

TRANSCRIPT

FAMILY AND COMMUNITY DEVELOPMENT COMMITTEE

Inquiry into the handling of child abuse by religious and other organisations

Melbourne — 22 April 2013

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Witnesses

Reverend Doctor M. Lawrence, general secretary,

Reverend Doctor P. Blackwood, associate general secretary,

Mr P. Conrick, acting director, UnitingCare Victoria and Tasmania, and

Mr P. Battye, legal adviser, Uniting Church.

The CHAIR — Good afternoon, gentlemen. On behalf of the committee I welcome from the Uniting Church, Reverend Doctor Mark Lawrence, general secretary; Reverend Doctor Peter Blackwood, associate general secretary; Mr Phil Conrick, acting director, UnitingCare Victoria and Tasmania; and Mr Philip Battye, legal adviser. Thank you all for appearing before us this afternoon.

All evidence taken by this committee is taken under the provisions of the Parliamentary Committees Act, attracts parliamentary privilege and is protected from judicial review. Any comments made outside the precincts of the hearings are not protected by parliamentary privilege. Witnesses may be asked to return at a later date to give further evidence. All evidence given today is being recorded and witnesses will be provided with proof versions of the transcript. Please note that these proceedings are not being broadcast.

As you are aware, the committee is very interested in speaking to organisations that are dealing with children under their care. You will be given an opportunity at the end of questioning this afternoon to provide a statement, if you would like. I am not sure which one of you will do that. Thank you very much, Reverend Doctor Lawrence. As I said, we are very interested in understanding the processes by which your organisations and the various organisations for which you are responsible deal with children and looking into some issues surrounding processes and leadership aspects.

I would like to go to a number of areas. I would like firstly to ask you about complaints of child abuse that have been received by the Uniting Church and its predecessors. I am just wondering if you could explain to the committee how many complaints were received prior to 1998.

Mr BATTYE — Perhaps I can answer that.

The CHAIR — Thank you. I was not sure who was going to respond to that one, but if you would not mind — thank you.

Mr BATTYE — What we have attempted to do in the supplementary submission is to tabulate the complaints that, after inquiry, the synod is aware of, and the first complaint is dated 19 May 1998. As the church has said in its submission, because it is a non-hierarchical church and we are dealing with not just the synod but its various organisations, it is felt that there will have been complaints that predate 1998, but in terms of complaints where compensation has been sought, that is the best knowledge we have of the initial complaint being made. I repeat, that is complaints where compensation is sought.

Regarding complaints alleging abuse, we are quite sure there would have been complaints before 1998, but in terms of record keeping, they are the complaints that we have been able to uncover when asked to attend before the inquiry.

The CHAIR — Thank you. So are you saying that prior to 1998 the record keeping of any complaints was not undertaken?

Mr BATTYE — There certainly have been records kept. Record keeping could have been better — there is no question about that — across a whole raft of agencies. But in terms of there being a beginning of a pattern of complaints of abuse requesting compensation to the church's ability to track back, the first of those complaints can be found on 19 May 1998.

The CHAIR — In relation to the issue of the record keeping — and you are saying that it could have been better across the number of organisations that the church has responsibility for — was there any one organisation that was better at keeping records than any other, in your view?

Mr CONRICK — I do not think we have the information to be able to answer that question. I know certainly that those UnitingCare agencies that continue to support and meet with care leavers have done a lot of work in the last two or three years to digitise all of their records, so that when a care leaver approaches one of our agencies they are able to search through their documents and to extract appropriate and suitable information and as much information as they are able to provide. Because the UnitingCare agencies were quite discrete, and certainly when prior to the foundation of the Uniting Church there were actually three churches and the Methodist Church and the Presbyterian Church each had their social services section, there was no overarching benchmarking between those organisations going back to the 1960s and 1950s.

Mr BATTYE — The other reality is that there are a number of these agencies that no longer exist. If, for instance, we took Tally Ho Boys' Village, which has not existed for a number of years, those records were collected together and passed on to Wesley Mission Victoria, but in the process of collecting them together and passing them across there were a number of records that seem to have been lost or destroyed. Because there is no longer a Tally Ho Boys' Village, and no committee that administers that, the agency that has no connection with it in the past but simply holds the records is a little hamstrung. It has no real knowledge except what it can search for in its own repository, but they are not its records. Organisations that have a continuing existence — Kildonan, for instance — have much better records because they have been the keepers of their own records for a number of years. It also depends upon whether the care leavers are wards of the state. If they are wards of the state, then frequently a lot of the records are actually maintained through the Department of Human Services in the nature of reports, et cetera, generated by that agency to the state, and so the care leaver can effectively obtain access to his or her records by applying to the state. We frequently find that a lot of the Uniting Church records appear in the state's records.

The CHAIR — Thank you for that answer and clarification. Of the complaints you are aware of that have come to the church, what proportion of those complaints have gone to the police?

Mr BATTYE — I do not know that we have reliable statistics as to what number. I think it is fair to say that there would be a smaller number rather than a larger number, and there are all sorts of reasons, in my experience, as to why that is so. I might qualify what I say here when I say 'my experience'. I have been one of the church's legal advisers since about 1993 postdating, really, the first complaint — and I have run a lot of the process around care leaver complaints seeking compensation. I can say in relation to those complaints that there would be very few of those complainants where there has been police involvement.

The CHAIR — Why is that?

Mr BATTYE — There are a number of reasons, leaving aside the obvious where the alleged perpetrator is deceased. Numbers of care leavers do not want the police to be involved. I think it is a common experience that sometimes it can take 20, 30 or even 40 years for those people to have the ability and the courage to take their complaint further, and they want to take that complaint to the organisation they regard as the institutional abuser, in this case the Uniting Church. That is a process that they are embarked upon. It is not a process that involves pursuing the alleged abuse through criminal sanctions. In those cases they choose not to report the matter to the police, and certainly the church does not unilaterally take upon itself, particularly in those circumstances, to simply report to the police.

To the extent — and this is in our submission — that the abuse occurs in the context of a current organisation or a current employee or a current minister, then all of those cases are reported to the police and there is a very sophisticated protocol and procedure in place in relation to those matters. The detail about that is in our submission and the primary documents are attached to the submission.

The CHAIR — Thank you for that. Just in relation to the number of years that you spoke about for people to disclose — and certainly we have heard evidence that it is around 23.6 years for some people to disclose their abuse — is that the experience of the Uniting Church as well? Would it be roughly that number of years or is it longer, as you suggest — 20, 30 or 40 years?

Mr BATTYE — It certainly can be longer. I think we have done some arithmetic, Phil, and it is about —

Mr CONRICK — Just under 36 years.

The CHAIR — Just under 36 years.

Mr CONRICK — That was a sample because we have only recently received the data. But it goes to people who were in care in the 40s through to the 90s, and within that an indicative sample suggested around about 35–36 years.

The CHAIR — In your submission you have provided a table of the complaints.

Mr CONRICK — Yes.

The CHAIR — And there is a peak in 2010 and 2011. What happened at that point? Why was there a peak in complaints at those particular times?

Mr BATTYE — There are a number of reasons. The church's experience is that when issues of child abuse become more talked about they tend to lead to more complaints. For instance, at the time that the ex-Governor-General was in the news, we saw an increase in complaints at that stage.

The CHAIR — In the early 2000s, you are talking about?

Mr BATTYE — Yes. Probably the chief reason is that most if not all of the complaints — certainly those that are tabulated here — arise in the context of ex-wards of the state. Almost from the beginning those wards have been represented by a particular law firm and that law firm, I understand, has a number of claimants, and I think the issue would be one to ask Ryan, Carlisle Thomas as to what it is that causes them to drop the claims, as it were, into the system. For whatever reason, we saw more complaints from that firm in 2010 and 2011.

The CHAIR — I also note in your submission that the ethical standards officer and general secretary are working on a project to overcome the problem of data that is difficult to access. Can you perhaps explain to the committee a little bit more about the project that is being undertaken?

Rev. Dr. BLACKWOOD — A year or so ago the synod appointed a records officer, and this person is looking at our whole records system right across the organisation. The ethical standards officer is working with him to look very particularly at the records of abuse and of complaints in general. In the Uniting Church, which has a number of layers of councils, at some layers complaints are addressed say, for example, at a presbytery level. We are looking at how does the whole of the synod have an accountable record of what happens in other parts of the church, so looking towards a more centralised system of accounting.

Mr McGUIRE — Thank you very much for your presentation today and your submission. I just want to start with looking at some leadership issues. Off the top, how many times has the synod withdrawn recognition of ministers because of either alleged or proven cases of child abuse?

Rev. Dr. BLACKWOOD — I do not think that there have been any that I know of for child abuse, but recognition was withdrawn within the last four years for a minister whom the federal police had an interest in because of pornographic material. I think that that is the only ministry one regarding children.

Mr McGUIRE — How much has been paid out in compensation?

Rev. Dr. BLACKWOOD — There was no compensation paid because there was no victim. There was no act committed against a person.

Mr McGUIRE — A general figure.

Mr BATTYE — In terms of claims for compensation by care leavers, it is about \$2 million.

Mr McGUIRE — How many cases has that involved?

Mr BATTYE — As noted in our submission, it is 63 complaints.

Mr McGUIRE — In your submission you emphasise the need to improve the consistency of policy and procedures across congregations. How do you think that can be achieved?

Rev. Dr. BLACKWOOD — Within our system of governance, discipline belongs within the congregation, and we are addressing that issue at the moment by continuing child-safe policies but also instigating a new level of rolling out education and training in what is called a church-safe agreement, which addresses the safety of children and vulnerable adults. We have a part-time educator who has developed a program and is now in the process of running workshops. This is done ecumenically, so we are in partnership with other church leaders in the same area. The aim is to have every congregation addressed by this program so that every congregation formulates its church-safe program and policy and means of addressing issues. For example, we are about to launch a document which addresses how congregations address the issue of a person of interest who, say, has come out of the legal system or who is under suspicion of breaking the law. Within our theology we do not reject people but we do need to provide a safe place for all vulnerable people, so working towards a voluntary

agreement which is formed between the congregational leaders and the person of interest. That is being developed.

Mr McGuire — Just on that, I note in your executive summary you say that ChildSafe is a program that has been found to be too cumbersome. I am just trying to work out where you are going with it? Do you have a clear direction on what strategy needs to be implemented and how you are going to effectively do that?

Rev. Dr. Blackwood — Yes. The programs that we have been working with are somewhat generic. What we are doing with our program is to take those programs, particularly the church-safe program, which does have a teaching component, to make it fit our particular situation and our particular regulations so that it can be understood within the Uniting Church protocols and regulations and to teach it to congregation leaders. It is a program that teaches them how to formulate their own guidelines and the means by which they keep revisiting those guidelines, keep them in check and make sure they do not go sour, go tired — keep them fresh.

Mr McGuire — Just on that, where is your mechanism for enforcement? What you are saying is that you are hoping that this will work. I think we have moved beyond that position, haven't we?

Rev. Dr. Blackwood — Yes. That is one of the difficulties the Uniting Church has: it has a responsibility to call its constituent bodies to account. Forcing them to do that is the tricky part, but we are addressing how we progressively make the importance of this matter known. We find as many opportunities and as many ways of making the importance of this issue known. For example, in two weeks time when the synod meets, a presentation will be given which again launches protocols and guidelines and says again why this is important.

I would have to say that one of the reasons we are able to say why it is important is that the community expects it, and this inquiry underlines the importance of the community's attitude towards what we are doing. So we are going to be able to say to our congregations, 'It is not the church, just the church, asking for you to do something; it is what the community expects of you, and there are implications for the safety of the children among you if you don't'.

Mrs Coote — Thank you all very much indeed for being here. I know that in your introduction you give the outline of the amalgamation of the Methodist Church of Australasia, the Presbyterian Church of Australia and the Congregational Union of Australia under the basis of your union in 1977. I can imagine there were a number of challenges, notwithstanding property. I understand that even today there are some large schools that in fact have not come under your jurisdiction of the Uniting Church, which were former Presbyterian schools.

You spoke before about some of these inquiries and some of these victims coming forward after 30 or 40 years in some instances. Hypothetically, if someone were to come to you as a victim prior to 1977, from each one of those separate entities I have just spoken of, how would you today organise reparation for those people? Does it come out of Uniting Church coffers, or does it go back? How would you do that?

Mr Battye — It depends upon where the complaint comes from. If we were to look at an organisation such as Tally Ho, which no longer exists, it being a former Methodist facility, the compensation would be paid by the Uniting Church in Victoria as the inheritor of the Methodist Church of Australasia. Whether or not that then is paid by a particular organisation within the Uniting Church is really a matter for the synod, and whether and to what extent there might be an insurer involvement.

In respect of those schools that were, for instance, former Presbyterian and that continue in the Presbyterian tradition, then that would be a matter for those schools particularly or the Presbyterian Church to deal with. So it is only those institutions which today form the Uniting Church, which are effectively all of the Methodist institutions, all of the Congregational institutions and most of the Presbyterian institutions, but not all.

Mrs Coote — So there is a demarcation with the Presbyterians?

Mr Battye — Yes.

Mrs Coote — Could you give me an example of a Presbyterian-run orphanage, for example, where would they fit? With you or with the continuing Presbyterian Church?

Mr BATTYE — I do not think I could give you one. I think all of those organisations have fallen into the Uniting Church. I do not know there is any — —

Rev. Dr. BLACKWOOD — Two schools remain as the Presbyterian Church.

Mr BATTYE — Schools, yes.

Mrs COOTE — Yes, I know the schools. So those two schools are the only ones that will be going on with the continuing Presbyterian Church.

Rev. Dr. BLACKWOOD — Yes.

Mrs COOTE — There is a continuing Presbyterian Church, is there not, as well?

Mr BATTYE — Yes.

Mrs COOTE — That is not part of your Uniting Church?

Mr BATTYE — No.

Mrs COOTE — Right, could you give us the definition?

The CHAIR — Mr Conrick?

Mr CONRICK — The Presbyterian Babies Home in Canterbury is now part of UnitingCare Connections, which in fact is the successor organisation to both the Presbyterian Babies Home and the Methodist Babies Home in South Yarra.

Mrs COOTE — Therefore they would not come into the realm of the current church? They would be organised by the Uniting Church?

Rev. Dr. LAWRENCE — Yes.

Mrs COOTE — So anything continuing with, for example, the schools that we speak of, if there were to be an issue going forward, the two schools would be responsible for whatever happened, and that does not come under your jurisdiction; is that correct?

Rev. Dr. BLACKWOOD — That is right.

Mrs COOTE — Going back again, if there are any allegations through either of those schools of child sex abuse, that would be done through those schools, not through you?

Rev. Dr. LAWRENCE — It would be done by the Presbyterian Church or the schools.

Rev. Dr. BLACKWOOD — Or the Presbyterian Church — —

Rev. Dr. LAWRENCE — I will repeat that. It would be looked after by the schools or by the Presbyterian Church as a denomination. It would not be dealt with by us because responsibility for those schools has been handed over to the Presbyterians.

Mr BATTYE — But in terms of the terms of the Uniting Church schools.

Rev. Dr. LAWRENCE — But in terms of the Uniting Church schools, certainly. Any of the Uniting Church — —

Mrs COOTE — It includes former Presbyterian schools?

Rev. Dr. LAWRENCE — Yes. It would include former Presbyterian Church schools, which have now come under the overall responsibility of the Uniting Church.

The CHAIR — Reverend Doctor Blackwood, would you like to make a comment?

Rev. Dr. BLACKWOOD — No.

Mr O'BRIEN — Just following on from that, I just want to clarify one point. When you were talking about compensation, and you gave the example that you would accept compensation in respect of Tally Ho claims, are you talking about acceptance of a nominal or a named defendant in a formal court process, or in your alternate extra-judicial processes?

Mr BATTYE — What we find is that most of the complaints are articulated in a letter, mostly by lawyers acting for a care leaver, so there are no legal proceedings involved. In that circumstance, questions of the legal structure or entity are not relevant. They are dealt with by the church and the process that we have described in our submission is engaged. There have, though, been a number of legal proceedings. Those legal proceedings have been, almost without exception, issued against the property trust, which is the trust created by the Uniting Church act, and the trust has dealt with those plaintiffs and resolved those claims.

Mr O'BRIEN — Perhaps I will take you to one of those shortly. But in relation to the position, do you formally rely on the Ellis defence? We have received — I should be fair to you; I am not trying to be unfair — a submission from Angela Sdrinis. On page 7 it says that even though the Catholic Church has been most pilloried for the use of this defence — the Ellis defence, which I am sure you are aware of — the Uniting Church of Victoria also routinely relies upon it. Is that the formal position of the church in relation to that defence in formal proceedings?

Mr BATTYE — We talk about a defence. Ellis stands for the proposition that you have got to sue the right entity. The church has never indicated that, using Ellis, we refuse to talk to you because you have got to find the right entity. Certainly in relation to conversations around compensation, it being in a legal paradigm, one talks about difficulties in pursuing a matter to trial and a successful verdict. Without being exhaustive, that includes limitation issues, as well as suing the correct entity. But not one of these complaints has been taken to trial. They have all been resolved by discussion and mediation with claimants.

Mr O'BRIEN — I will cut to the chase on one of them. I will paraphrase, but I will refer to the submission. We have had a submission from an individual who indicates that they engaged solicitors and barristers to sue the Uniting Church for damages at a cost of many thousands of dollars, and at the mediation the Uniting Church solicitors and barristers stated through their legal team that the church was not responsible for any liabilities incurred by the Presbyterian Church. If you talk about the right entity, it really is a succession issue as a result of your merger, or perhaps it may be one of the exceptions Mrs Coote was referring to. I will allow you to answer that.

The submission goes on to say the church no longer exists anymore; therefore they cannot be held liable. Therefore he expresses his opinion that he would have had to spend many thousands of dollars testing this issue, and his court case was stopped in its tracks. It was money he did not have. Then in relation to the money that he did receive, he says it was a token amount in good faith while not accepting any responsibility. Subsequently, in his submission to us, I add that he is dissatisfied with that.

So yes, you have to accept the right to defend, but if we go back to Ellis, it was a suing of the archbishop in the Catholic Church, as well as the property trust, and for various reasons neither of them was held liable. The question remaining for that church is: is there an appropriate entity that it will put up, so that plaintiffs with perhaps a disparity of legal proceedings can have an entity within a body known as a church for them to sue? Perhaps as you have identified with your synod answer, it can be for that named entity to then look to call upon its various constituent parts down the track. But the plaintiff has got an organisation to sue should it want the accountability of a court. What do you say to your past practices and perhaps where you would head in future?

Mr BATTYE — I have read Dr Keating's submissions to you, and I certainly understand prospectively it could be said that creating a liability for an organisation is appropriate, even if that organisation is, let us say, an umbrella organisation for abuse that occurs at the hands of employees. I am not particularly aware of the case you refer to. If it was an institution which did not fall within the Uniting Church but was a Presbyterian institution, then, with respect, obviously the church would not be taking responsibility for that. I do not know the matter you refer to.

Mr O'BRIEN — Could you clarify subsequently whether it fell out in a way that it was never brought into the amalgamation, or did you take the position that because it was no longer an entity still in existence, perhaps

like some of the boys homes, that you would not be a successor entity for that — in other words, a phoenix church, in a sense, if I could use a corporate analogy? I do not mean that disparagingly, but the organisation has disappeared. If you could clarify that for us.

Mr BATTYE — If we were to use a concrete example, the Tally Ho Boys' Home has not existed for very many years. The Uniting Church takes responsibility for purposes of articulating a defence position and negotiating settlements for claimants that were within that organisation. The Methodist Church no longer exists and Tally Ho no longer exists, but the church accepts responsibility to deal with complainants coming out of that institution. It deals in the same way with organisations such as the one that Mr Conrick mentioned that did exist but no longer exists that fall into the Presbyterian Church that has come into the Uniting Church.

Mr O'BRIEN — Can I stop you there because I need to clarify whether that includes liability in the courts, or is that in your informal process?

Mr BATTYE — That is in our informal process.

Mr O'BRIEN — Do you accept that liability in the courts should a plaintiff wish to go to courts for those two examples?

Mr BATTYE — As I say, we have not been to court. We have not had a trial on any of these matters, so there has been no position adopted by the church in defence of those matters. There has not been an Ellis.

Mr O'BRIEN — I then extend it — you may not have instructions and I would not put you on the spot — and ask what would be your view if you formed it in relation to those defences for those cases?

Mr BATTYE — That is very hypothetical.

Mr O'BRIEN — I did not want you to be on the spot. That is fine, but we need to establish where you stand on that. Can I ask in relation to vicarious liability and statute of limitations what your formal position is?

Mr BATTYE — In the very few matters where there have been court proceedings, defences that have been filed have asserted the limitation period as a defence.

Mr O'BRIEN — And vicarious liability?

Mr BATTYE — No, there has been no issue of vicarious liability.

Mr O'BRIEN — You do not take that issue, for example?

Mr BATTYE — No.

Ms HALFPENNY — Going back to the process you go through in cases where there has been some sort of abuse, are the children who were in children's homes treated differently from individual complaints against individual clergy or workers of the church, or are they treated the same?

Rev. Dr. BLACKWOOD — If a complaint is received in relation to an incident in a congregation, in my experience that has been dealt with differently — for example, it has not come to us through a legal firm. It is more likely to come in the first instance as a comment or a complaint made by a person, perhaps a parent, to a minister. That minister, or a church council, would get help from their presbytery or from us as a synod. We would have a particular situation, a particular scenario, in mind where the mother was wanting to report an activity which the presbytery realised was an illegal activity and counselled the mother for a charge to be brought. The family did not want to do that. Through our Bethel counselling centre we worked with that family and referred them to the community police, and it was through the community police working with them that charges were brought. The matter unfolded that way. It was a matter that was dealt with within a congregation and very responsibly by the church council, by the presbytery leaders and by the Bethel counselling centre.

Ms HALFPENNY — Then does it go back to the overall body, or does it just stay within that section?

Rev. Dr. BLACKWOOD — Would it ever come to the synod?

Ms HALFPENNY — Yes. Is all the information collected centrally in some way and the process recorded in a central area, or is it just done in each area?

Rev. Dr. BLACKWOOD — That is an area that we are now working on. It is certainly an issue that we need to deal with — how to keep our records that are dealt with at different places and at different levels so that we have access at the synod level.

Ms HALFPENNY — In that case was there support, pastoral care, counselling or compensation provided?

Rev. Dr. BLACKWOOD — There was all of what you say. From my memory, compensation was not requested. Certainly all support is offered. In another situation the congregation and the synod have given very substantial support to a family affected by criminal abuse, even in terms of their housing.

Ms HALFPENNY — Do the children who were in homes get the pastoral care, medical care, compensation and other support for general living? The reason I am asking is that it may happen that in a number of years time the effects of a recent case will be seen to be absolutely terrible.

Rev. Dr. BLACKWOOD — Absolutely; it does not go away.

Ms HALFPENNY — In terms of those children from many years ago who are now adults and have come to you, the evidence we have been receiving from expert witnesses and so on and from people themselves is that there are a whole lot of terrible effects and that basically their lives are ruined, whether it is drug and alcohol problems, not being able to work, disability and all those sorts of things.

Rev. Dr. BLACKWOOD — Relationships.

Ms HALFPENNY — What about ongoing support and care for people who were under the responsibility of the three churches but now one?

Rev. Dr. BLACKWOOD — It has depended on the way in which the issue comes before us. If it comes before us through a legal firm, then the response has been as Mr Battye has described. Also there has been the offer of apology, of hearing what the complainant is saying and accepting that, without proof of evidence, of being present in the mediation conference to talk with the person, to hear what they are saying and to apologise on behalf of the church.

A process that we would prefer, if it comes to us direct — for example, if a person comes to the general secretary or to the moderator with an issue — is to be able to set up a restorative justice program. That would not preclude other means of support or financial consideration, but certainly, if a complainant is wanting the church to hear what happened to them and the impact it has had on their life, then we would really welcome and encourage that possibility.

Ms HALFPENNY — Whether it goes through a solicitor or the person comes direct to the church, is there a deed of release in both cases?

Rev. Dr. BLACKWOOD — Yes.

Ms HALFPENNY — In cases where, say, there are wards of the state, we have heard that often you will do that in conjunction with the state government or the Department of Human Services. How does that fit with the other two processes?

Mr BATTYE — In terms of the compensation paradigm, if I can use that expression, the process does involve very close liaison with the Victorian Government Solicitor's Office on behalf of the state. The conversation around resolution, compensation, apology and mediation happens in conjunction with the state of Victoria. That is a development probably of the last 15 to 20 years, and that, as I say, is because in almost all cases the care leavers are former wards of the state, so from the legal perspective there is an allegation that the state has breached its duty of care in the same way that the church has breached its duty of care, so the process has always involved a joint approach.

If it comes through a complaints process, so it is not a compensation paradigm, then it is dealt with by the Uniting Church, adopting the code of ethics or adopting the regulations, depending upon whether it is

ministerial abuse or lay abuse, the detail of which is in the submission. That obviously does not involve the state of Victoria, so there is a difference between a compensation pathway and a non-compensation pathway.

Ms HALFPENNY — With the compensation in terms of the children's homes, are there separate payments from government and the church, or is it all done together?

Mr BATTYE — The parties, in the sense of the care leaver, the Uniting Church and the state, are separately represented at the same conference. The pattern has been that a joint offer has been made by the state and the Uniting Church to the care leaver, and the deed of release, which is almost always drawn by the Victorian Government Solicitor's Office, does not split the contributions. It is simply an amount of money, and the contribution is agreed between the Uniting Church and the state of Victoria.

Ms HALFPENNY — Again, going back to the children's homes and the stories we have heard across the board, how could anybody not have known about what was going on? Have you had any investigation into what happened, not just as an individual case by case, in these children's homes that allowed this ongoing, it seems, abuse of children?

Mr BATTYE — Yes. There have been investigations. It rather depends upon the organisation concerned and how long ago the complaints are made, but, for instance — —

Ms HALFPENNY — Each organisation within the Uniting Church?

Mr BATTYE — Yes. I do not want to keep picking on Tally Ho, but it is a good one, because we have more complaints come out of Tally Ho than other institutions. Depending upon when the abuse was allegedly perpetrated, the nature of the abuse and how the abuse occurred, it is perhaps worth me saying at this point that of the 63 complaints that are articulated in our supplementary submission and the additional 7, only 1 of those was perpetrated by clergy. Of the balance at least two-thirds, if not more, were perpetrated by those who are not employees of the church. They were allegedly perpetrated by the spouse of a cottage parent, for instance. Phil Conrick can perhaps explain the context around how that works, but that is our experience. So in talking to and trying to get more information, we are not dealing with employees of the church. It is very difficult obviously to locate those persons, so what we have endeavoured to do is access whatever records we have, and if there are superintendents of that institution still around, talk to the superintendents, which we have been able to do.

Ms HALFPENNY — Is that in individual cases, or is that to try to really get the full story, because sometimes if you are just leading one individual case it is a bit different?

Mr BATTYE — Yes.

Ms HALFPENNY — Of course the other question is whether the church actively goes out and tries to contact other children who were in the homes to see what happened or what information they might have?

Mr BATTYE — No, there has not been a general approach taken to seek at an institutional level, but in effect that is what happens at an individual level, particularly as there are a number of complaints, and frequently those complaints are given to the church with statements from other residents. There are a number of statutory declarations mostly from other residents in that context who will give their accounts.

Ms HALFPENNY — When we were talking about the number of complaints and what year and so, you said, 'Well, I'll ask the solicitor', but it does seem to be about when people start talking about these things they start coming out and feel more comfortable to say something. Do you not think there is an obligation on the church — all churches really, or all institutions — to be out there and encouraging people to come forward so that you can get the full picture and to ensure that all those affected are able to get some sort of support and help?

Mr CONRICK — Could I comment? A number of our agencies still have an ongoing relationship with people who have been in their care. Quite frequently there will be annual or biannual get-togethers of former residents, former people who have been in placement. They do talk with each other. They do have relationships with each other. They do encourage each other, if that is appropriate, to approach the church. Perhaps going back to what I understood of your very early questions, there is often an ongoing relationship. It is not with every resident. There are some people who have been in care who just want to get as far away from the

institutions that they were in. But for quite a number of them they do come back, they have a relationship with dedicated staff, they talk with each other and they have relationships with each other.

Mr WAKELING — Gentlemen, thank you very much for your submission and your attendance here today. Our inquiry has heard evidence from many individuals, many academics and obviously organisations. We have heard lots of evidence about systematic abuse, but also we have heard about the failures of organisations. That is why obviously we are very pleased that you are here today. I take you to the point that has been made by my colleagues in regard to the 63 complaints. You have got this document headed ‘Complaints management — allegations of criminal abuse of children’. In that context, can I, firstly, query how many of these were actually referred to the police, given the fact that we recently had evidence from the scouts, who had similar numbers of complaints forwarded to them where they had advised that virtually all of those complaints had been referred to the police?

Mr BATTYE — Fewer rather than more would have been referred to the police for, amongst other reasons, the one I previously articulated. In the additional seven cases you will see that they were all referred to the police, so they are the more recent complaints. These complaints often go back to the 1940s. As I say, for a host of reasons the church has not taken it on itself unilaterally to refer those to the police, but has indicated to the care leavers that, if they wish — and indeed they are encouraged — to go to the police, the church will cooperate and assist the police and certainly afford them access to whatever records the church has.

Mr WAKELING — If I may, though, Mr Battye, in relation to the seven cases that you intimate, my understanding is they are in addition to the 63.

Mr BATTYE — Correct.

Mr WAKELING — And the last complaints of an allegation of criminal abuse of a child was on 4 September 2012?

Mr BATTYE — Yes.

Mr WAKELING — So is this committee surmising that as recently as September 2012 allegations of criminal abuse of children, those matters have not been referred to the police?

Mr BATTYE — Not by the Uniting Church, but that is not to say they have not been referred to the police. If they were they were referred by a care leaver.

Mr WAKELING — If I may, when you receive these complaints do you investigate these matters?

Mr BATTYE — Yes.

Mr WAKELING — Of the 63?

Mr BATTYE — Yes.

Mr WAKELING — Investigated in the sense that, were the allegations put to the alleged perpetrator?

Mr BATTYE — No.

Mr WAKELING — So are any of these 63 complaints, assuming there were all individual perpetrators — let us just have that assumption — are any of these 63 still involved with the Uniting Church?

Mr BATTYE — I do not believe any of them are, no.

Mr WAKELING — But you do not know because you have not investigated those matters?

Mr BATTYE — I cannot say that I am totally confident that they are not, but, as I said, these complaints do go back very many years. I think the most recent one was late 1980s, so we are talking about 30-plus years ago, but no, they have not been investigated in the sense of trying to track down the alleged perpetrator.

What does happen is that the institution, if it is an ongoing organisation, is asked to provide their personnel file, and obviously in that case if that person is still there, then that is a different matter. We have never had one of those.

Mr WAKELING — If I may, part of this process is to ensure certainty for the Victorian community, not only to identify failures, but to ensure we have systems in place today that protect our most vulnerable, our children. I want to confirm then that of these allegations, some of these alleged perpetrators, because the police may not have ever been made aware of the allegation, assuming, as you indicated earlier, that the onus is put back onto the victim, some of these perpetrators may well still be in operation within the church potentially dealing with children.

Mr BATTYE — I guess it is theoretically possible, yes.

Mr WAKELING — Do you have a view on that?

Rev. Dr. LAWRENCE — Could I make a comment? Our view would be one of deep concern if that was the case, and it is important to remember the comments from Dr Blackwood regarding the congregation processes that are in place now, which are across the life of the synod as well. Any of these people now would not be working in any of our agencies, just by the sheer amount of time that it has been since the abuse took place. But in any of our agencies and schools, for both volunteers and employed people, there are stringent processes to ensure that safe processes are put in place, as there are in congregations and regional children's and youth activities as well.

Mr CONRICK — Could I also comment? Most UnitingCare agencies do not now provide out-of-home care. There are, I think, two agencies; one in the Wimmera and one at Kildonan, that provide some forms of out-of-home care, mainly foster care and kinship care. With the exception of one or two family group homes in the Wimmera, we do not provide congregate or family group home care of any children across all of our UnitingCare agencies, so the types of positions that these people formerly occupied they would not be occupying today.

Mr WAKELING — Thank you, and I appreciate that you are no longer running the facilities, but they may well still be part of the broader organisation of the church. I leave this last question, if I may, and Mr Battye may wish to take this on notice, but in light of your comments regarding the fact that the matters have not been investigated, is there something that you wish to potentially pursue in terms of investigating the alleged perpetrators of these 63 complaints?

Mr BATTYE — We certainly can do that, yes.

Mr WAKELING — And if you could provide back to us feedback, that would be appropriate.

The CHAIR — Off the back of Mr O'Brien's earlier question and also the issue about complaints that Mr Wakeling has just asked you, Mr Battye, I wonder if you could perhaps explain to the committee why the statute of limitations was relied upon as a defence when the length of time was known after the complaints were made? Can you comment to the committee in relation to that aspect?

Mr BATTYE — I am not sure I understand the question.

The CHAIR — I was asking why the statute of limitations was used as a defence when the complaints were made, you knew how long ago they were made; why was that defence used — that is what I am asking. Can you explain to the committee — it is off the back of Mr O'Brien's question, when he asked that earlier. Can you comment on that?

Mr BATTYE — I am not sure I quite understand.

The CHAIR — Was that a position of the church that they use that statute of limitations as a defence?

Mr BATTYE — If there are legal proceedings, then the church will plead the limitation defence because it is open to the church to do so. If there are no legal proceedings, then of course it is not relevant, it is not pleaded. But if it is open to the church in legal proceedings, it is pleaded.

The reason that the limitation defence is there is to guard against prejudice to those seeking to investigate complaints that occurred a long time ago. If witnesses are dead records no longer exist. Because parties have not brought matters forward for a long time, then clearly investigating these matters, as Mr Wakeling would suggest, becomes very much more difficult. Just physically trying to locate people becomes very hard. That is what the limitation defence is designed to overcome. To indicate that where a party is placed at significant prejudice, it is entitled to say to a court, 'You, court, need to reflect on that prejudice and determine whether and to what extent it is a fair prejudice'. If the court does not believe it is a fair prejudice, then it will extend the limitation period as the act provides it a discretion to do.

The CHAIR — Thank you very much.

Mr McGUIRE — I would just like to ask Reverend Doctor Blackwood one other question. When we come to our deliberations, if we analyse what has happened to people who have been in care — and we now have a better understanding of how it affects their lives all the way through — and if we come to a conclusion that maybe they have not received enough compensation for that, would the Uniting Church support making a contribution according to proportionality into a fund to actually look at taking care of the person in a better way?

Rev. Dr. BLACKWOOD — I am personally not in a position to be able to give that sort of assurance, but with the question being asked, yes, that would certainly be addressed as a possibility. I think what our position is most likely to be is, what assistance is the church able to give in terms of repatriation, healing et cetera?. Frankly, no amount of compensation is enough for the kind of abuse some of our citizens have endured, but I would hope the church has a willingness to help people come to as full a life as they can.

Mr McGUIRE — Yes, and that is the point we are making. With greater insight now into the issues and past failings, and if we are looking at some sort of justice and a reconciliation fund or whatever — if we were looking at that, you would look at that on its merits?

Rev. Dr. BLACKWOOD — I would hope that we would look at that on its merits.

The CHAIR — Thank you. Before we do conclude I think, Reverend Doctor Lawrence, you have a statement you would like to read to the committee.

Rev. Dr. LAWRENCE — Yes.

The CHAIR — Please go ahead. Thank you.

Rev. Dr. LAWRENCE — Thank you. I thank the committee for the opportunity to make some brief concluding comments on behalf of the Uniting Church in Australia, synod of Victoria and Tasmania. The Uniting Church strongly supports the work of this inquiry and believes it is of great importance that matters concerning the abuse of children are considered openly by all relevant organisations, institutions and the general public. We believe that this issue should continue to receive prominence within our community and that necessary changes and improvements are implemented to protect all children in the future.

Children, young people and their families are central to the life of the Uniting Church. It is an essential component of our ethos that the best interests of children are paramount and that children remain safe, protected and nurtured within our churches, in our schools and in our community service agencies. The Uniting Church today is the successor of the former Methodist Church of Australasia, most of the Presbyterian Church of Australia, and the Congregational Union of Australia. Whilst recognising that most of our forebears acted in good faith in their time and age, children have experienced abuse in the church and some of its agencies. This has been traumatic for those children, and it is unacceptable.

The Uniting Church in Australia has apologised unreservedly on behalf of the church and its agencies for any harm that occurred to children while in the care of the Uniting Church and the former Methodist, Presbyterian and Congregational churches. We continue to offer personal apologies to these persons who approach the church with their experiences of abuse and suffering. Within the church itself we have used this opportunity to review and reflect on our current practices to identify our strengths in the prevention and handling of child abuse matters and to identify areas where the church needs to improve its practices. We remain committed to working hard to prevent abuse occurring now and into the future.

The church has developed key policies and a code of ethics and practice for ministers regarding child abuse disclosures and reporting and has in place counselling and support services for those who have experienced abuse within the church. A culture of safety unit has been established as a dedicated resource within the church to respond to any code of ethics breaches and sexual misconduct complaints and procedures. The unit also provides regular Safe Church awareness training for ministers and congregations. The church has also in the past 12 months developed an alternative mediation response for care leavers who were abused as children, on principles of restorative justice that is now available, when appropriate, as an alternative to the established legal process for care leavers, resulting in apology and financial settlement. This alternative approach was originally proposed by one such care leaver.

Most recently the recommendations that were developed as part of our submission to this inquiry last September have been formally presented to and ratified by the synod standing committee in the past month. The approval of these recommendations by the standing committee will provide clear future directions and further impetus for the church so that it continues to improve its capacity to ensure the safety of all children who attend Uniting Church congregations, who are educated in Uniting Church schools or who receive social services from Uniting Church community service agencies. Thank you.

The CHAIR — Thank you, Reverend Doctor Lawrence. On behalf of the committee I thank you all for your time and appearing before us this afternoon. We do appreciate it, and your evidence has been most helpful. Thank you very much indeed.

Witnesses withdrew.