme by 30 June 2020.

15. Conclusion

The Governing Body of Jehovah's Witnesses and the Jehovah's Witnesses institution are abuse deniers.

They refuse to join the National Redress Scheme. They refuse to meet with victim groups. They refuse to accept the findings of the Royal Commission into Institutional Responses to Child Sexual Abuse. They refuse to comply with mandatory child protection laws. They refuse to apologise. They refuse to say sorry.

The Governing Body of Jehovah's Witnesses, their alter ego the 'faithful and discreet slave', and the Jehovah's Witnesses institution needs to be held to account by all levels of Government.

Say Sorry

* * *