

# JEHOVAH'S WITNESSES AND CHILD ABUSE -IS THERE A PROBLEM?

The following documents referenced in the video *Jehovah's Witnesses and Child Abuse – Is there a problem?* on the John Cedars YouTube channel are provided in this PDF:

1. Shepherd the Flock of God elder's textbook (ks10)
2. July 1, 1989 letter to all bodies of elders
3. November 6, 2014 letter to all bodies of elders
4. October 1, 2012 letter to all bodies of elders
5. July 11, 2002 letter to all congregations in Britain
6. Watchtower fax to Betsan Powys, 2002
7. Statement by Gerrit Lösch in the Jose Lopez case
8. Submissions of Senior Council assisting the Royal Commission
9. Extrapolation of child abuse records statistics
10. Geoffrey Jackson's written statement to Royal Commission

Please note, *Watchtower* and *Awake!* magazines referenced in the video are not provided in this PDF, but are available in the *Watchtower Library* CD-ROM or, in some cases, online.

The Royal Commission website also has an exhaustive list of documents and transcripts related to its investigation of Jehovah's Witnesses at the following URL:

<http://www.childabuseroyalcommission.gov.au/case-study/636f01a5-50db-4b59-a35e-a24ae07fb0ad/case-study-29,-july-2015,-sydney.aspx>



“SHEPHERD  
THE FLOCK OF GOD”  
— 1 PETER 5:2



# “SHEPHERD THE FLOCK OF GOD”

—1 PETER 5:2

See letter dated October 7, 2010, to all bodies of elders regarding spiral binding of this textbook.  
See letter dated March 16, 2015, to all bodies of elders regarding digital formats of this textbook.

This publication is congregation property. A copy is issued to each appointed elder. If an elder is deleted for reasons other than moving to another congregation with a favorable recommendation, he should turn over this handbook to the Congregation Service Committee. The secretary should keep the book in the congregation's file so that it may be returned to the brother if he is reappointed as an elder. No copies are to be made of any part of this publication. Neither is it to be converted into any electronic format.

This Book Issued To \_\_\_\_\_



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*“Shepherd the Flock of God”—1 Peter 5:2*  
English (ks10-E)

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## Chapter One

# Shepherd the Flock of God

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A good shepherd will strive to imitate Jehovah and his Son as shepherds by loving the sheep in the following areas:

Feeding the sheep

Leading the sheep

Protecting the sheep

1. Jehovah has entrusted elders with the responsibility to care for his precious sheep that he purchased with the blood of his Son. (Acts 20:28) This is a serious responsibility, but through holy spirit, elders can properly care for the sheep. Not only has Jehovah provided his own example as the Supreme Overseer but he has also sent to the earth his own Son, “the fine shepherd,” to leave “a model” for us. (John 10:11; 1 Pet. 2:21, 25) God’s written Word is “beneficial for teaching, for reproof, for setting things straight, for disciplining in righteousness.” (2 Tim. 3:16) In addition, he gives timely direction through “the faithful and discreet slave.” (Matt. 24:45) This publication has been prepared to help elders to “shepherd the flock of God.”—1 Pet. 5:2.

2. *“Shepherd the Flock of God”* has been designed as a handbook for elders to supply vital information that will help them care for congregation matters. This publication is divided into chapters, each pertaining to a particular aspect of your work. Each chapter is numbered, and each paragraph within the chapter is also numbered. Therefore, paragraphs are referred to by chapter and paragraph number. For example, chapter 5, paragraph 10, would be written as

“5:10.” All cross-references are by chapter-paragraph notation. Because of efforts to simplify this publication, it does not cover every aspect of our work as elders. At times you may need to consult other publications and letters to the body of elders for detailed information. Be alert to future direction and adjustments so as to stay up-to-date on theocratic direction.

3. As an elder, your ultimate objective is to imitate the Supreme Overseer, Jehovah, and his Son in the way you treat the sheep. (Eph. 5:1) Jehovah sets the example for overseers as a God of love and as the perfect Judge in that he is just at all times and in all of his ways.

### **Our Loving Overseer**

4. Jehovah’s love for us is expressed in action. He took the initiative to send his Son to die in our behalf. (John 3:16) He has given us knowledge of the truth and the privilege of being associated with the visible part of his universal organization. (John 6:44; Rev. 7:9, 10) Because of God’s love, we enjoy food, clothing, life, a measure of health, and innumerable other blessings. God lovingly considers our limitations. (Ps. 103:14) How many are the expressions of love Jehovah has showered down on us, yet none of us deserve his love! Jehovah’s example teaches us how to demonstrate love to others, especially those in the congregation.—1 John 4:19.

5. Our loving Supreme Overseer has also been a Guardian and Protector of his people both physically and spiritually. (Ps. 145:20; Prov. 18:10) Elders should also be guardians and protectors of his people. The basic idea inherent in the Greek word for overseer is protective care. Elders strive to be alert to the needs of individual publishers and families, stepping forward to assist in practical ways when there is a need. (Isa. 32:1, 2) When we imitate Jehovah, the flock in our

care is helped to feel secure and content.—1 Thess. 2: 7, 8.

### **A Lover of Justice and a God of Mercy**

6. Jehovah's justice and mercy became evident in the way he handled the rebellion in Eden. Justice prevailed in the judgment he pronounced upon those three unrepentant rebels against his sovereignty. Yet, mercy was also demonstrated when he foretold a deliverer for the unborn offspring of Adam and Eve. (Gen. 3:15) In justice Jehovah has allowed mankind to suffer the due recompense for sin. (Deut. 32:4, 5) But in mercy he has made provision for their redemption and has given them hope of everlasting life. The ransom provision itself satisfies justice—a perfect life for a perfect life. (1 Tim. 2:6) What mercy that provision reflects! It is undeserved kindness to those in desperate need.—John 1:17; Eph. 1:7.

7. Jehovah shows himself to be just and merciful with groups of people as well as with individuals. David was worthy of death because of his sin with Bathsheba, but God extended him great mercy because of his sincere repentance and heartfelt remorse over his conduct. (2 Sam. 12:13; Ps. 51:4, 17) Jehovah extended to natural Israel the opportunity to supply the members of the bride of Christ. But when the required number failed to respond, Jehovah mercifully extended the invitation to the Samaritans and then to people of the nations.—Acts 8:14; 10:45; 15:14; Rom. 11:25.

8. Although elders today cannot read the heart, they must be both just and merciful in their dealings with others. In giving counsel and in judging, elders should hold to God's standard with everyone. What Jehovah expects of elders is revealed at Deuteronomy 1:16, 17; Micah 6:8; and Matthew 5:7. The elders' love for impartiality, justice, and mercy will assist them in

keeping the congregation clean and strengthening the faith of the flock.

9. To be an effective elder, you must care for Jehovah's precious sheep in the same way that he does—with loving-kindness, impartiality, and merciful judgment. Jehovah's people and, more important, Jehovah and his Son greatly appreciate your diligent efforts in behalf of the congregation. We pray for Jehovah's blessing to "be with the spirit you show."  
—2 Tim. 4:22.



## Chapter Two

# How Elders Work Together as a Body

---

Demonstrate that you accept Jesus as Head of the congregation

Have productive elders' meetings

Be well-organized to care for the congregation's needs

Pursue peace with one another as spiritual men

1. Jehovah has appointed Jesus Christ as Head of the Christian congregation. (Eph. 1:22, 23) Revelation 1:20 depicts Jesus as holding the anointed elders in his right hand, thus, by extension, indicating that he controls all bodies of elders for the purpose of accomplishing Jehovah's will. (*re pp.* 28-29, 136) **Accepting Jesus as Head of the congregation promotes cooperation and unity** on the body. You demonstrate submission to Christ's headship when you do the following:

- Let the Bible be your guide in making decisions.—John 7:16-18.
- Obey direction coming from agencies used by “the faithful and discreet slave,” including Branch Committees, traveling overseers, and others appointed by the Governing Body to take the lead.—Matt. 24:45-47; Heb. 13:17.
- Avoid imposing personal viewpoints and opinions or arbitrary rules on the congregation or the body of elders.—1 Cor. 4:6.

- Listen carefully to the expressions of fellow elders.—Rom. 12:10b; Jas. 1:19.
- Deal in a kind and loving manner with each individual in the congregation, including fellow elders, not lording it over them.—Matt. 11:28-30; John 21:15-17; 1 Pet. 5:1-3, 5.
- Pray when a discussion of the body of elders seems to falter.—Jas. 1:5.

## Elders' Meetings

2. The body of elders is a Scriptural entity. (Acts 14:23; 20:17; Titus 1:5; compare 1 Cor. 12:19, 20) When the body of elders discusses a matter, **Christ, by means of the holy spirit, can influence any elder** to make an expression that results in a wise decision, one that may not have been reached if the elders had been consulted individually.—Acts 15:6-21.

3. **When to hold elders' meetings:** Normally the body of elders holds four meetings a year. In addition to the two meetings held in conjunction with the visits of the circuit overseer, they should schedule another meeting about three months after each visit. The body of elders can arrange other meetings any time that circumstances necessitate. Limit additional meetings to their purpose and objectives. Endeavor to keep comments succinct and relevant to the matter under consideration. Unnecessary meetings, or unduly lengthy meetings, consume valuable time that the elders can better spend with their families, in the ministry, and in shepherding. (Matt. 24:14; 1 Tim. 3:4; 1 Pet. 5:2) Before compiling an agenda, the coordinator of the body of elders should contact the other elders individually for their input to determine what matters they would like to discuss. The circuit overseer compiles the agenda for the meeting held during his visit. In addition to points he himself puts on the agenda, the circuit overseer should contact the coordinator for any input from the body of

elders. Meetings should normally not exceed two hours in length.

4. While it is not wrong for an elder to contact the branch office if he feels the need, it is generally best to discuss matters as a body first. Then, if necessary, *write* to the branch office. If there is a truly urgent matter requiring assistance from the branch office, it is best for *two* elders to call together to explain the situation and to make a note of the direction given.

5. **Suggested matters to include on the agenda for elders' meetings:** Spiritual matters should be of principal concern. (Phil. 1:9-11) Elders can obtain appropriate ideas regarding matters to discuss by considering the counsel found in the letters to Timothy and Titus and in such passages as Acts 20:17-35 and 1 Peter 5:1-11. If necessary, elders can allow time on the agenda for matters of a mechanical, nonspiritual nature. These items would include problems that an individual elder, the Congregation Service Committee, or the operating committee cannot resolve separately. The coordinator of the body of elders should give a copy of the agenda to each elder far enough in advance of the meeting to allow time to do research and to give prayerful thought to what will be discussed.—Prov. 21:5.

6. The coordinator should set the pace of the discussion by sticking to the agenda as much as possible and by keeping the main points to the fore. By concluding each matter before opening another, he can ensure that the meeting flows smoothly. The secretary or another designated elder should take notes of the decisions and indicate who will follow through and the time schedule for completion. In some cases the coordinator may ask the elder recommending an item for the agenda to take the lead in presenting it for discussion.

7. Elders' meetings will be more productive if brothers speak up, using "freeness of speech." (1 Tim.

3:13) The coordinator should avoid dominating the discussion, being careful as to when and how he expresses himself. There should be no wrath or debates evident in elders' meetings. (1 Tim. 2:8) Speak on the points under discussion only when you have something meaningful to add.—Prov. 10:19.

**8. It should be possible for bodies of elders to be unanimous in most of their decisions.** (Acts 15:25) The body of elders should always base their decisions on Bible principles and written direction from “the faithful and discreet slave.” (Matt. 24:45) In cases that do not involve specific Bible laws or where there is no direction from the faithful slave, the body of elders must exercise their collective judgment and conscience. First, have the best interests of the entire congregation in mind, and second, consider what may spiritually assist any individual involved.

9. During the discussion, no one should insist on his personal viewpoint. **If a decision is not unanimous, the minority should give willing support to the final decision.** If in the opinion of the minority a Bible-based decision still has not been reached, the minority should continue to cooperate with the rest of the body and bring the matter to the attention of the circuit overseer during his regular visit. If the matter is urgent, write to the branch office.

### **How the Body of Elders Is Organized**

10. The body should be well-organized to care for the needs of the congregation. All the elders should know their respective responsibilities. Just as individual members of the human body carry out certain functions without direct participation by other body members, individual elders have certain latitude to make decisions so as to carry out their respective re-

sponsibilities. (1 Cor. 12:12-31) Certain essential assignments in each congregation are outlined below.

### **Coordinator of the Body of Elders**

He must be less than 80 years of age.

11. The coordinator should be, if possible, one who has loyally served with the organization for many years. The congregation should respect him for his hard work in the ministry and for his efforts as a shepherd in behalf of the congregation. (Acts 20:24, 31) He should be a good organizer and care for his responsibilities in real earnest. (Rom. 12:8) He should possess genuine humility and appreciate his fellow elders and the value of a multitude of counselors. (Prov. 15:22; Phil. 2:3, 4; Jas. 4:10) He should care about people, loving them and being interested in their spiritual welfare. (John 13:34, 35; 15:13; 1 Pet. 5: 2, 3) He should have the respect and cooperation of the congregation and his fellow elders on the body. He must be a spiritual man and should be approachable.

12. The coordinator's duties include the following:

- Serves as chairman of meetings of the body of elders.
- He or another elder contacts the group overseers to determine the situation of each household when a disaster occurs. (*km* 2/97 p. 7) Notifies circuit overseer of results when compiled.
- Directly oversees the attendant, sound, and stage departments. Another elder may assist.
- Receives congregation mail, and passes it along to the secretary for circulation and filing.
- Compiles Scriptural and practical agendas outlining points for discussion at regular elders' meetings throughout the year.

- Distinguishes between items that individual elders can handle and those needing attention by the entire body of elders, so as to avoid unnecessarily taking the time of the entire body.—*w96* 1/15 p. 18 pars. 13-14.
- Makes sure that there is appropriate follow-through on decisions made by elders.
- Assigns Service Meeting parts. He may ask other elders to assist.
- Supervises the assigning of approved conductors and readers for the Congregation Bible Study.
- Arranges for public Bible discourses. Another elder or a well-qualified ministerial servant may assist.
- Approves all announcements made to the congregation, especially those of a judicial nature.
- Takes the lead in caring for details in preparation for the circuit overseer’s visit.
- Serves as chairman of the Congregation Service Committee when considering regular or auxiliary pioneer applications, unassigned territory applications, or similar matters as required by the branch office.
- Calls a meeting of the body of elders when judicial matters arise if he is present when a matter comes to light.
- Arranges for two elders (a member of the Congregation Service Committee and usually the group overseer) to meet with each person desiring to become a new publisher.
- Along with the service overseer, determines whether it is advisable for another publisher to conduct a Bible study with the child of a Christian parent.—*km* 11/03 p. 3.
- Arranges for elders to review questions with baptismal candidates. If the assigned elder needs

to take someone along when meeting with a sister, another elder should be used. However, if needed, a capable ministerial servant may accompany the assigned elder to review the questions in “Part I—Elementary Bible Teachings” and “Part III—Jehovah’s Arrangement of Things.” If the congregation has very few elders, capable ministerial servants who have demonstrated good judgment and discernment may be assigned to review the questions in “Part I—Elementary Bible Teachings” and “Part III—Jehovah’s Arrangement of Things.” If the assigned ministerial servant needs to take someone along when meeting with a sister, another capable ministerial servant should be used. In all cases, only elders should be assigned to consider “Part II—Jehovah’s Righteous Requirements.”

- Arranges for two elders, one of them being the individual’s group overseer, to meet with each baptized publisher one year following baptism to provide encouragement and helpful suggestions.
- Arranges for quarterly audit of congregation accounts.
- Authorizes payment of all normal operating expenses of the congregation.
- Approves the items placed on the congregation information board.—*km* 1/89 p. 7.

~~13. When needed, at the conclusion of his regular visit, the circuit overseer will submit a recommendation to the branch office for appointment of the coordinator of the body of elders. If a temporary adjustment is made apart from the circuit overseer’s visit, the body of elders should immediately notify the branch office in a letter, signed by the Congregation Service Committee, explaining the reason for the change. A Coordinator of the Body of Elders/Secretary~~

See July 13, 2014, letter to all bodies of elders regarding the appointment and deletion of elders and ministerial servants.

~~*Change of Address (S-29) form should accompany the letter.*~~

14. If the coordinator will be away for a time, the body of elders should select one from among their number to act as a replacement during the absence. Mail and correspondence will be handled by the replacement during the time of absence.

### **Congregation Secretary**

15. The body of elders selects the secretary and notifies the branch office by means of the *Coordinator of the Body of Elders/Secretary Change of Address (S-29)* form. The secretary should have good organizational ability and be known as one who does not procrastinate. (Rom. 12:11) He should have the ability to write in a way that is clear and understandable. If necessary, the body of elders may select an elder to assist him or a capable ministerial servant to assist in caring for some routine matters.

16. The secretary's duties include the following:

- Maintains the congregation records, including correspondence from the branch office, in an orderly way.
- Keeps congregation records, including *Congregation's Publisher Record (S-21)* cards, in an accessible but secure place (at the Kingdom Hall if possible) for use by any elder when the need arises. Although the secretary is primarily responsible for the organization of the congregation's file, each elder may be provided with a key to the file. *Every elder* should have access to the *Congregation's Publisher Record* cards, letters from the branch office, and other common records. Only elders directly handling a matter should open and view sealed confidential judicial records.
- Files sealed envelopes containing confidential records on disciplinary cases, including reports

This bullet point reflects updates provided in the September 7, 2011, letter to all bodies of elders with regard to keys to the congregation file.

made by the judicial committees. Information concerning an individual accused of child molestation, proved or otherwise, should be placed in congregation's confidential file and marked "Do Not Destroy" and kept indefinitely.

- Directly oversees those caring for accounts.
- Circulates among the elders photocopies of all letters from the branch office and traveling overseers, and files the originals for reference.
- Keeps records concerning Kingdom Hall ownership, loans, insurance, deeds, and other matters.
- Keeps a list of business items that elders or the congregation must handle in the future, such as utility bills, tax matters, and government items, and checks to be certain these are cared for on time.
- Notifies coordinator when a publisher has been baptized one year.
- Oversees district convention matters.
- Along with service overseer, takes the lead in organizing efforts to care for inactive ones.—See 4:12, 15.
- Compiles field service reports. Keeps *Congregation's Publisher Record* cards up-to-date. Promptly informs group overseers regarding publishers in their group who did not report time for the month.
- Transmits monthly reports promptly; sends communications prepared by other brothers as needed.
- Keeps body of elders informed of any problems that the pioneers are experiencing. With service overseer, reviews the activity of regular pioneers near midpoint of service year so that any having difficulty meeting the hour requirement can be given assistance.

See November 17, 2010, letter to all bodies of elders regarding letters of introduction.

- Promptly sends *Congregation's Publisher Record* card and a letter of introduction signed by the Congregation Service Committee to the congregation to which a publisher moves, without waiting for a formal request from the new congregation. If necessary, initiates correspondence requesting such when a publisher moves into his congregation.
- Ensures that there is an adequate supply of *Report of Meeting Attendance* (S-3) forms for use by the attendants.

### Service Overseer

17. The service overseer takes a keen interest in the publishers' share in the ministry and their effectiveness. He is enthusiastic about the ministry and motivates others to have a full share. He is skillful in various aspects of the work, capable of training others, and alert to do so.

18. The service overseer's duties include the following:

- Schedules regular visits to all field service groups so that once each month he visits a different group. (In smaller congregations with few groups, he may arrange to visit each one twice during the year.) During his visit, he conducts meetings for field service, works with the group in the field ministry from house to house, and helps publishers with their return visits and Bible studies. Reviews *Congregation's Publisher Record* (S-21) cards with the group overseer, and checks the arrangements for field service.
- Takes the lead, working with the body of elders, in arranging meetings for field service at convenient times and locations during the day and in the evenings. Arranges for someone to conduct meetings for service, as needed. Organizes wit-

nessing on holidays and during special campaigns.

- If congregation territory is large enough, promotes and monitors the working of personal territories.—*km* 12/06 p. 8; *od* pp. 103-104; *km* 6/81 p. 3.
- Shows genuine interest in the Bible study activity, helping the publishers to conduct effective studies and to direct interest to the organization.
- Directly oversees the work of brothers assigned to handle literature, magazines, and territory. Ensures that there will be sufficient literature for upcoming campaigns. Makes sure there is always a supply of *Field Service Reports* (S-4), *House-to-House Records* (S-8), and so forth.—*km* 7/92 p. 3; *km* 4/87 p. 4; *km* 4/86 p. 3.
- Verifies with literature servant quantities of literature to be requested from the branch office.
- Reviews the territory file once a year, making a list of houses where it is not advisable to call. Under his direction, elders will determine whether these householders would accept visits from Jehovah's Witnesses. Elders should adhere to recent direction from the branch office in contacting such ones.
- Presents recommendations to the Congregation Service Committee regarding adjustments of publishers assigned to field service groups.
- He and the coordinator of the body of elders determine together if it is advisable for a publisher to conduct a Bible study with the child of a Christian parent.—*km* 11/03 p. 3.
- Along with secretary reviews the activity of the regular pioneers near the midpoint of the service year so that any having difficulty meeting the hour requirement can be given assistance.

- Along with the secretary, takes the lead in coordinating efforts to care for inactive ones.—See 4:12, 15.

### Congregation Service Committee

19. The Congregation Service Committee works under the direction of the body of elders and consists of the coordinator, the secretary, and the service overseer. This committee can make certain minor decisions that are in harmony with the judgment of the entire body. However, **these brothers do not function apart from the body, and their opinions do not carry more weight than those of the other elders.**

20. If unusual factors are involved or if the Congregation Service Committee is unsure of the thinking of the body, the entire body of elders should discuss matters and make a decision.

21. The duties of the Congregation Service Committee involve the following:

- Approves use of the Kingdom Hall for weddings and funerals.—*km* 11/08 p. 3; *od* pp. 42, 122.
- Assigns publishers to field service groups after consulting with group overseers involved.
- Signs correspondence regarding appointment or deletion of elders, ministerial servants, and pioneers.
- Signs letters of introduction to the elders of a publisher's new congregation.
- Processes applications for auxiliary and regular pioneer work, for Bethel service, and for other special service privileges.
- Approves publishers who have special needs for accommodations for a district convention.—*km* 12/07 p. 3, par. 6.

- Writes the branch office when a publisher plans to move and wishes to obtain information regarding congregations having a need for assistance.—*od* pp. 111-112.
- Determines whether to destroy records concerning a person reinstated five years if the judicial committee is unavailable or unqualified. May designate other elders to handle this.
- A member of the service committee is included in the meeting with each Bible student desirous of becoming an unbaptized publisher.—*w88 11/15* p. 17.
- A member of the service committee gives direction on conducting a study with an inactive brother or sister who needs temporary spiritual help.—See 4:15; *od* pp. 85-86.
- If a member of the service committee is absent, another elder may substitute.

## Group Overseer

22. The group overseer is responsible to assist all in his assigned group to make spiritual advancement. (1 Tim. 4:15) He should be an alert, caring shepherd and a zealous evangelizer. The entire body of elders chooses group overseers. In view of the importance of this assignment, **the body of elders should select those elders most qualified to fulfill all the aspects of this assignment.**

23. The responsibilities include the following:

- **Takes an active interest in the spirituality of each person in the field service group.** Takes note of who is missing during congregation meetings, seeks to determine the reason, and provides needed assistance. Along with his assistant (or another elder or qualified ministerial servant), periodically arranges to visit all in his group to provide encouragement and

See February 2, 2014, letter to all bodies of elders regarding shepherding.

counsel, concentrating on those who are weak, irregular in meeting attendance or field activity, ill, depressed, or inactive.

- **Assists and trains ministerial servants in the group to reach out and qualify for congregation responsibilities.** It is best that *another elder* accompany him when visiting someone in the group having serious problems. However, he may select a qualified ministerial servant to accompany him when visiting publishers to offer encouragement, which will allow the overseer to observe how the servant reasons on matters. The overseer can ask the ministerial servant in advance to be prepared to share a scripture or a thought from a publication, relate an encouraging experience, or offer prayer. Afterward, the overseer reviews with the ministerial servant the reasons the call was handled the way it was.
- **Assists each one in the group to have a regular, meaningful, and joyful share in the ministry.** If possible, is present for meetings for field service on weekends to take the lead. If he cannot be present, makes sure his group will be cared for, either by his assistant or by another qualified publisher. Periodically reviews with his assistant the record cards of those in his group to determine their strengths and weaknesses in the ministry. (If the assistant is not an elder or a ministerial servant, then the overseer orally shares information with him, noting areas of concern.) Regularly arranges to work in the ministry with each one to provide encouragement and training in all aspects of the work. Assists in the collection of monthly field service reports. Endeavors promptly to obtain late reports for the secretary. Promptly provides assistance if any have not participated for an entire month.

## Watchtower Study Conductor

24. Since *The Watchtower* is the principal means by which the faithful and discreet slave dispenses spiritual food, the conductor chosen by the body of elders **should be one of the best teachers on the body.** (Jas. 3:1) He should also be one who has “great freeness of speech.”—1 Tim. 3:13.

25. The following will help the conductor to carry out this assignment in a way that will enable the congregation to receive the most benefit from the lesson.  
—w03 9/1 pp. 21-22.

- Presents **brief, well-prepared opening remarks** for one to one and a half minutes. Highlights the theme and theme scripture, and tries to stimulate interest in the lesson. May do this by calling attention to the subheadings, by mentioning questions in the teaching box, or by raising two or three rhetorical questions answered by the lesson. Demonstrates warmth and enthusiasm.
- **Does not comment excessively.** Avoids any tendency to summarize or enhance comments from the audience. If the audience fails to comment on an important point, perhaps asking a specific auxiliary question will stimulate the thinking of the audience and prompt an appropriate comment. Should not ask additional questions unnecessarily, as this tends to stifle commenting.
- **Concentrates on the theme and main points, and highlights the practical value of the lesson** rather than focusing on details. Since much research has been done in producing the lesson, he avoids bringing into the discussion extensive outside theocratic or secular material from personal research.

See April 22, 2012, letter to all bodies of elders regarding reading scriptures at the *Watchtower Study*.

- **Highlights artwork and teaching boxes in the lesson.**
- **Focuses on the Bible.** Encourages the audience to comment on the scriptures in the lesson. Has the designated scriptures read and commented on. However, the paragraphs should be read uninterrupted.
- **Encourages as many as possible to participate.** Tactfully trains the audience that first answer should be a direct answer to the printed question. After that, audience may comment on cited scriptures, supporting arguments, practical application of the material, and so forth. Encourages individuals to comment in their own words. Calls on only one person at a time. Does not scold the audience if answers are not forthcoming.
- **Considers the review box** with the congregation.
- Keeps concluding remarks under one and a half minutes.
- Limits the study to **no more than 60 minutes**, excluding the songs and closing prayer.

### Theocratic Ministry School Overseer

26. Since the Theocratic Ministry School trains publishers to present the Kingdom message in a clear and effective way, the body of elders should select a good teacher for this assignment. The body should also choose the auxiliary counselor and any counselors for secondary schools. In congregations that have few elders, qualified ministerial servants may be used as counselors for secondary schools. Instructions regarding the school are found in the book *Benefit From Theocratic Ministry School Education* and the current schedule.

## Pursue Peace With One Another as Spiritual Men

27. Each body of elders is made up of imperfect men with different backgrounds and personalities. If these factors are allowed to cause strained relations, the free flow of Jehovah's spirit can be restricted and the congregation may be adversely affected. (Jas. 3:16, 18) You must therefore work hard to **pursue peace** with your fellow elders. (Rom. 12:18; 14:19; 1 Pet. 3:11) The Hebrew word translated "peace" includes the idea of friendship. (*it-2* p. 591) Thus, elders should **cultivate and maintain friendships with one another**, not merely tolerate one another.

28. By pursuing peace, you demonstrate that you are a spiritual man. **A spiritual man displays self-sacrificing love and other aspects of the fruitage of God's spirit**, such as peace, long-suffering, kindness, mildness, and self-control. (Gal. 5:22, 23) You can demonstrate love by not finding fault with your fellow elders but by accepting their limitations along with their excelling qualities. "Love . . . does not get puffed up, . . . does not look for its own interests, does not become provoked. It does not keep account of the injury. . . . It bears all things, believes all things, hopes all things, endures all things." (1 Cor. 13:4-7; Matt. 7:1-5) At the same time, you should not hold back from giving fellow elders and their families counsel when needed.—Ps. 141:5; Prov. 27:5.

29. **A spiritual man takes the lead in showing honor to his fellow elders.** (Rom. 12:10) One way you can do this is by keeping communication open and free, especially if there are differences in background. Younger elders should be respectful of older, more experienced elders on the body and demonstrate patience. (Lev. 19:32) Older elders will not be quick to take offense when younger elders give suggestions or offer counsel.—Job 32:4-6; Eccl. 7:9; Joel 2:28; 1 Pet. 5:5.

30. **A spiritual man develops “the mind of Christ.”** (1 Cor. 2:16) Jesus was humble even though he was the greatest man who ever lived. (John 13:5, 12-17; Phil. 2:5-8) Humility will enable you to accept counsel. (Prov. 12:15) Even if you feel the counsel was not entirely justified, try to learn from it. (Prov. 17:10) Seek to imitate Jesus when you feel you are being mistreated. “When [Jesus] was being reviled, he did not go reviling in return. When he was suffering, he did not go threatening, but kept on committing himself to the one who judges righteously.” (1 Pet. 2:23) Remember that the peace and well-being of the congregation is more important than personal interests. —Rom. 15:1-3; 1 Cor. 10:23, 24.



## Chapter Three

# Appointment and Deletion of Elders and Ministerial Servants

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Closely examine Scriptural qualifications when considering brothers

Be particularly cautious when considering brothers who have had difficulties in the past

When meeting to inform a brother of his appointment, do not be hurried; allow sufficient time

Situations that may raise questions about an appointed man's qualifications

Follow proper procedure when reviewing an appointed man's qualifications

When an appointed brother moves into the congregation

### Closely Examine Scriptural Qualifications

1. **Before meeting to consider recommending brothers** as ministerial servants or elders, individual elders should personally review the inspired qualifications found at 1 Timothy 3:1-13; Titus 1:5-9; 1 Peter 5:2; and James 3:17, 18. (*w01* 1/15 p. 13 par. 10) Helpful comments on the Scriptural qualifications can be found in chapters 5 and 6 of *Organized to Do Jehovah's Will*.

2. **During the meeting, closely examine the Scriptural qualifications** of brothers who may qualify, and make sure that the brother being considered measures up to a reasonable degree. Pray for God's spirit to guide you. (*w01* 1/15 p. 14 par. 13) The

Governing Body and its representatives rely heavily upon your good judgment and spiritual discernment in making your recommendations.

3. Natural ability does not qualify a brother for appointment. **He must be a spiritual man**, giving evidence that holy spirit is operating on him. (Gal. 6:1; 2 Tim. 1:14; *w01* 1/15 p. 14 par. 11) Is he zealous for fine works? (Titus 2:12, 14; 1 Pet. 3:13) Is he a good example in his attendance and participation at congregation meetings? (Heb. 10:24, 25) Does he demonstrate a zeal for the ministry? (Matt. 28:19, 20) Is he a student of the Bible? (1 Tim. 4:15) Does he endeavor to help his family spiritually, regularly studying with his wife and his children living at home? (Eph. 5:29; 6:4) Does he manifest the fruitage of the spirit in his daily life?—Gal. 5:22, 23.

4. **The congregation expects elders and ministerial servants to take the lead in the ministry.** (*od* p. 56 par. 1; *w91* 1/15 pp. 12-13) What is the brother's attitude toward preaching? Is he visible in the ministry? Is he doing all he can in view of his age, health, family obligations, and other theocratic responsibilities? To appoint a brother to a position of responsibility who is not exemplary in the ministry will adversely affect the congregation's zeal for the ministry.

5. Though it is the brother who must measure up to the Scriptural qualifications, you should also **consider the spirituality of those in his household.** If his wife is baptized, is she a good example? A wife's conduct often reflects favorably or unfavorably upon her husband. (1 Tim. 3:11) If the wife is spiritually weak, he should be doing all that he can to assist her. For instance, is he making Family Worship a priority? He should also have "believing children that [are] not under a charge of debauchery nor unruly." (Titus 1:6; see *ks10* 3:15.) As a general rule, he should have well-behaved minor children who are "believing." They

should either be progressing toward dedication to God or be already baptized as Jehovah's Witnesses. The Scriptural qualification involves having "children in subjection with all seriousness." (1 Tim. 3:4) The conduct of *adult* children still living in the home also reflects upon him.—w90 9/1 p. 25 par. 7; w88 3/1 p. 24 par. 5.

### **Cautions Before Recommending Certain Brothers**

6. Elders should make sure they have full and complete information regarding the brothers they intend to recommend to the circuit overseer ~~and branch office~~, especially those in the following circumstances.

7. **Brother previously reprovved or disfellowshipped:** When was he reprovved or disfellowshipped? What was the offense? In a case of reproof, did the judicial committee make an announcement? If disfellowshipped, what is the date of reinstatement? When were the last restrictions lifted? Was he reprovved or disfellowshipped on any other occasions? What convinces you that he has lived down his past wrongdoing and that others now view him as a good example? (w90 9/1 p. 24 par. 5) If the wrongdoing took place in another congregation, have you communicated with the elders there to determine how that congregation views him? Recommending him prematurely tends to minimize the seriousness of wrongdoing in his own eyes and in the eyes of others. It is also disturbing to those who still have his bad course fresh in their memories.

8. **Guilty of adultery in the past:** It will likely take longer for him to live down his wrong and gain a good reputation. *Before discussing his recommendation with the circuit overseer*, you should know the answers to the following questions: When did the adultery occur? Was he reprovved or disfellowshipped? In a case of reproof, did the judicial committee make an

announcement? Did the innocent mate reject him? How do you know this? If he divorced, did he remarry? Did he marry the individual with whom he committed adultery? Is there evidence that he schemed to put away his former mate or that he pressured her to accept a divorce? Did the adultery break up the marriage of the other person? How were others affected by his adultery? Is the innocent mate still alive? Did the innocent mate remarry? What convinces you that he has lived down his past wrongdoing and is now viewed with respect? If the wrongdoing took place in another congregation, correspond with the elders there to get their comments on your recommendation.

**9. Separated or unscripturally divorced:** Who is primarily to blame for the marital problems? What were the circumstances surrounding the separation or divorce? Who is responsible for the separation or pursued the divorce? Did both sign the decree indicating their agreement? How long ago did it occur? What is the brother doing to try to reconcile? Is his mate unwilling to cooperate with his efforts? If so, why? How is his situation viewed by the congregations involved? How do the elders of the mate's congregation feel about the brother? When separation and divorce are involved, there may be deficiencies on the part of both mates that make it necessary to limit special privileges because neither of them is exemplary.—w88 11/1 p. 21 par. 7.

**10. Brothers who served in an appointed position in the past:** A clear understanding of the reasons for the previous deletion or resignation is necessary before making a recommendation. With what congregation did he previously serve, and when was he deleted? What were the reasons why he stopped serving? What makes his circumstances different now? What progress has he made since his deletion?

[See April 10, 2012, letter to all bodies of elders regarding pornography.](#)

Circuit  
Overseer

Depending on the length of time since his deletion, if he previously served as an elder and his deletion was not the result of gross wrongdoing, it may not be necessary for him to serve first as a ministerial servant. If the removal took place in another congregation, you will need to correspond with the elders in that congregation for details of the situation and to get their view of his possible reappointment.

See July 13, 2014, letter to all bodies of elders regarding the appointment and deletion of elders and ministerial servants.

### Making Recommendations to the Branch Office

~~11. The body of elders may recommend a brother as an elder or a ministerial servant on the following occasions:~~

- ~~• The circuit overseer visits the congregation. He will submit S-2 forms to the branch office, providing comments on the brother's qualifications and indicating whether the circuit overseer agrees with the recommendation or not, and why.~~
- ~~• A brother moves into the congregation with a letter of recommendation to reappoint, and the next visit of the circuit overseer is *not in the near future*. If the body of elders in the new congregation concurs that the brother qualifies, the Congregation Service Committee may send a letter to the branch office recommending his immediate reappointment. The letter from the new congregation should include the brother's full name, birth date, and baptism date. A copy of the letter of recommendation signed by the service committee from his former congregation must be included. The branch office will not act on the recommendation unless the entire Congregation Service Committee of each congregation signs their respective letter. If the recommendation is approved, an S-52 appointment letter will be sent to the congregation.~~

## Appointments Made During the Visit of the Circuit Overseer

### After You Receive the Response From the Branch Office

~~12. When the body of elders receives notice from the branch office of the appointment of a brother as an elder or a ministerial servant, the coordinator should assign two elders to meet with the brother before announcing the appointment. The atmosphere during the discussion should emphasize the seriousness of the matter; the elders should **not rush the discussion or handle it in a casual manner.**~~

See July 13, 2014, letter to all bodies of elders regarding the appointment and deletion of elders and ministerial servants.

~~13. In every case, the elders must ask the following questions: "Is there anything from your past, even before baptism, or in your personal or family life that disqualifies you or that would prevent you from accepting this appointment? Is there any reason why your appointment should not be announced to the congregation?" If the brother has not previously served as an elder or a ministerial servant, ask the following question: "Have you ever been involved at any time in the past with child sexual molestation?" If he answers yes to any of these questions, do not announce the appointment. Return the S-2 form or S-52 appointment letter to the branch office, and provide a complete explanation as to why the appointment should be annulled. If the brother answers no to these questions and accepts the appointment, the elders might direct his attention to information provided by "the faithful and discreet slave" that will help him fulfill his new privilege of service. Matt. 24:45; *ad* chaps. 5-6.~~

Recommendations  
Not Approved by  
the Circuit  
Overseer

~~14. If the branch office does not appoint a recommended brother, the elders should endeavor to help him qualify. Two elders may speak with the brother at an appropriate time and discreetly explain what he needs to do to qualify. **The elders should neither inform him that the body of elders recommended him nor read to him from the**~~

circuit overseer

not

circuit overseer

~~confidential letter received from the branch office~~ that explains why he was not appointed. On occasion the branch office will not approve a recommendation so as to allow time for the brother to develop maturity and experience or to live down past conduct. In such cases, there may be no need to discuss matters with the brother.

See April 10, 2012, letter to all bodies of elders regarding pornography. See also March 6, 2012, letter to all bodies of elders for direction on considering the qualifications of appointed men in connection with higher education.

### Situations That May Raise Questions About an Appointed Man's Qualifications

15. **Members of the brother's household are involved in serious wrongdoing:** *The brother's qualifications should automatically be reviewed if this occurs.* If the brother's wife or children, including adult children living in his home, have serious problems, the body should seek to determine whether the head of the household was negligent. Was he permissive? Was he alert to provide needed direction, anticipating potential problems? Was he conducting a regular family study? Was he giving his family needed time and attention? When he became aware of serious wrongdoing, did he promptly inform the body of elders so that they could properly investigate the matter? Did he shield his family from discipline or try to manipulate the elders' handling of the situation? Does he continue to have the respect and confidence of the congregation as an exemplary family head? If one of his children was guilty of serious sin, are the other children doing well spiritually? If the brother has done all that can reasonably be expected and especially if he has had spiritual success with others in his household, rejection of his fine direction by one family member would not necessarily disqualify him if he continues to have the respect of the congregation.—w88 3/1 p. 24; w78 2/1 pp. 31-32; w72 2/15 p. 126.

16. **A disfellowshipped or disassociated family member moves back into the home:** This is a

decision for the family head, not the body of elders. However, such a decision may cause many problems. If the brother has allowed a disfellowshipped or disassociated family member to move into his home, the body of elders should review his qualifications. Is the disfellowshipped or disassociated individual unable to live on his own, or has he moved back because it is an easier life? Are there valid reasons for allowing him back in the home, or is it primarily so that the Christian family members can resume a measure of association with him? Did the family avoid unnecessary contact with him when he was living outside the home? Is the arrangement temporary or permanent? What is the disfellowshipped or disassociated individual's conduct? What spiritual effect is he having on others in the household, especially siblings? Is the congregation disturbed by the brother's decision? Have a number lost respect for him?—*km* 8/02 pp. 3-4; *w81* 9/15 pp. 28-29.

17. **Bankruptcy:** If an elder or a ministerial servant declares bankruptcy, causing members of the congregation or the community to become upset, the elders should review his qualifications. Did the brother lack self-control in his spending or fail to use reasonable foresight in his business decisions? Does he have a reputation for being honest and responsible? Is he viewed as one who conscientiously tries to pay his debts? Does he feel a moral responsibility to repay canceled debts if former creditors would accept payment? Does he still have the respect of the congregation? Does he continue to have "a fine testimony from people on the outside"?—1 Tim. 3:7; *w94* 9/15 pp. 30-31; *w68* pp. 223-224.

18. **Tacit approval of a marriage between a baptized Christian and a person who is not baptized:** An appointed man should be loyal to Jehovah's standards, including the Scriptural directive to marry "only in the Lord." (1 Cor. 7:39; 2 Cor. 6:14,

15; Titus 1:8; w04 7/1 p. 31) This directive applies to all Christians, even those who are inactive. Questions about a brother's qualifications would result if he gave tacit approval to a marriage between a baptized Christian and a person who is not baptized. Participating in, supporting, or assisting in the courtship, wedding, or reception implies approval. Questions would also arise if the brother did not get involved personally but allowed his wife or others in his household to do so. If an elder or a ministerial servant displays poor judgment in these areas to a degree that it raises serious questions in the minds of others, he may be Scripturally disqualified from serving.—w02 5/1 p. 17 pars. 13-15; w01 5/15 pp. 20-21 pars. 16-17.

**19. If it comes to light or an appointed brother confesses that he has committed a disfellowshipping offense years in the past:** The body of elders may determine he can continue to serve if the following is true: The immorality or other serious wrongdoing occurred more than a few years ago, and he is genuinely repentant, recognizing that he should have come forward immediately when he sinned. (Perhaps he has even confessed to his sin, seeking help with his guilty conscience.) He has been serving faithfully for many years, has evidence of God's blessing, and has the respect of the congregation.

See October 1, 2012, letter to all bodies of elders regarding child abuse.

20. If the sin occurred before he was appointed as an elder or a ministerial servant, the elders will need to take into consideration the fact that he should have mentioned this possible impediment to his being qualified when elders interviewed him just prior to announcing his appointment. Moreover, the nature of the sin may reflect greatly on his qualifications to serve. For example, the sin may involve past child abuse, and this would likely disqualify him for many years.—w97 1/1 pp. 26-29; w77 pp. 697-698.

21. If the wrongdoing occurred *within the past few years while he was serving* as an elder or a ministerial servant, he is disqualified from serving as such, not being “free from accusation.” (1 Tim. 3:2, 10; Titus 1:6, 7) Depending on the circumstances, the situation may also need to be handled by a judicial committee. —See 5:43-44.

### **Procedure for Reviewing the Qualifications of Appointed Brothers Who Experience Difficulties**

22. Do not be quick to recommend deletion unless there is a solid basis for doing so. It may be possible to assist the brother so that he can correct the reasons for disqualification and continue to serve. Has the brother served faithfully for many years? What has he done or failed to do that raises questions? How did he react to counsel? Has he had such difficulties in the past, and how did he then respond to efforts to help? Was his wrongdoing really so serious that it requires restricting his privileges? Possibly he just made a mistake, using poor judgment on an occasion. The congregation in general may still have respect for him and confidence in him as an elder or a ministerial servant. Perhaps the matter is not widely known, if at all. If he realizes his action was unwise, has learned from his mistake, has a good attitude, and wants to improve, it may be that he can continue to serve.

23. **If it is necessary to review an elder’s qualifications**, the body of elders should consider the matter, with the brother in question present, using the following procedure:

- After seeking Jehovah’s guidance in prayer, make sure all the facts are presented. Maintain a respectful, orderly atmosphere that is conducive to such a discussion.
- Allow the brother adequate time to express his feelings and to answer any questions. Ask him

for his view of the matters being discussed regarding his qualifications.

- Ask the brother to leave the room while the other elders continue their discussion and make a decision on what they will recommend.
- Invite the brother back into the room. If the decision is to recommend his deletion, inform him of this and the Scriptural reasons.
- Give the brother the opportunity to comment on the decision. This allows the elders to hear the brother's defense of himself if he chooses to make a defense. It may be necessary for the brother to leave the room again so that the elders can discuss the matter further before making a final decision.
- ~~If the elders decide to recommend his deletion and the brother disagrees with that recommendation, they should inform him that he may submit a letter stating why he does not agree with the recommendation. His letter should be included with the elders' letter of explanation to the branch office.~~

24. **If the qualifications of a ministerial servant are being reviewed**, the same basic procedure is followed except that rather than having the brother present during the meeting of the body of elders, it would usually be sufficient for two elders to speak with him in advance to hear him out. If the body of elders decides to recommend his deletion, the two elders would meet with him again to inform him of the decision and the Scriptural reasons and to give him the opportunity to express himself. If he disagrees with the elders' decision, he may submit a letter to the body of elders stating why he does not agree with the recommendation. The elders will consider his letter and determine whether to hold to their decision or not. If the visit of the circuit over-

seer is close, it would be good to discuss the matter with him.

### Recommending Deletions to the ~~Branch Office~~ ← Circuit Overseer

25. The **approval of the ~~branch office~~ is required** when deletions of elders and ministerial servants are recommended in the following circumstances: ← circuit overseer

- A brother **resigns for personal reasons**. Two elders should first discuss the matter with him. Why does he wish to resign? Is he Scripturally disqualified? If his personal circumstances hinder him from doing what he would like, can the elders be of any assistance and encouragement? Until his circumstances change, perhaps they can lighten his load for a period of time while he continues to serve. If, after this discussion, he still feels he wants to resign, then the Congregation Service Committee should write the ~~branch office~~ ← circuit overseer and give sufficient information so that the reasons for resignation are clear. Full details should be provided as to why he chose to relinquish his privilege of service.
- The elders recommend deletion due to **poor judgment not of a judicial nature**. In most cases, it is best to consider such matters during the visit of the circuit overseer. However, if serious questions arise concerning a brother's qualifications and the next visit of the circuit overseer is not in the near future, the elders should make their recommendation to the ~~branch office~~ ← circuit overseer. They should supply the following information: What has he done or failed to do that raises questions? What is he doing now, or not doing, that is different from when you recommended him for appointment? Does he agree with the recommendation for his deletion? ~~If he disagrees, he may submit a letter along with the~~

See July 13, 2014, letter to all bodies of elders regarding the appointment and deletion of elders and ministerial servants.

elders' letter of explanation, stating why he does not accept the recommendation. Meanwhile, he will continue to serve as an elder or a ministerial servant. The body of elders will determine what congregation responsibilities he will have in the interim, according to the circumstances.

See July 13, 2014, letter to all bodies of elders regarding the appointment and deletion of elders and ministerial servants.

26. An ~~announcement of deletion~~ should be made to the congregation only after receiving from the branch office the returned S-2 form or an S-52 letter indicating that the recommendation has been approved. In such a case, the brother should be informed of his deletion before the announcement is made. The announcement should read as follows: **"Brother [name of person] is no longer serving as an elder (a ministerial servant)."**

See July 13, 2014, letter to all bodies of elders regarding the appointment and deletion of elders and ministerial servants.

27. In addition to the above situations, the branch office should be informed whenever an elder or a ministerial servant is no longer serving for the following reasons:

- ~~Moving or death:~~ The circuit overseer will inform the branch office following his next visit to the congregation. In such cases, an announcement of deletion would not be made to the congregation.
- ~~Disassociation, disfellowshipping, or reproof by a judicial committee:~~ After a judicial charge is clearly established, **an announcement of deletion** should be made to the congregation at the next Service Meeting without waiting for an acknowledgment from the branch office. The Congregation Service Committee should **inform the branch office immediately** of the deletion, providing full information about the case. Include the specific judicial offense, the name of any other person involved, any counsel given, and how the wrongdoing became known to the elders. Please

~~also specify the action taken (whether disassociation, disfellowshipping, or judicial reproof, and whether an announcement of reproof was made to the congregation). If one disassociates himself or is disfellowshipped, an announcement to that effect is made to the congregation. If the case is handled just prior to the visit of the circuit overseer, the deletion may be included with his report to the branch office and the details of the case provided in a confidential supplementary letter.~~

send to the Service Department

28. If the coordinator or secretary is being deleted, fill out and include the *Coordinator of the Body of Elders/Secretary Change of Address* (S-29) form.

~~29. **Information concerning the deletion of an elder or a ministerial servant should be retained indefinitely in the congregation's confidential file.** This would include S-2 forms and S-52 acknowledgment letters from the branch office and related correspondence. Such background material will be helpful in supplying the branch office with complete details in the event the brother is recommended for reappointment in the future.~~

See July 13, 2014, letter to all bodies of elders regarding the appointment and deletion of elders and ministerial servants.

### When an Appointed Brother Moves to Another Congregation

30. The Congregation Service Committee should send a **letter of introduction** to the elders in the new congregation that plainly states whether the body of elders recommends that he continue to serve. Did he serve in other congregations? What is his total time of serving in an appointed capacity? In what assignments does he have experience? All three members of the Congregation Service Committee should sign the letter of introduction.

31. If any of the elders have *serious reservations* about the qualifications of an appointed brother who is moving, the body of elders should meet as soon as possible to determine whether they will recommend him for reappointment or not. If they do not recommend him, two or more elders should meet with him before he leaves and clearly explain the reason for the body's decision. The letter of introduction should clearly explain their concerns and the counsel they gave him.

### **When an Appointed Brother Moves Into the Congregation**

32. **Elders and ministerial servants** who move to a new congregation *with a favorable letter of recommendation and who have a favorable recommendation from the elders of the new congregation* but who have not yet been reappointed may be used to handle Bible highlights, parts on the Service Meeting, public talks, and so forth, according to their abilities. They may attend a Kingdom Ministry School. In addition, they can be present with the ministerial servants during the meeting the circuit overseer conducts with the appointed servants in the congregation. If the circuit overseer's outline includes additional information for elders only, recommended elders who have not yet been reappointed can remain as this information is discussed. However, they should not be present when recommendations and local congregation needs are considered. If the brother is not recommended for reappointment either by the previous body of elders or by the new body of elders, he would not be eligible to attend the spiritual programs mentioned above. Brothers who served as elders in their former congregation do not function in an official capacity as elders (such as by serving on judicial committees or attending meetings of the body of elders) in their new congregation until they are reappointed.

- If an elder or a ministerial servant regularly moves away to live at a second residence, he should not be appointed in both congregations. One congregation should hold the *Congregation's Publisher Record* (S-21) card. Each time he leaves, the elders should write a letter to the congregation where he will be temporarily, explaining his circumstances and how he was being used. The elders of the congregation he is visiting can use him to care for duties and responsibilities in the congregation as outlined above. Even if he will be away for more than three months, he should send his field service reports to his home congregation.



## Chapter Four

# Assisting Those Who Are Weak

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Be alert to symptoms of spiritual weakness

Help the weak to adopt and maintain a good spiritual routine

Provide the needed help promptly

1. Elders need to maintain the proper attitude toward assisting others. The apostle Paul referred to an outstanding quality of Jesus when he wrote: “We, though, who are strong ought to bear the weaknesses of those not strong, and not to be pleasing ourselves. . . . For even the Christ did not please himself.” (Rom. 15:1-3) Paul told the Ephesian elders: “You must assist those who are weak.” (Acts 20:35) Elders should be keenly aware of the need to “speak consolingly to the depressed souls, support the weak, be long-suffering toward all.” (1 Thess. 5:14) By doing so, elders imitate the Great Shepherd, Jehovah!—Ps. 23: 1-4.

2. Today, Jehovah is having a loving work done that harmonizes with his ancient promise: “I will search for my sheep and care for them. . . . I will deliver them out of all the places to which they have been scattered . . . In a good pasturage I shall feed them . . . The lost one I shall search for, . . . and the broken one I shall bandage and the ailing one I shall strengthen.”—Ezek. 34:11-16.

3. What, though, if your efforts do not seem to be producing good results? Do not give up quickly. Adjusting an imperfect heart can be a delicate and time-consuming endeavor, but it can lead to great

satisfaction. (Ps. 103:13, 14; 2 Cor. 13:7-9) Be supportive yet balanced in the amount of time you spend on those with chronic problems.

### Symptoms of Spiritual Weakness

4. **Alert, loving shepherds will detect symptoms of spiritual unsteadiness** in others and **then act decisively** to help them before the problems escalate into serious sins. (Gal. 6:1, 2) Symptoms of spiritual fatigue include: lack of self-control in eating, drinking, and pursuit of pleasure; a complacent spirit; loss of enthusiasm for the truth, including daily Bible reading and personal study; harboring serious and lingering doubts; neglecting association at congregation meetings; and becoming overly critical of elders and the organization.—*w86 1/15 pp. 18-19.*

5. **Signs of spiritual weakness are usually symptoms of neglecting one or more aspects of a good spiritual routine.** Once you recognize signs of spiritual weakness, help the weak one see how he can make improvement. Scriptural shepherding calls can often encourage individuals to identify any spiritual weakness and avoid falling into serious sin. Try to motivate him to take advantage of the following Scriptural provisions to strengthen his faith: prayer for help by holy spirit (Luke 11:13; Gal. 5:22, 23; 1 Pet. 4:7); daily Bible reading and personal study in Christian publications (Ps. 1:1, 2); meditation on Scriptural matters (Ps. 77:12); regular attendance at meetings, assemblies, and conventions (Neh. 8:1-3, 8, 10; Heb. 10:23-25); regular participation in field service (Acts 20:18-21); willingness to accept spiritual help from congregation elders as well as from traveling overseers.—Rom. 1:11, 12; Heb. 13:17.

See February 2, 2014, letter to all bodies of elders regarding shepherding.

### Shepherding That Encourages

6. The primary objective of a shepherding call is to impart a spiritual gift, to help make firm, and to

have an interchange of encouragement. (Rom. 1:11, 12) An elder may shepherd at the publisher's home, at the Kingdom Hall, while in field service, over the telephone, or on other occasions. The following basic points will assist in making encouraging visits to the homes of publishers.

- **Make an appointment:** Show consideration by making an appointment. If there is a serious problem you plan to discuss, it would be proper to inform the publisher of this before making the call.
- **Prepare:** Pray for Jehovah's guidance. Consider the individual's circumstances in determining his spiritual condition. Give thought to what kind of direction, encouragement, or counsel will be most beneficial. When there is a serious problem, arrange for another elder to accompany you. On other calls, you may take a qualified ministerial servant.
- **Keep the atmosphere relaxed, loving, and positive:** Express genuine concern for the individual's welfare. Give warm commendation for the good things he has done and is doing. Listen carefully. If you perceive that he might have a problem, tactfully draw the person out. Adapt your comments according to the need.
- **Use the Bible:** God's Word should be the primary source of information because it "exerts power." (Heb. 4:12) Skillful use of it lets Jehovah speak to the heart of the brother or sister.
- **Do not stay too long:** If an agreed-upon time is established, stick to it. If necessary, set up another visit to continue the discussion.
- **Conclude with a prayer:** A prayer is appropriate and truly appreciated.—Phil. 4:6, 7.
- **Follow up to see if further aid is needed and can be given.**

## Giving Effective Counsel

7. Giving counsel is not only a privilege but also a weighty responsibility. **Be alert to give counsel before bad trends progress too far.** (Prov. 27:5, 6) Before proceeding with counsel, give careful thought as to what should be said and how to present the counsel in order to obtain the best results. Your endeavor should be to readjust the person so that he will grow spiritually.—Gal. 6:1.

8. Take sufficient time to listen; get all the facts. (Jas. 1:19; Prov. 18:13) It is essential to get the whole picture if you are to manifest true understanding, insight, and discernment in handling any question or problem.

9. Carefully plan your remarks; weigh your words. Endeavor to express yourself in a loving way. Remember that you are dealing with Jehovah's sheep and they should be treated with tenderness. (Ps. 100:3; w89 9/15 p. 19) Generally, it is beneficial to preface exhortation with specific, sincere commendation.

10. Carefully base what you say on the Bible and on Bible-based publications. (Ps. 119:105) Rather than expressing your personal opinion, let the Bible shape your view of what needs to be said. Endeavor to reach the heart, not just the mind.

11. In sensitive areas, such as dress and grooming and entertainment, it may be wise to seek the observations of another elder before providing counsel. This will ensure that your counsel is solidly based on God's Word and is not simply your personal opinion or preference. (Eccl. 7:16) If the counsel is appropriate, then you should speak to the individual without delay.

## Assisting Those Who Are Inactive

12. The service overseer, along with the secretary, should be alert to assign each inactive publisher in

the territory to a group overseer. The group overseer should then endeavor to provide needed help, either personally or through another qualified elder in the group. Depending on the circumstances, group servants or assistants may accompany an elder when he visits an inactive one.

13. The principal objective of a visit is to help inactive ones appreciate that Jehovah cares for them. The shepherds should endeavor to be warm and upbuilding. They might share a few encouraging Scriptural points from chapter 24 of *Draw Close to Jehovah* or from the article “You Are Precious in God’s Eyes!,” which appeared in the April 1, 1995, *Watchtower*, pages 10-15, or from *The Watchtower* of November 15, 2008, pages 8-16. Other material may be used, according to the needs and circumstances of the person.

14. When an inactive person has been involved in serious wrongdoing and now desires to return to the congregation, the shepherds need to reflect Jehovah’s endearing quality of love. If the person acknowledges that he has sinned against Jehovah and he demonstrates genuine repentance, the shepherds will help him to appreciate that he can receive Jehovah’s forgiveness. Loving discipline may be required.—Heb. 12:7-11; see *The Watchtower* of November 15, 2008, pages 14-15, paragraphs 12-13.

15. A Bible study may be helpful in some cases when an inactive publisher wishes to resume activity with the congregation. The group overseer may discuss this with the service overseer, who will then consult with the other members of the service committee. If the service committee arranges for a Bible study, they should consider who is best suited to conduct the study, weighing the circumstances that are involved. They should also determine what material should be used. With inactive ones who have a good

knowledge of Bible truth but who have been side-tracked from Christian activities, a study of section 4 of *Draw Close to Jehovah* may help them to rekindle their love for Jehovah.—*od* pp. 85-86.

16. If the person has been *inactive for only a short time*, a helping hand from an experienced publisher might be all that is needed to reactivate the individual in the field service. A Bible study may not be necessary.

17. Before a *longtime inactive one* is invited to share again in the ministry, two elders should meet with him to see if he meets the basic requirements to serve as a publisher, as outlined on pages 79-81 of *Organized to Do Jehovah's Will*.—*km* 11/00 "Question Box."

### Assisting Those With Marital Problems

18. The way married people discharge their marital responsibilities affects their relationship with Jehovah. (1 Pet. 3:7) In addition, a marriage can either bring honor to Jehovah and the congregation or cause reproach. Therefore, if fellow Christians experience marital difficulties resulting in one or both parties approaching the elders to seek help, the elders should try to provide loving counsel from the Scriptures and practical suggestions from Christian publications. Usually it is best to have both mates present. If only one is present, discuss only what he or she can do to improve the situation.

19. Elders should **be modest** as they try to provide help. Because they cannot know everything that occurs in a marriage, they should avoid taking sides. (Prov. 18:13) Likely both mates could make improvement and must share the blame for their marital problems. (Rom. 3:23; Jas. 3:2) Jehovah has not given elders the authority to make marital decisions for others. (2 Cor. 1:24; Gal. 6:5; w88 11/1 p. 21) Though

the elders can offer assistance, it is up to the couple to decide how they will handle their marital affairs.

**20. If a Christian is contemplating separation**, the elders can point out what the Scriptures say. (1 Cor. 7:10, 11) They can explain that there are a few exceptional situations that some have viewed as a basis for separation. (*lv* pp. 219-221; *w88* 11/1 pp. 22-25) If the Christian is considering obtaining a divorce, the elders should explain that divorce does not free him to remarry unless adultery occurs. (Matt. 19:9) In addition, the extreme step of divorce may make it more difficult to reconcile. Elders should not encourage separation or divorce; neither should they forbid it. Separation and divorce are personal matters, and each Christian will have to accept the consequences for his decision. (Gal. 6:7) However, the elders may determine that a publisher's decisions in this area disqualify him or her from receiving special privileges normally given to those viewed as exemplary.

### **Encouraging Those Who Were Abused in Their Childhood**

21. Those who as children were abused, sexually or otherwise, many times grow up to be adults with emotional scars. They are in need of much loving attention. Thus, you will want to **be conscious of treating such ones with thoughtfulness, tenderness, and kindness**. Such an attitude helps to assure them that you really care for them and that you are “like a hiding place from the wind and a place of concealment from the rainstorm.” (Isa. 32:2) Like God, we should be “tenderly compassionate.” (Eph. 4:32) When offering encouragement to such ones, select from the body of elders those elders best qualified to give the needed assistance. Remember that elders have varied abilities; some may be more effective than others in handling these cases.—1 Cor. 12:4.

22. It must be recognized that **elders as such are not mental-health professionals or therapists but are spiritual shepherds.** (1 Pet. 5:2) Consequently, you should not conduct sessions for what some may view as group therapy. It is not necessary to spend time reading secular publications dealing with worldly psychology or psychiatry. You should not take on a role similar to that of a professional therapist. Someone who has serious mental or emotional illness may need professional help.—w88 10/15 p. 27.

23. One way you can show sincere interest is by being a good listener. (Prov. 21:13; Jas. 1:19) The October 1, 1983, issue of *The Watchtower*, on page 28, cautions against telling a sufferer who seeks assistance just to forget what occurred. Many have found great relief simply in talking with a sympathetic, nonjudgmental elder who can provide “the good word” of encouragement. (Prov. 12:25) God’s Word has healing power. Jehovah can heal “brokenhearted ones.” (Ps. 30:2; 147:3) Though you may need to ask tactful questions to help an afflicted one express himself, avoid probing unnecessarily or repeatedly into the details of the abuse, which can have a negative effect. After patiently listening, apply the soothing oil of God’s Word. (Jas. 5:13-15) ‘The peace of God excels all thought,’ including disquieting thoughts.—Phil. 4:7; Ps. 94:19; w95 1/1 p. 9 pars. 18-20; g91 10/8 pp. 3-11.

24. **Sometimes a sister who suffered abuse as a child may approach a capable older sister for help.** It is understood that a sister would not get involved in matters that need the attention of the elders. She can, however, give such a sister emotional support and encouragement as her circumstances and time allow. (w90 3/15 p. 28) If the elders are aware that a sister is offering such help, they should

check with her from time to time as to the progress being made.

25. There are times when an emotionally distressed Christian may seek **professional help**. Whether a Christian or his family pursues treatment from psychiatrists, psychologists, or therapists is a personal decision. An elder should not assume the responsibility of recommending a specific practitioner or facility. He may draw attention to or discuss material in the publications that provides cautions regarding therapies that may conflict with Bible principles. (w88 10/15 pp. 28-29; w82 6/15 pp. 25-29; w75 pp. 255-256) While participating in group therapy by a professional therapist is a matter for personal decision, there could be a revealing of confidential facts about other members of the Christian congregation during such sessions if a Christian does not exercise discretion.

26. Elders must recognize that the time they can spend in helping those who are disturbed emotionally is limited. Therefore, they must **balance this shepherding responsibility with all their other responsibilities**, which include caring for the spiritual, emotional, and material needs of their own family and assisting all in the congregation. In some cases an abuse victim may ask for more attention than you can give. Elders need to maintain soundness of mind. (1 Pet. 4:7) Some elders have found it beneficial to place limits on the time they spend in shepherding. It may take several visits to get the desired relief for the victim, if this is possible. If the individual approaches you looking for help at times when you cannot discuss the problem extensively, perhaps giving some brief words of encouragement, assuring that one of Jehovah's love, reading an appropriate scripture, or offering a short prayer will affirm to the sufferer your interest and willingness to help to the extent possible. Also, discussing Biblical examples

of some who had to endure a terrible childhood and yet succeeded in becoming faithful servants of Jehovah can help sufferers see that they need not be permanent victims of a bad family life.—w01 4/15 pp. 25-28.

### Cautions Regarding Assisting Sisters

27. Elders and ministerial servants must **never meet alone** with a sister not closely related to them and should avoid becoming the sole confidant of an individual of the opposite sex who is experiencing marital problems. This includes lengthy phone conversations. Of course, this does not mean that it would be inappropriate for an elder to talk with a sister while in the full view of others at her home, at congregation meetings, or in the field service.—w06 9/15 p. 26 par. 7.

28. It is important never to meet alone with a sister who is **a victim of abuse, suffers from depression, or for any other reason is in a delicate emotional state**. A woman in such an emotional state may be more vulnerable and may be prone to develop improper feelings toward an elder meeting with her. So that this does not occur, it is the course of wisdom to have different pairs of elders involved in shepherding such a sister. This would serve as a protection for the elders, as well as for the sister, because it is possible for an elder to develop improper feelings for a sister he is comforting or counseling.—Jer. 17:9.



## Chapter Five

# Determining Whether a Judicial Committee Should Be Formed

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Act promptly upon receiving a report of serious wrongdoing

Is the alleged offense serious?

Has the wrongdoing been established?

Are there other factors to be considered?

1. Elders should **act promptly** when they receive a report of serious wrongdoing so as to safeguard the congregation and provide assistance to the wrongdoer. (Jude 4) Neglecting to care for such matters can hinder the flow of Jehovah's holy spirit to the congregation. Elders must first assess whether the alleged wrongdoing, if established, is serious enough to require a judicial committee.

### Offenses Requiring Judicial Decisions

2. Listed below are offenses that may require review by a judicial committee. Of course, this list is not comprehensive. There may be other matters that would also merit the attention of a judicial committee. The elders must use good judgment and reasonableness when evaluating the seriousness of the alleged wrongdoing. They should consider the extent and nature of the misconduct, intent and motive, frequency or practice, and so forth. If there is a question about whether certain wrongdoing merits judicial action, the body of elders may write to the branch

office requesting further direction concerning the case.

3. **Manslaughter:** Aside from deliberate murder, bloodguilt may be incurred if a person causes loss of life through carelessness or because of violating a traffic law or other safety law of Caesar. The elders should investigate and if warranted appoint a judicial committee to hear the matter. The committee should base its decision on clearly established facts, not simply on a decision that may have been made by secular authorities.—Deut. 22:8; w06 9/15 p. 30.

4. **Attempted suicide** may be the result of deep despair or major depression. Deal carefully and compassionately with such a person. In most cases a judicial hearing is not required.—Ps. 88:3, 17, 18; Prov. 15:13; Eccl. 7:7; w90 3/1 pp. 5-9; 3/15 pp. 26-30; g90 9/8 pp. 22-23; w83 8/1 pp. 3-11.

5. **Por-nei'a:** (Lev. 20:10, 13, 15, 16; Rom. 1:24, 26, 27, 32; 1 Cor. 6:9, 10) *Por-nei'a* involves **immoral use of** the genitals, whether in a natural or in a perverted way, with **lewd intent**. There must have been another party to the immorality—a human of either sex or a beast. Willing participation incurs guilt and requires judicial action. It is not a casual touching of the sex organs but involves the **manipulation** of the genitals. It includes oral sex, anal sex, and manipulation of the genitals *between individuals not married to each other*. (lv p. 99; w06 7/15 pp. 29-30; w04 2/15 p. 13; w00 11/1 p. 8 par. 6; w83 6/1 pp. 23-26) *Por-nei'a* does not require skin-to-skin contact, copulation (as in penetration), or sexual climax.

6. Self-abuse, or masturbation of oneself, is not *por-nei'a*.

7. One who was **raped** would not be guilty of *por-nei'a*. Discernment is needed in considering claims of rape, taking into consideration such factors as the mental disposition of the person, the circumstances that led up to the incident, and any delay in

See March 6, 2012, letter to all bodies of elders for further comments on the definition of *porneia*.

reporting.—w03 2/1 pp. 30-31; *it-1* pp. 862-864; w83 3/15 p. 30 ftn.

8. In all cases involving the possibility of *por·nei'a*, it is the responsibility of the judicial committee to use the Scriptures to weigh carefully the facts in each case. This responsibility is especially serious when it involves the Scriptural freedom to remarry. (Mal. 2: 16a) In situations in which the elders are uncertain or divided on their conclusions, it is best to write the branch office.

9. **Brazen conduct, loose conduct:** (Gal. 5:19) The Greek word translated “brazen conduct,” or “loose conduct,” is *a·sel'gei·a*. *Strong's Greek Dictionary* uses very forceful terms to define it: “licentiousness; filth[iness], lasciviousness, wantonness.” *The New Thayer's Greek English Lexicon* adds to the list “unbridled lust, . . . outrageousness, shamelessness, insolence.” Another lexicon defines *a·sel'gei·a* as conduct that “violates all bounds of what is socially acceptable.” Rather than relating to bad conduct of a somewhat petty or minor nature, “brazen conduct” describes acts that reflect an attitude that betrays disrespect, disregard, or even contempt for divine standards, laws, and authority. Therefore, two elements are involved in brazen conduct: (1) The conduct itself is a serious violation of Jehovah's laws, and (2) the attitude of the wrongdoer toward God's laws is disrespectful, insolent.—w06 7/15 p. 30; w83 3/15 p. 31; w73 pp. 574-576.

10. Though this is not an exhaustive list, brazen conduct may be involved in the following if the wrongdoer has an **insolent, contemptuous attitude** made evident by a practice of these things:

- Willful, continued, unnecessary **association with disfellowshipped nonrelatives** despite repeated counsel.—Matt. 18:17b; 1 Cor. 5:11, 13; 2 John 10, 11; w81 9/15 pp. 25-26.

- **Child sexual abuse:** This would include fondling of breasts, an explicitly immoral proposal, showing pornography to a child, voyeurism, indecent exposure, and so forth.
- **Continuing to date or pursue a romantic relationship with a person though not legally or Scripturally free** to marry, despite repeated counsel and generally after a warning talk to the congregation.—Gal. 5:19; 2 Thess. 3:6, 14, 15.

See October 1, 2012, letter to all bodies of elders regarding child abuse.

**11. Evidence (testified to by at least two witnesses) that the accused stayed all night in the same house with a person of the opposite sex (or in the same house with a known homosexual) under improper circumstances.**—If questions are raised regarding Scriptural freedom to remarry, see 12:12.

- **Elders should use good judgment in assessing the situation before forming a judicial committee.** Were the two persons *alone* together *all night*? Is there evidence of a *romantic relationship*? Are there understandable reasons, such as an unexpected emergency, that caused the situation?
- If there are no extenuating circumstances, a judicial committee would be formed on the basis of strong circumstantial evidence of *por·nei'a*.
- Depending upon the attitude of the accused, there might even be evidence of brazen conduct.

**Consider the following examples:**

- A married brother spends an inordinate amount of time with his female secretary after work hours but insists there is no romantic interest. His concerned wife informs the elders, who give him strong counsel. Later, when he claims to be leaving overnight for a “business trip,” his

suspicious wife and a relative follow him to the secretary's home. They observe the secretary invite him inside at 10 p.m. and continue watching *all night* until he leaves the home at 7 a.m. When the elders speak to him, he admits that he spent the night alone with his secretary, but he denies that he committed adultery. In such a case, the elders have a basis to take judicial action because there is strong circumstantial evidence of *por-nei'a* and there may be elements of brazen conduct. The innocent mate's conscience may allow her to choose to divorce him and remarry; the elders would not take action against her for making this decision.

**Below are examples in which judicial action would likely not be warranted:**

- An elderly Christian living alone has a member of the opposite sex move into the home to help care for him. There is no evidence of a romantic attachment or reason to suspect sexual immorality.
- After attending a social gathering at a single sister's home, a brother walks to a train station to catch the train home. After waiting for some time, the brother learns that the last train for the day has already left the station. He walks back to the sister's home, but by the time he arrives, everyone has left and it is quite late. The sister allows him to sleep in the living room while she sleeps in her bedroom.
- A single brother visits a married couple for several days. One night after everyone goes to bed, the husband is called to an emergency at his place of work and does not return until morning. The wife and the single brother are alone in the home all night sleeping in separate bedrooms.

12. The elders cannot apply one rule to every case; each situation has unique circumstances. After two elders have thoroughly investigated, the body of elders should use good judgment in determining whether serious wrongdoing has occurred. If elders are unsure how to proceed, they should consult with the branch office.

13. **Gross uncleanness, uncleanness with greediness:** (2 Cor. 12:21; Gal. 5:19; Eph. 4:19) Galatians 5:19-21 lists many vices that are not classed as *por·nei'a* but that could lead to one's being disqualified from God's Kingdom. Among them are uncleanness (Greek, *a·ka·thar·si'a*). When one practices uncleanness to a **gross**, or serious, degree, it can be grounds for disfellowshipping from the Christian congregation. Elders should use good judgment in discerning whether the conduct is minor uncleanness that can be handled by counsel or is gross uncleanness that requires the formation of a judicial committee.—w06 7/15 pp. 29-31; w83 3/15 p. 31.

14. Though this is not an exhaustive list, gross uncleanness **may be** involved in the following:

- **Passion-arousing heavy petting or caressing of breasts on numerous occasions** between individuals not married to each other. If such conduct occurred on a few isolated occasions, especially between two persons involved in a courtship with the intent to marry, counsel from two elders may suffice to handle such minor uncleanness. The elders should inform the coordinator of the situation. However, if the conduct occurred *on numerous occasions* and the actions escalated in gravity and frequency, it may constitute gross uncleanness with greediness, requiring judicial action. *Their wrongdoing may constitute brazen conduct if they give evidence of a disrespectful, insolent attitude toward God's laws.* For example, the individuals may

have no honorable intentions of pursuing marriage.

- **A practice of engaging in immoral conversations by telephone, in Internet chat rooms, or through similar electronic means** can involve obscene speech or gross uncleanness, either of which can be a basis for judicial action. (*g00* 1/22 pp. 20-21; *km* 11/99 p. 4) If such conduct occurred on a few isolated occasions, judicial action may not be necessary. Counsel from two elders is sufficient to handle such minor uncleanness. The elders should inform the coordinator of the situation. However, such conduct may escalate in gravity and by frequent repetition become gross uncleanness with greediness requiring judicial action, especially if the individual had been previously counseled.
- **An entrenched practice of viewing, perhaps over a considerable period of time, abhorrent forms of pornography that is sexually degrading.** Such pornography may include homosexuality (sex between those of the same gender), group sex, bestiality, sadistic torture, bondage, gang rape, the brutalizing of women, or child pornography. Brazen conduct would be involved if the offender was promoting such material, such as by inviting others to view it, thus giving evidence of a brazen attitude.—*w12* 3/15 pp. 30-31; *w06* 7/15 p. 31.
- **Misuse of tobacco:** Elders should use good judgment in weighing the circumstances and extent of the wrongdoing so as to determine whether a judicial committee should be formed. For example, an elder or two may handle matters by means of counsel if a Christian smoked a few cigarettes in private. The coordinator of the body of elders should be informed. However, a judicial committee is required for a practice of

This bullet point reflects updates provided in the April 10, 2012, letter to all bodies of elders regarding pornography. See that letter for additional information.

using tobacco. (Mark 15:23; 2 Cor. 7:1; w06 7/15 pp. 30-31) When questions arise, consult with the branch office.

- **Extreme physical uncleanness:** (Deut. 23:12-14; 2 Cor. 7:1) Every effort should be made to help the offender see the need to keep his body and place of residence physically clean. Before disfellowshipping would be considered, elders would need to be certain that the uncleanness is pronounced and offensive, bringing much reproach upon Jehovah's good name and his people in the community. Appropriate counsel should be given. If this is not heeded, then marking may be necessary. (2 Thess. 3:14) If there is blatant, willful disregard of the counsel given and extremely offensive unclean conditions continue, disfellowshipping action may be necessary.

15. **Misuse of addictive drugs:** (2 Cor. 7:1; Rev. 21:8, *Kingdom Interlinear*; 22:15, *Int*) Please note: the use of addictive drugs *under medical supervision*, such as for pain management, would not necessarily require judicial review. When questions arise, consult with the branch office.

16. **Apostasy:** Apostasy is a standing away from true worship, a falling away, defection, rebellion, abandonment. It includes the following:

- **Celebrating false religious holidays:** (Ex. 32:4-6; Jer. 7:16-19) Not all holidays directly involve false religion and require judicial action.
- **Participation in interfaith activities:** (2 Cor. 6:14, 15, 17, 18) Apostate acts include bowing before altars and images and sharing in false religious songs and prayers.—Rev. 18:2, 4.
- **Deliberately spreading teachings contrary to Bible truth as taught by Jehovah's Witnesses:** (Acts 21:21, ftn.; 2 John 7, 9, 10) Any with sincere doubts should be helped. Firm,

loving counsel should be given. (2 Tim. 2:16-19, 23-26; Jude 22, 23) If one obstinately *is speaking about or deliberately spreading false teachings*, this may be or may lead to apostasy. If there is no response after a first and a second admonition, a judicial committee should be formed.—Titus 3:10, 11; w89 10/1 p. 19; w86 4/1 pp. 30-31; w86 3/15 p. 15.

- **Causing divisions and promoting sects:** This would be deliberate action disrupting the unity of the congregation or undermining the confidence of the brothers in Jehovah's arrangement. It may involve or lead to apostasy.—Rom. 16:17, 18; Titus 3:10, 11; *it-2* p. 886.
- **Continuing in employment that makes one an accomplice to or a promoter of false worship** would subject one to disfellowshipping after being allowed a reasonable amount of time, perhaps up to six months, to make the needed adjustments.—w99 4/15 pp. 28-30; *km* 9/76 pp. 3-6.
- The practice of **spiritism**.—Deut. 18:9-13; 1 Cor. 10:21, 22; Gal. 5:20.
- **Idolatry:** (1 Cor. 6:9, 10; 10:14) Idolatry includes the use of images, including pictures, in false religious worship.

17. **Drunkenness:** (1 Cor. 5:11; 6:9, 10; *it-1* p. 656) A judicial committee is required when there is a practice of drunkenness or a single incident of drunkenness that brings notoriety. (w83 5/1 p. 8) A Scriptural description of drunkenness can be found in the following references: Job 12:25; Psalm 107:27; Proverbs 20:1; 23:29-35; Isaiah 24:20.

18. If an individual confesses to an elder that on one occasion he overindulged in alcohol to the point of drunkenness in the privacy of his own home *and there was no notoriety*, it may suffice for the elder to

give strong counsel. In any case, the elder should inform the coordinator of the matter.

19. **Gluttony:** (Prov. 23:20, 21; *w04* 11/1 pp. 30-31) A glutton **routinely shows a lack of restraint**, even gorging himself on food to the point of feeling very uncomfortable or becoming sick. **Gluttony is determined, not by someone's size, but by his attitude toward food.**

20. **Stealing, thievery:** (1 Cor. 6:9, 10; Eph. 4:28; *w86* 11/15 p. 14) Though all stealing is wrong, the body of elders should use discernment in weighing the circumstances and the extent of the involvement in wrongdoing to determine whether it is a judicial matter.

21. **Deliberate, malicious lying; bearing false witness:** (Prov. 6:16, 19; Col. 3:9; Rev. 22:15; *it-2* pp. 244-245) Though all lying is bad, judicial action is taken only if there has been a practice of deliberate, malicious lying. "Malicious" means deliberately harmful, harboring ill will or enmity. Lying that justifies judicial action involves more than just exaggerations or petty, misleading statements of relatively minor consequence or lying because of momentary pressure or fear of man.—Matt. 26:69-75.

22. Generally, elders should not consider administering discipline if a Christian charges another Christian with making false statements in a court dispute. For example, this may involve divorce, child custody and support, and so forth. The Christian making the charge can express his concerns to the court that has the responsibility to determine what is truthful when rendering a judgment.

23. **Fraud, slander:** (Lev. 19:16; Matt. 18:15-17; *it-1* pp. 870, 989-991; *od* pp. 147-150; *w97* 3/15 pp. 17-22) Fraud is defined as "the intentional use of deception, trickery, or perversion of truth for the purpose of inducing another to part with some valuable thing

belonging to him or to give up a legal right.” (w97 3/15 p. 21) Slander is defined as a false report meant to do harm to the good name and reputation of another. Such talk is generally malicious. Slander is not identical to negative gossip. Negative gossip may be true; slander is always false. Negative gossip requires counsel but not judicial action. (w89 10/15 p. 10; *it-1* p. 990 par. 2) The congregation would not consider forming a judicial committee unless the offended Christian had taken steps one and two of Matthew 18:15, 16 and had initiated step three of Matthew 18:17.—*od* pp. 147-149.

24. If asked, elders could participate in step two, but they do not represent the body of elders. If the matter proceeds to step three, any elders who were witnesses in step two could serve only as witnesses in step three. They would not be used to serve on the judicial committee in step three.

25. It is not the place of elders to become arbitrators of financial agreements. They are not debt collectors. Nor should they be involved in formulating contracts or written agreements, not even signing as witnesses to such. The same holds true should the matter reach step three.

26. The body of elders may first need to **investigate** before appointing a judicial committee. If so, the brothers involved in step two would not be used to investigate; they would be interviewed as witnesses.

27. It is not considered slander to make an accusation to the police, the court, the elders, or others who have authority to look into matters and render a judgment. (*it-1* p. 990) This is true even if the accusation is not proved.—w97 8/15 p. 28 par. 1.

28. **Reviling:** (1 Cor. 6:10; *it-2* pp. 801-802) Reviling involves “subjecting a person to insulting speech, heaping abuse upon him.” (*it-2* p. 801) The body of

elders should weigh the circumstances and extent of wrongdoing so as to determine whether a judicial committee should be formed. Elders should not be quick to take judicial action unless the reviling is extreme, disrupts the peace of the congregation, and persists despite repeated counsel.

29. **Obscene speech:** (Eph. 5:3-5; Col. 3:8) Obviously, certain words are more offensive than others. Profanity is any kind of language that profanes. However, obscene speech involves sexually explicit, filthy expressions. (*g03* 6/8 p. 19-20; *w83* 2/1 p. 4) Is the speech sexually explicit? Does it persist despite repeated counsel? This would include obscenities used both in written and in oral communication, such as Internet chat rooms, phone sex, or e-mail.

30. **Greed—gambling, extortion:** (1 Cor. 5:10, 11; 6:10; 1 Tim. 3:8; *it-1* pp. 789, 1005-1006; *w89* 1/15 p. 22) Christians should avoid gambling in all its various forms, including lotteries. (Isa. 65:11; *g02* 7/22 pp. 4-8; *w89* 7/15 p. 30; *g82* 7/8 pp. 25-27; *g81* 11/22 p. 27) If a person makes a practice of gambling and after repeated counsel unrepentantly pursues a course of greediness, judicial action would be appropriate.—*w80* 9/1 pp. 29-30; *w67* p. 356.

31. An individual continuing in employment directly involved with gambling or employment making him a clear accomplice or promoter of gambling would be subject to judicial action, usually after being allowed time, perhaps up to six months, to make the needed adjustments. (*w95* 5/15 p. 23 par. 11; *km* 9/76 pp. 3-6) In questionable cases it is best to consult with the branch office.

32. If a business gives out prizes or prize money to winners of a contest or to potential customers for advertising, accepting the gift is an individual's decision to make. However, a person needs to be careful that accepting such a prize does not stir up greed.

(Rom. 14:21; 1 Cor. 10:31-33; g75 7/8 p. 28; w73 p. 127) The elders do well not to involve themselves in what individuals do with regard to petty gambling solely for entertainment. They may need to give counsel if this becomes a cause of stumbling for others or affects the spirituality of the individual or the congregation.—w02 11/1 p. 31.

33. A Christian who **greedily and unrepentantly extorts a high bride-price** may be disfellowshipped from the congregation.—1 Cor. 5:11, 13; 6:9, 10; Heb. 13:5; w98 9/15 pp. 24-25.

34. **Adamant refusal to provide materially for one's own family, leaving wife and children destitute when having the means to provide:** (1 Tim. 5:8; w88 11/1 pp. 22-23; km 9/73 p. 8) Some of the factors the body of elders should consider before forming a judicial committee are:

- Does the Christian *adamantly* refuse to provide for his family, or is the failure to provide because of other factors, such as health or financial difficulties? Is he doing what he *reasonably* can do to provide necessities for the family?
- Has counsel been previously given, and has there been an opportunity for the person to respond?
- Does his wife have material resources affording a secure life so that the family is not destitute?
- If the family is destitute, is it because they have rejected the family head's provisions by choosing to live apart from him?
- When a separation is involved, to what extent is the other mate responsible?

35. **Fits of anger, violence:** (Prov. 22:24, 25; Mal. 2:16; Gal. 5:20; g01 11/8 p. 12; g97 6/8 p. 20; fy p. 150; g93 2/8 p. 14) Judicial action would be warranted if an individual repeatedly and unrepentantly gave in

to violent fits of anger despite counsel. In questionable cases it is best to contact the branch office.

36. If a Christian took up **professional boxing** and refused to stop despite repeated counsel, judicial action would be appropriate.—w81 7/1 pp. 30-31.

### Evidence Establishing Wrongdoing

37. Even though a Christian has been accused of wrongdoing serious enough to require judicial action, **a judicial committee should not be formed unless the wrongdoing has been established.** What kind of evidence is acceptable?

- **Confession** (admission of wrongdoing), either written or oral, may be accepted as conclusive proof without other corroborating evidence. (Josh. 7:19) There must be two witnesses to a confession, and the confession must be **clear and unambiguous**. For example, a statement from a married Christian that his mate is “Scripturally free” would not by itself be viewed as a clear confession of adultery.

A guilty plea entered in court by a Christian as part of a plea bargain, perhaps on the advice of an attorney so as to avoid the possibility of a harsher sentence, would generally not in itself be viewed as an admission of guilt in the congregation.

- There must be **two or three eyewitnesses**, not just people repeating hearsay; no action can be taken if there is only one witness.—Deut. 19:15; John 8:17.
- If there are two or three **witnesses to the same kind of wrongdoing but each one is witness to a separate incident**, the elders can consider their testimony. While such evidence is acceptable to establish guilt, it is preferable to

have two witnesses to the same occurrence of wrongdoing.

- The **testimony of youths** may be considered; it is up to the elders to determine whether the testimony has the ring of truth.
- The **testimony of unbelievers and disfellowshipped or disassociated ones** may also be considered, but it must be weighed carefully.

**38. If wrongdoing has not been established but serious questions have been raised**, the body of elders should **appoint two elders to investigate the matter promptly**. For example, there may be just one witness. If so, it would be loving for the witness first to confront the accused and encourage him to take the initiative to approach the elders. The elders can then allow the accused a few days to approach them. (For the witness by himself to confront the accused may not be advisable in all cases—for example, if the witness and the accused were involved in sexual immorality together or if the witness was a victim of incest or rape by the accused or is a child and the victim of sexual abuse. Or it may be that the witness is extremely timid.) Whether the witness approaches the accused or not, the two elders appointed should speak with the accused regarding the accusation.—*w97 8/15 p. 27*.

**39. If the accused denies the accusation**, the investigating elders should try to arrange a meeting with him and the accuser together. (Note: If the accusation involves child sexual abuse and the victim is currently a minor, the elders should contact the branch office before arranging a meeting with the child and the alleged abuser.) If the accuser or the accused is unwilling to meet with the elders or if the accused continues to deny the accusation of a single witness and the wrongdoing is not established, the elders will leave matters in Jehovah's hands. (Deut.

19:15-17; 1 Tim. 5:19, 24, 25; w95 11/1 pp. 28-29) The investigating elders should compose a record, sign it, put it in a sealed envelope, and place it in the congregation's confidential file. Additional evidence may later come to light to establish matters.

See September 7, 2011, letter to all bodies of elders for further direction on filing confidential material.

### **Those Who Have Not Associated for Many Years**

40. In deciding whether to form a judicial committee or not, the body of elders should consider the following:

- Does he still profess to be a Witness?
- Is he generally recognized as a Witness in the congregation or the community?
- Does his conduct continue to affect any other person, such as in some cases of adultery or child abuse?
- Does the person have a measure of contact or association with the congregation so that a leavening, or corrupting, influence exists?
- Is the person willing to meet with a committee, thus admitting accountability to the Christian congregation?

41. Depending upon length of inactivity and other factors suggested above, elders may determine to hold the matter in abeyance. In such a case, they would make a record of the person's questionable conduct for the congregation file. When the individual again shows interest in returning to the congregation, they can clarify these matters.

42. If the sinful conduct is known only to believing family members and no congregation action has been taken, believing relatives will likely determine to curtail family association severely, viewing the relative as bad association.—1 Cor. 15:33; w85 7/15 p. 19 par. 14.

## Wrongdoing That Occurred Years in the Past

43. Depending upon the circumstances, the situation may need to be handled by a judicial committee. But if the immorality or other serious wrongdoing occurred more than a few years ago and the individual is genuinely repentant and recognizes that he should have come forward immediately when he sinned, good counsel by elders may be sufficient.

44. The body of elders may appoint two elders to gather the facts. Thereafter, the body would determine whether a judicial committee is needed or not, taking into consideration answers to the following questions:

- Was the wrongdoing in the distant past?
- How widely known is the matter?
- Does the erring one show evidence of spiritual progress as opposed to evidence that progress is being hindered?
- Will counsel be sufficient to restore him, or will more be required for him to have a clean conscience?
- Are there works befitting repentance?
- Did he voluntarily confess, or did the matter come to light by other means?
- How will respect for the body of elders be affected in the congregation?
- If *por-nei'a* was involved, has a confession been made to the innocent mate?
- To what degree have lives been affected or damaged by the wrongdoing? For example, does the matter involve child abuse or adultery?

45. If the individual is serving as a ministerial servant, elder, or pioneer, his qualifications should be examined. If the body of elders determines that he no longer qualifies, a report should be submitted to the branch office.—See 3:19-21.

## Was the Wrongdoer's Baptism Valid?

46. When dealing with wrongdoers, **the elders should not raise questions about the validity of the individual's baptism.** If the individual raises the issue, the elders may refer him to the February 15, 2010, *Watchtower*, page 22. Further information on rebaptism can be found in the February 15, 1964, *Watchtower*, pages 123-126, and the March 1, 1960, *Watchtower*, pages 159-160. Rebaptism is a personal matter.

47. At times a wrongdoer will claim that his baptism is not valid and that he feels he is not accountable to a judicial committee because he secretly engaged in wrongdoing shortly before he was baptized. If the elders had been aware of his serious wrongdoing committed just before baptism, likely they would not have approved him for baptism. However, this does not necessarily mean that he did not make a valid dedication. Some individuals make a dedication long before the baptism; others have made a dedication shortly before. The elders are not in a position to read the heart and know for a certainty how Jehovah viewed the person at the time he was baptized. If the elders learn that a baptized individual secretly engaged in serious wrongdoing while he was an unbaptized publisher but the wrongdoing ceased before baptism, they should give counsel and encouragement. **A judicial committee should not be formed for prebaptism wrongdoing.** (1 Cor. 6:9-11) However, if the individual resumed serious wrongdoing after baptism, the elders would generally deal with him on the basis of what he has professed to be, a dedicated and baptized Christian, and would meet with him judicially. Thereafter, if he feels he should be rebaptized, this would be a personal decision. However, a person should not get rebaptized simply because he gains improved understanding or appreciation of the truth or some Scriptural doctrine. —Prov. 4:18.

48. There are rare occasions when it is obvious that the baptism was invalid because serious wrongdoing did not cease before baptism, even for a brief period of time. For example, it may be that at the time of baptism, the individual was *living* immorally with a member of the opposite or the same sex, was *a member* of a non-neutral organization, or something similar. If there are questions, the branch office should be consulted.

### **Which Congregation Should Handle the Matter?**

49. Bodies of elders should cooperate if there is a question regarding which congregation should handle a case of wrongdoing. Which congregation has the facts? Which congregation can handle the case most effectively? Jurisdiction should not become an issue.

50. If a wrongdoer moves before a case has been concluded, it is usually best for the elders of the original congregation to follow through if possible and if distance permits. They are acquainted with the person and his circumstances. If he has moved a great distance away, the brothers of the original congregation should not insist on handling matters if the wrongdoer says he is unable to return to the congregation for the hearing. In such a case, it may be advisable to refer matters to the elders of the congregation where he now lives. There should be good communication between the two bodies.

51. If the elders learn that a publisher who is visiting the area for a short period of time is guilty of wrongdoing, they should promptly report the matter to the elders of his congregation.

### **If Wrongdoing Involves Publishers From Different Congregations**

52. If a member of a congregation confesses to wrongdoing that involves a person in another con-

gregation, the elders should promptly pass along what they know to the elders of the other congregation and allow them time to investigate. Does the other individual admit the wrong? Do their accounts match, or are there significant differences? The judicial committees should communicate freely and cooperate in obtaining the facts. There are **many advantages to interviewing individuals jointly** to ascertain what actually occurred and to clarify discrepancies. (Prov. 18:13, 17) If a joint hearing is held, thereafter the judicial committee of each congregation will withdraw and handle the case of the person from its own congregation. **The judicial committee in one congregation should generally not conclude its case before the elders of the other congregation have fully investigated the situation.**

### **Unbaptized Publishers Who Engage in Serious Wrongdoing**

53. The elders should promptly handle a case of serious wrongdoing by an unbaptized publisher. While a judicial committee would not be formed, the elders should select two elders to meet with him, perhaps the ones who approved him as an unbaptized publisher. They should try to readjust him and to determine whether he continues to qualify.—*od* pp. 157-158; *w88* 11/15 pp. 17-20.

54. The assigned elders may determine to place certain restrictions on the individual for a time, including not commenting at meetings, giving talks on the Theocratic Ministry School, or sharing in the public ministry.

55. If the wrongdoing is widely known or might become widely known later and the wrongdoer is repentant, the two elders should inform the service committee, who will arrange for the following

announcement to be made during the Service Meeting: **“A matter involving [name of person] has been handled, and he [she] continues to serve as an unbaptized publisher with the congregation.”**

56. There may be reasons for the body of elders to determine that a Scriptural talk about the sort of wrongdoing involved should be given to the congregation a few weeks after the announcement.

57. If the unbaptized publisher does not respond to the elders’ assistance, thus displaying an unrepentant attitude, the two elders should inform him that he no longer qualifies as an unbaptized publisher. Or if he informs the elders that he no longer desires to be a publisher, they will accept his decision. In either case, the elders will have the following announcement made during the Service Meeting: **“[Name of person] is no longer recognized as an unbaptized publisher.”** Because of his unrepentant wrongdoing, it would be best for a time not to call on him if he raises his hand to comment at meetings.

58. If the elders see that such a person is a threat to the flock, they can privately warn those endangered. For example, despite the announcement, the wrongdoer might attempt to socialize with youths in the congregation. In that situation, the elders would speak privately to the parents of the endangered ones and maybe to those youths also.

59. There is **no specific arrangement for an appeal** or a seven-day waiting period before announcing the decision that one is no longer recognized as an unbaptized publisher. If he expresses dissatisfaction with the conclusion, the body of elders should choose two different elders to review the case.

60. If someone who was previously removed as an unbaptized publisher begins to make progress and wishes once again to share in the ministry, two elders

(perhaps those who met with him earlier) should meet with him to determine his qualifications. If he qualifies, an announcement should be made that he is an unbaptized publisher. There is no need to wait until he reports field service again to make the announcement.

61. **If the unbaptized publisher is a minor by law**, the two elders should first speak with the Christian parents to discern what occurred, the child's attitude, and the corrective steps that the parents are taking. If the parents have the situation in hand, the two elders may choose not to meet with the minor but will check with the parents from time to time to offer helpful counsel, specific suggestions, and loving encouragement.

62. When an unbaptized publisher is involved in wrongdoing, the two elders assigned to meet with him should prepare a written record of the case. The secretary files this record in the same manner as he files judicial cases.

See September 7, 2011, letter to all bodies of elders for further direction on filing confidential material.



## Chapter Six

# Preparing for the Judicial Hearing

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Select the elders for the judicial committee carefully

Elders are accountable to Jehovah for the judgment they render

Make proper arrangements for the hearing

### Selecting the Judicial Committee and Chairman

1. If a judicial committee is needed, the elders who are present at the Kingdom Hall should determine which elders will serve on the committee and which one will be chairman. (See 2:12) The elders chosen should be men of discernment and good judgment. Extensive details of the case do not need to be conveyed to the entire body, but enough information should be presented for the elders to determine whether a disfellowshipping offense has actually been committed and, if so, who is best qualified to handle the particular type of case that has arisen. (*km* 9/77 pp. 5-6) It is usually best for newer elders to serve first with more experienced ones. They would never serve as observers on a judicial case. However, complex cases may warrant having four or even five experienced elders on the committee.

2. If the elders know that the accused has strong feelings against a particular elder, it would be better not to use him. An elder who is a close relative or has been in business with the accused or has had a special friendship with him would not normally serve on the committee. (*km* 9/77 p. 6) If there are not enough elders locally to make up the committee, the

body of elders may request the assistance of an elder in a neighboring congregation by contacting the body of elders where he serves. In such situations, you may also contact the circuit overseer for recommendations.

### **Preparing Your Mind and Heart to Judge**

3. Serving on a judicial committee is a heavy responsibility. You are judging for Jehovah and are accountable to him for the judgment you render. (2 Chron. 19:6, 7) Your decision will likely have long-lasting and far-reaching consequences for the individual involved, his Christian family members, and others in the congregation. ***Each time you serve on a judicial committee, you should first review Chapters 5-7 of this publication.***

4. Allowing an unrepentant wrongdoer to remain in the congregation could result in a leavening influence. (Gal. 5:9) Failure to remove the individual may also minimize the wrong in the mind of the wrongdoer and in the minds of others who may know of his sin. (Eccl. 8:11) On the other hand, an individual unjustly dealt with may have difficulty recovering his spirituality.—Matt. 18:6.

5. You can render a good judgment with Jehovah's help. (Matt. 18:18-20) Pray for wisdom, discernment, and God's holy spirit. (1 Ki. 3:9; Phil. 1:9, 10; Jas. 1:5) Do careful, thorough research using Bible-based publications, not relying solely on past experience in handling judicial matters. (Prov. 15:28) Endeavor to obtain a clear picture regarding what occurred and what the individual's true attitude is.—Prov. 18:13, 17.

### **Inviting the Accused to the Judicial Hearing**

6. It is best for two elders to invite him orally. Their invitation should include the following information:

- Make clear that the meeting is a judicial hearing.
- Explain what his course of action is *alleged* to have been.
- State the time and place of the hearing and how the person can contact the chairman if the person is unable to meet at the scheduled time and location.

7. If circumstances permit, **hold the hearing at the Kingdom Hall.** This theocratic setting will put all in a more respectful frame of mind; it will also help to ensure greater confidentiality for the proceedings.

8. The assigned elders should make every effort to arrange for a judicial hearing right away. Leaving the matter unresolved can harm the congregation and the accused. **If the accused does not make himself available to receive an oral invitation** despite *repeated efforts* by the judicial committee, then the judicial committee should send a written invitation. (Do not leave confidential information on an answering machine or voice mail or send by way of e-mail.) A written invitation signed by the judicial committee should include the same information as outlined above for an oral invitation. If possible, send the invitation in such a way that the elders can verify that the addressee received it. If they are unsuccessful in their diligent efforts to invite him and they cannot confirm that he received the invitation, they should hold the matter in abeyance.

9. **If he accepts the judicial committee's invitation, yet fails to appear,** the judicial committee should reschedule the hearing and endeavor to invite the accused again. If he does not attend after it is confirmed that he received the second invitation and if it is evident that he is unwilling to cooperate with the judicial committee, the committee will proceed with

the hearing but will not make a decision until evidence and testimony by witnesses are considered.

10. **If the accused makes known to the elders his adamant refusal to meet with a judicial committee**, the judicial committee may proceed in his absence without extending further invitations. —See 7:29.

### Meeting With Marriage Mates

11. **If the accused is a married sister**, it is best to have her believing husband present for the hearing. He is her head, and his efforts to restore her and direct her can be very helpful. (1 Cor. 11:3) If unusual circumstances are involved or the elders feel it would be best not to invite the husband because of their concerns for the safety of the wife, the elders should call the branch office.

12. **If the accused is a married brother**, his wife would normally not attend the hearing. However, if the husband wants his wife to be present, she may attend a portion of the hearing. The judicial committee should maintain confidentiality.

13. **If the husband committed adultery**, he has an obligation to inform his wife of the facts. The judicial committee should promptly inquire of the Christian wife as to what her husband has told her. If he refuses to inform her of his adultery, the elders should inform her that because of her husband's conduct, it is up to her to decide whether to pursue a Scriptural divorce or not. Furthermore, they should inform the innocent mate that her resuming sexual relations with the guilty mate would negate any claim to Scriptural freedom. But they should not give her further details. On the other hand, the elders may find that while the husband did confess adultery to his wife, he did not tell her the full extent of his wrong conduct and left out important information that the wife should know. The elders should not pro-

vide this confidential information to the wife, but they can suggest that she speak with her husband again. Even if he does not tell her anything more, this will alert her to the fact that he is withholding information from her, and this may help her to determine whether to forgive or not.

### **Meeting With Baptized Minors**

14. It is best to meet with the youth and his Christian parents, since they have the responsibility to raise and train him. If the accused is living in the home of his believing parents but is no longer a minor, the elders would not generally invite the parents to the hearing. However, if the accused living in his parents' home has recently become an adult and the parents ask to be present and the accused has no objection, the judicial committee may decide to allow them to attend *a portion of the hearing*.

### **Meeting With Incarcerated Ones**

15. When the judicial committee endeavors to meet with the incarcerated accused wrongdoer, the secular authorities may not allow all three members to meet with him at the same time. If so, a judicial committee should not handle the case over the telephone with a conference-line arrangement. The elders should endeavor to arrange for two members of the committee to meet with him in person in a confidential setting. Others should not be present when the accused person is interviewed. Afterward, the two brothers would discuss the case with the third member of the committee, and the judicial committee may then render a decision. Two members of the judicial committee should inform him of the decision. If he is disfellowshipped, the elders should inform him and tell him of his option to appeal, and so forth. If the authorities allow only one elder at a time to speak with him, the judicial committee should

decide in advance what questions to ask. Then two on the judicial committee should talk with him *separately* and ask the same questions. Thereafter, the judicial committee should convene to make a decision. In unusual cases, the branch office should be contacted.

### **If the Accused Threatens Suicide**

16. In judicial cases where the accused threatens suicide, it may be best for the committee to suspend the hearing to focus on helping him regain his balance. (See 7:12) They should assure him of the committee's desire to help him, then broach the subject of depression and suicide, using the Scriptures and Bible-based publications. (Prov. 3:11, 12; 4:13; Heb. 12:5, 6, 11-13) Depending upon his emotional state, it may be best to do this a day or two later. The elders can prepare by reviewing articles that will help them deal sensitively with the depressed individual. (w00 9/15 pp. 3-7; w88 10/15 pp. 25-29; 11/15 pp. 21-24; w82 6/1 pp. 9-14) The judicial committee should avoid prolonging the case unnecessarily, as this can cause stress for the accused. They should take notes for the confidential file, outlining the dates of their conversations and the scriptures and articles that were considered. They should sign it and place it in the file for the case. The judicial committee should communicate with the branch office if there are questions about a certain case.

### **If the Accused Threatens Legal Action**

17. If the accused threatens legal action against the elders, the elders should suspend proceedings and promptly telephone the branch office.

**18. If a member of the media or an attorney representing the accused contacts the elders,** they should not give him any information about the case or verify that there is a judicial committee. Rath-

er, they should give the following explanation: “The spiritual and physical welfare of Jehovah’s Witnesses is of paramount concern to the elders, who have been appointed to ‘shepherd the flock.’ The elders extend this shepherding confidentially. Confidential shepherding makes it easier for those who seek the elders’ help to do so without worrying that what they say to the elders will be divulged later. Consequently, we do not comment on whether elders are currently or have formerly met to assist any member of the congregation.” If there is a need to do so, the elders may obtain the inquirer’s name and phone number and inform him that their attorney will contact him. The elders should then promptly telephone the branch office.

19. If the authorities request confidential congregation records or ask that elders give testimony regarding confidential congregation matters, the elders should promptly telephone the branch office.



## Chapter Seven

# Judicial Hearing Procedure

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Try to put the accused at ease

Establish the facts and ascertain his attitude

If repentance is unclear, try to lead him to repentance during the initial meeting

If repentance is commensurate with the extent of wrongdoing, reprove the wrongdoer from the Scriptures

If not convinced of sufficient repentance, inform the wrongdoer of the decision to disfellowship, explaining how he can repair his damaged relationship with Jehovah

1. The judicial hearing should be opened with prayer with the accused present. The judicial committee should feel free to seek Jehovah's wisdom through prayer at any time during their private deliberations. (Jas. 1:5) The chairman should state the reason for the meeting. He may offer a Scriptural point at the outset, such as from Proverbs 28:13 or James 5:14, 15. The elders on the judicial committee should **convey their desire to be helpful and try to put the accused at ease.** They should be quick to listen but slow to indicate a preference or a leaning one way or the other. Even if the accused is belligerent, they should treat him kindly and respectfully, **never harshly.**—w89 9/15 pp. 19-20.

2. **The chairman should invite the accused to make a personal statement.** If the accused contends that he is innocent, the witnesses to the wrongdoing should be presented and their testimony

should be given in the presence of the accused. It is best that the witnesses give their testimony in person. However, it may be that the witnesses live a great distance away or for some reason are not able to be physically present. If so, their testimony may be presented in the hearing of the accused by a secure phone call or perhaps submitted in writing and read to the accused. The accused should be given opportunity to respond to the testimony. If he wishes to present witnesses to establish his innocence, the judicial committee should allow them to give their testimony.

3. **Hear only those witnesses who have relevant testimony** regarding the alleged wrongdoing. Those who intend to testify only about the character of the accused should not be allowed to do so. The witnesses should not hear details and testimony of other witnesses. Observers should not be present for moral support. **Recording devices should not be allowed.**

4. In the rare event that testimony presented during the hearing causes the judicial committee to conclude that the matter should not be handled judicially, the hearing should be suspended. Inform the person that he will be contacted further regarding the matter. The body of elders should then be consulted to determine whether the judicial committee should be disbanded.

5. The committee should first seek to **establish the facts and ascertain the attitude** of the accused. This requires skillful and discreet questions. The judicial committee should be thorough but not inquire about needless details, especially in regard to sexual misconduct. However, in some instances, when Scriptural freedom to divorce and remarry may be an issue, details may need to be clarified. When the elders on the judicial committee feel that they have a clear picture, they may excuse the accused

from the room and discuss the case and the individual's repentance or lack thereof.

### **Determining Genuine Repentance**

6. In Greek, two verbs are used in connection with repentance. The first stresses a changed viewpoint or disposition. The second emphasizes a feeling of regret. Therefore, repentance involves a deep regret over a damaged relationship with Jehovah, remorse over the reproach brought upon Jehovah's name and people, and a sincere longing to come back into God's favor. It includes a heart-motivated rejection of the bad course as something repugnant, hated. (Rom. 12:9) Such an attitude should be demonstrated by "fruits that befit repentance," making evident to an adequate degree a sinner's claimed repentance.—Luke 3:8; *it-2* pp. 770-777.

7. Judging repentance is not simply a matter of determining whether the wrongdoer is weak or wicked. **Weakness is not synonymous with repentance.** (*w95* 1/1, pp. 27-29) Neither should the judicial committee's decision be determined by the notoriety of the wrong. The judicial committee should look for clear works of repentance commensurate with his wrongdoing. (2 Cor. 7:10, 11) In order to extend mercy, the committee must be **convinced** that the wrongdoer has a changed heart condition and that he has a zeal to right the wrong and is absolutely determined to avoid it in the future. Even if this is the individual's first time before a judicial committee, it is necessary to determine whether his actions and attitude indicate that he has repented and can thus remain in the congregation.

8. The extent to which the person deviates from righteousness may be major or minor, and logically **the degree of regret (repentance) ought to be commensurate with the degree of deviation.** Was the individual caught off guard so that he

momentarily succumbed to temptation, or did he plan to do wrong? Was he unaware of the gravity of his sin, or did he deliberately ignore counsel or warnings? Was it a single offense, or was it a practice? The more an individual repeats serious sin, the more that one reasonably gives evidence of being like wicked people who are “practicers of what is hurtful.”—Ps. 28:3; *it-2* p. 771 par. 5.

9. While there is no such thing as automatic disfellowshipping, **an individual may have gone so far into sin that he may not be able to demonstrate sufficient repentance** to the judicial committee at the time of the hearing. If so, he must be disfellowshipped, allowing time to pass for him to prove his repentance. Or it may be that the individual has been dealt with judicially a number of times in the past. Because he appeared repentant, he was reproofed each time. Now he has sinned again. In such cases his *life course* may indicate a lack of repentance.—*w81* 9/1 p. 26 par. 23.

10. Below are **some indications of repentance**. However, none of these is the sole criterion for determining whether the sinner is repentant or not.

- Was his confession voluntary, or did he have to be accused by others? Some offenders are so deeply ashamed or have such difficulty expressing themselves that they are reluctant to speak.
- Is the individual truthful? (Acts 5:1-10) When questioned, are his answers forthright? Is he cooperative with the judicial committee? The judicial committee should be especially cautious if the individual has shown himself to be guilty of hypocrisy, lying, or deliberate efforts to deceive.
- Has he contritely prayed to Jehovah and sought his forgiveness and mercy? Keep in mind that some wrongdoers, though repentant, find it difficult to pray.—Jas. 5:14.

- Has he made restitution, expressed willingness to do so, or apologized to offended ones, those damaged by his sinful course? Has he sought forgiveness of those wronged?—w92 9/15 p. 10; w81 9/1 pp. 25-26; w73 p. 351.
- In cases of adultery, has he confessed to the innocent mate and asked for forgiveness?—w73 pp. 351-352; w68 pp. 319-320.

Note: The option to forgive adultery rests with the innocent mate. The guilty mate cannot be viewed as repentant if, after committing adultery, he refuses to inform her and allow her the opportunity to forgive. If the wrongdoer is unwilling to confess and ask for forgiveness because of *fear of violence* by the innocent mate, contact the branch office before proceeding.

- Does he manifest a spirit of agony and regret over having damaged his relationship with Jehovah?—Ps. 32:3-5; 51:1-4.
- Does he demonstrate godly sadness or worldly sadness? (2 Cor. 7:8-11) Is his sadness primarily because of hurting Jehovah and bringing Him into reproach or because of the disappointment he has caused to family and friends and the shame he has experienced? (Ezra 10:1; Luke 22:59-62) Individuals vary in their emotional makeup and control. Tears do not necessarily indicate sincere repentance; neither does a lack of strong emotion show a lack of repentance.—Gen. 25:29-34; 27:34.
- Does he accept responsibility for his error, or does he minimize or justify his bad course?—1 Sam. 15:24; 2 Sam. 12:13.
- Does he recognize the fact that lesser sins led up to the wrongdoing, and is he determined to avoid these?

11. Each case is different. The judicial committee should consider all the unique factors involved, including any **extenuating circumstances**. For example, the wrongdoer may have been a victim of some type of abuse in the past. Extenuating circumstances do not excuse the wrongdoing. (g93 10/8 p. 4) However, discerning them will help the judicial committee to understand better the wrongdoer and his response to the judicial committee. Nevertheless, **there would be no basis to extend mercy if fruits of repentance are lacking.**

12. The same is true regarding wrongdoers who suffer from **mental or emotional problems**. (See 6:16) The congregation cannot overlook his wrongdoing if he is able to discharge normal responsibilities toward himself and the community in a reasonably acceptable manner and others generally view him as one who could be held accountable for what he does and says. However, the judicial committee should show consideration and patience in their dealings with him and be especially aware of the need for discernment in evaluating his repentance. On the other hand, if the judicial committee discerns that his mental condition is so severe that others generally regard him as not being responsible for what he does, they may recommend to the body of elders that no judicial action be taken, explaining the reasons for their recommendation.

### **If Repentance Is Unclear**

13. If the wrongdoer's degree of repentance is unclear, the committee should invite him back into the room for further discussion. They should use God's Word to help him understand why his conduct was wrong and how it has affected his relationship with Jehovah and the congregation. It is possible that even as late as the judicial hearing, he will demonstrate repentance to the point that mercy by the judicial

committee may be warranted. In most cases the individual will show some repentance, but is it commensurate with the degree of his wrongdoing? The judicial committee should be modest and keep in mind that if the wrongdoer has demonstrated few or no works of repentance before the judicial hearing is held, it may not be possible during the hearing to move him to demonstrate sufficient repentance to justify extending mercy. Even if it is determined that he must be disfellowshipped, their efforts to lead him to repentance may help him to begin making straight paths for his feet and work toward reinstatement. (Heb. 12:13) After trying to help him and hearing his further expressions, the judicial committee may excuse him from the room and deliberate.

14. In complex cases, if the judicial committee is not sure of the Bible's direction or the organization's counsel, the hearing may be adjourned and reconvened a *few days* later. However, an additional meeting should *not* be scheduled just to give the accused time to stop the wrongdoing or to demonstrate works of repentance. If he has demonstrated little or no repentance during the initial hearing, there would generally be no basis on which to prolong the case and schedule a second meeting.

15. At times, **complicated judicial cases may necessitate consultation** with an experienced mature elder *in another congregation* or the circuit overseer. In such a situation, inform the wrongdoer that the *decision is pending*. Do not inform him that you will be consulting with parties outside of the judicial committee, which may at times include the branch office. While pertinent details may be discussed, names should not be used when discussing the case with another elder. However, when the circuit overseer is consulted or when circumstances require that the branch office be contacted, the judicial committee should reveal the names.

16. Generally, those serving on a judicial committee should endeavor to be unanimous in their decision. Any difference of opinion can usually be resolved by discussing matters thoroughly as a judicial committee, researching the Scriptures and Christian publications, praying for wisdom and direction, and even consulting with an experienced elder outside the congregation. However, if the committee is unable to reach a unanimous conclusion, the minority should give support to the decision reached by the majority.

17. Anything submitted in writing to the committee by the alleged wrongdoer or by witnesses should be kept in strict confidence. If it is necessary to continue the matter later, the members of the committee should submit to the chairman any personal notes they have taken. The chairman will keep these notes in a secure place to prevent breaches of confidentiality. The notes may be returned to the individual elders for consultation before the hearing resumes.

### **If the Decision Is to Reprove**

18. If the elders on the judicial committee determine that the wrongdoer is genuinely repentant, they should inform him of the decision, the judicial restrictions, and whether the reproof will be announced. They should also give reproof from the Scriptures, showing the seriousness of the wrongdoing and the minor sins that may have led up to it. Reproof is defined as “that which is designed to convince others of their having erred, in order to move them to acknowledge their mistakes and correct these.” (*it-2* p. 780) Hence, administering judicial reproof includes more than just making a decision or announcing it. It involves reinforcing the wrongdoer’s resolve to do what is right. The original-language word for reproof comes from a verb meaning ‘to show plainly, point out by facts, demon-

strate, show by evident or convincing reasons or arguments.’ Helpful suggestions should be given to help him make needed adjustments. If witnesses testified during the hearing, they may be invited to hear the Scriptural reproof. In this way the accused is reproved “before all onlookers.” (1 Tim. 5:20) The judicial committee should pray with the repentant wrongdoer before concluding the hearing.

19. In all cases of judicial reproof, the wrongdoer is disqualified from special privileges. These include pioneering, offering congregation prayer, and sharing in any parts on the Service Meeting until he has made further spiritual progress. This also includes other congregational assignments that might be given to those who are exemplary. In addition, **some judicial restrictions** will be imposed in all cases of judicial reproof. Judicial restrictions may include not commenting at congregation meetings and not giving student talks in the Theocratic Ministry School. However, the judicial committee determines what judicial restrictions to impose. When the elders inform a repentant wrongdoer of restrictions, it would be helpful to tell him the date of the next meeting, at which his progress will be reviewed. It may be discouraging to the repentant wrongdoer if restrictions are imposed for a prolonged period of time. It would be an exceptional case when many months have passed and restrictions have not been gradually lifted.

20. The judicial committee should **determine whether the reproof should be announced** to the congregation. (w88 11/15 p. 18; w81 9/1 pp. 26-27) If the individual thereafter moves, no announcement of such previous judicial reproof is made in the new congregation.—*km* 3/75 p. 4.

- The reproof should be announced if the sin is widely known or will likely become known in the congregation or community. An

announcement will safeguard the reputation of the congregation.

For example, in a case of adultery, an innocent mate may lean toward forgiveness but is not ready to resume sexual relations at the time that the judicial committee concludes the case. *If the possibility of a Scriptural divorce still exists*, an announcement would protect the reputation of the congregation and the innocent mate.

See October 1, 2012, letter to all bodies of elders regarding child abuse.

- The judicial committee may have specific reasons to believe that the congregation needs to be on guard concerning the repentant wrongdoer. Perhaps he ignored previous counsel several times concerning steps leading to the same wrongdoing.

For example, in a case involving wrongdoing that could be viewed as child sexual abuse, announcing the reproof of a repentant wrongdoer will serve as a protection for the congregation.

See September 7, 2011, letter to all bodies of elders for direction on filing confidential material.

21. The coordinator of the body of elders should approve the announcement before an elder reads it to the congregation. It should read as follows: **“[Name of person] has been reproved.”** *Restrictions are not announced.*

22. The judicial committee should monitor the spiritual progress of the repentant wrongdoer and be alert to **remove judicial restrictions** progressively as he recovers spiritually. It is not necessary for the entire body of elders to decide on the removal of restrictions, except in unusual cases. The committee should inform the body of elders when any restrictions are removed. When an elder serving on the original committee moves or is no longer serving as an elder, the body of elders will select a replacement to monitor the wrongdoer’s progress. If the wrongdoer moves before the committee lifts all of his restrictions, the new congregation should receive sufficient

details so that the elders can evaluate his true spiritual condition. Provide the type of information and details you would appreciate receiving if the individual was moving into your congregation. The elders of the new congregation should choose two or three elders to continue to monitor the wrongdoer's progress and lift the remaining judicial restrictions.

23. In some cases the **elders may feel that it is necessary to warn the congregation** by means of a Scriptural talk about the type of conduct practiced. A member of the judicial committee should generally give the talk. He should explain the wrongness of the conduct and how to avoid it but without saying anything that would connect the wrongdoer with the type of sin under discussion. In the case of an announced reproof, the elders should wait a few weeks before giving such a talk; when the reproof is unannounced, there is no need to wait.

24. **Once the case has been concluded, no further judicial action is taken** unless the wrongdoer again engages in gross wrongdoing. However, in rare cases there may be an exception if *within a few days* of the decision new information comes to light that makes it obvious to the judicial committee that the wrongdoer was not repentant, perhaps because he gave misleading testimony or purposely omitted important facts during the hearing. In such instances there may be a basis for the judicial committee to reconsider its decision and decide to disfellowship, especially if no announcement of reproof had been made. When the hearing resumes, the individual would be given opportunity to hear any new evidence and to present his side of the matter. In cases of this nature, it is best to inquire of the branch office for direction before proceeding.

25. If **the wrongdoer again engages in serious wrongdoing** after the judicial committee renders a decision and completes the case, the judicial

committee that handled the previous case will not automatically handle the new case. The body of elders should meet and select the judicial committee. In most cases, the elders will choose the same elders to serve on the new judicial committee, but the body of elders may decide to use different brothers or to add another elder to the committee.

### **If the Decision Is to Disfellowship**

26. If the wrongdoer *lacks genuine repentance*, he should be disfellowshipped. (See 7:8) The committee should inform him of its decision and endeavor to help him see how he can use the time he is disfellowshipped in a way that will repair his damaged relationship with Jehovah. The committee may share with him scriptures such as 2 Corinthians 7:10, 11 and Hebrews 12:5-7. The judicial committee should be kind and positive, assuring him that forgiveness is possible if he truly repents.

27. The following information should be conveyed **orally** to the wrongdoer after informing him of the committee's decision:

- Outline the steps necessary for future reinstatement.
- Inform the wrongdoer that he may appeal in writing within seven days if he feels a serious error in judgment has occurred. (*od* pp. 153-154) He should address his letter of appeal to the judicial committee.

28. The judicial committee should neither encourage him to appeal nor discourage him from doing so. Before dismissing him, the elders should ask if he has any questions. The judicial committee will conclude with prayer *after* dismissing the wrongdoer.

29. **If the unrepentant wrongdoer did not attend the judicial hearing**, the judicial commit-

tee should make reasonable efforts to inform him orally of their decision, his option to appeal, and so forth. The elders should not leave a message of a confidential nature on a telephone answering machine or by means of voice mail or by way of e-mail. If he does not cooperate with the efforts to inform him, the judicial committee should contact the branch office.

30. Allow the seven-day appeal period to elapse even if the person states he does not wish to appeal or if he failed to appear for the judicial hearing.

31. The coordinator of the body of elders should check the announcement to make sure that it conforms to the guidelines outlined by the organization. An elder should read the announcement. The wording should be as follows: “**[Name of person] is no longer one of Jehovah’s Witnesses.**”

32. Disfellowshipping takes effect at the time of making the announcement to the congregation. In the interim before the public announcement, the wrongdoer should not comment or offer prayers at congregation meetings or care for any special privileges of service. (*od* p. 154) Make the announcement in only one congregation.

33. The judicial committee should ***promptly inform the branch office*** of the disfellowshipping using the appropriate forms. When making the report, read and carefully follow the instructions on the form.

34. Upon conclusion of the case, the chairman should place only necessary notes and documents, a detailed summary of the case, and the S-77 forms in a sealed envelope for the congregation’s confidential file. Elders on the committee should preserve nothing outside of this sealed envelope (including personal notes). On the outside of the envelope

See September 7, 2011, letter to all bodies of elders for further direction on filing confidential material.

should be written the wrongdoer's name, the names of those who served on the judicial committee (with the chairman indicated), the action taken, and the date of the action.



## Chapter Eight

# Appeal Hearing Procedure

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The appeal committee should be modest in working with the judicial committee

The appeal committee should determine whether the accused is guilty of serious wrongdoing and whether he was repentant when he met with the judicial committee

1. If the judicial committee receives a letter of appeal within seven days from the time the wrongdoer received notification of the decision to disfellowship, the chairman should promptly call the circuit overseer, who will arrange for an appeal committee. Arrangements should be made for the appeal hearing even if there seems to be no valid basis for it. He should select the most qualified elders available to rehear the case. To the extent possible, he will select brothers from a different congregation who are impartial and have no ties or relationship to the accused, the accuser, or the judicial committee.

2. If a person appeals *after* the seven days, immediately contact the branch office for direction.

3. The chairman of the judicial committee will make the completed S-77 forms and all other related material on the case, including the judicial committee's notes, available to the appeal committee.

### Objective and Approach of the Appeal Committee

4. The elders chosen for the appeal committee should approach the case with modesty and **avoid giving the impression that they are judging the judicial committee** rather than the accused. While

the appeal committee should be thorough, they must remember that the appeal process does not indicate a lack of confidence in the judicial committee. Rather, it is a kindness to the wrongdoer to assure him of a complete and fair hearing. The elders of the appeal committee should keep in mind that likely the judicial committee has more insight and experience than they do regarding the accused.

**5. Generally, there is no arrangement to hold an appeal hearing outside the circuit;** if the accused has moved, he must be willing to travel back to the area so that the judicial committee can be present for the appeal hearing. If the accused deliberately fails to appear at the appeal hearing, the disfellowshipping should be announced after reasonable efforts have been made to contact him.—*od* p. 154.

6. The appeal committee should first read the written material on the case and speak with the judicial committee. Afterward, the appeal committee should speak to the accused. Since the judicial committee has already judged him unrepentant, the appeal committee will not pray in his presence but will pray *before* inviting him into the room.

7. Conduct the hearing in a manner similar to the first judicial committee hearing. It may be necessary to rehear all the evidence relevant to the case, including that which was presented originally and any new evidence now available. For instance, if the accused continues to contend that he is innocent, the witnesses should again give their testimony in his presence, he should be given opportunity to respond, and the appeal committee should hear any additional witnesses he wishes to present to prove his innocence.

8. The judicial committee should be present to hear any testimony. If they or the accused believes that earlier testimony or evidence is being changed, this can be stated following the presentation of evidence that was allegedly altered.

9. After gathering the facts, the appeal committee should deliberate in private. They should consider the answers to two questions:

- **Was it established that the accused committed a disfellowshipping offense?**
- **Did the accused demonstrate repentance commensurate with the gravity of his wrongdoing at the time of the hearing with the judicial committee?**

10. The appeal committee may find that while the original basis for disfellowshipping was invalid, other valid grounds for disfellowshipping exist. If so, the appeal committee should give the individual sufficient time, even several days if needed, to present any evidence or witnesses that he feels will disprove the new allegations. If the new allegations are nonetheless established and if the person does not demonstrate genuine repentance, the appeal committee may decide to uphold the disfellowshipping on these new grounds. ~~If so, the appeal committee should prepare a new report for the branch office showing the new grounds for disfellowshipping. The appeal committee should submit this along with the report composed by the judicial committee and should tell the original committee to announce the disfellowshipping.~~

If the original committee agrees with the new grounds, they should adjust the S-77 form, announce the disfellowshipping, and submit the form to the branch office. The appeal committee's brief summary should be retained in the confidential file along with a copy of the S-77 form and the brief summary of the original committee.

#### **If the Appeal Committee Agrees With the Judicial Committee**

11. If the brothers on the appeal committee feel they can accede to the judgment of the judicial committee, the appeal committee should inform the wrongdoer of the final decision in the presence of the judicial committee.

12. The judicial committee should allow seven days to pass before arranging for the disfellowshipping to be announced at the next Service Meeting.

~~13. The appeal committee should compose a report and send this to the branch office along with the report given them by the judicial committee. The appeal committee should make sure that the report from the judicial committee is complete, including the date of announcement of the disfellowshipping.~~

14. When the disfellowshipping is upheld, there is no further arrangement for appeal. However, **if an individual persists in believing a serious error in judgment has occurred**, the appeal committee should inform him that he may submit his allegations in writing to the appeal committee within seven days for transmittal to the branch office. *The appeal committee should not mention this provision unless the individual indicates that he believes a serious error in judgment has occurred.*

15. If he indicates a desire to submit a letter of appeal to the branch office, the announcement of disfellowshipping should be delayed. The appeal committee should submit the wrongdoer's letter, the report from the judicial committee, and a report from the appeal committee to the branch office. No announcement should be made until a reply is received from the branch office.

### **If the Appeal Committee Disagrees With the Judicial Committee**

16. The appeal committee should meet privately with the judicial committee to discuss matters and explain the reason for disagreeing.

17. The accused should be invited back into the room, and the appeal committee should inform him that further consideration will be needed. He can be assured that the case will be concluded as soon as possible. **Neither the judicial committee nor the appeal committee should give any indication of their differing decisions to the individual.** After

The original committee should submit the completed S-77 form to the branch office. The appeal committee's brief summary should be retained in the confidential file along with a copy of the S-77 form and the brief summary of the original committee.

he is dismissed, the hearing can be concluded with prayer.

On the other hand, if both committees now agree not to disfellowship the individual, the appeal committee should inform him of the final decision in the presence of the judicial committee. The appeal committee's brief summary should be retained in the confidential file along with the brief summary of the original committee.

18. If the judicial committee does not agree with the conclusions of the appeal committee, the elders on the judicial committee should promptly compose a letter clearly expressing their reasons for disagreement and give this to the appeal committee. The appeal committee will include this letter along with their report to the branch office. ~~On the other hand, the judicial committee may now agree with the appeal committee. If so, their letter should explain why. Even if both committees agree not to disfellowship the individual, they will not advise him of their decision; rather, they will simply tell the person that the **decision is pending**.~~ The appeal committee will send to the branch office separate letters from both the original committee and the appeal committee that supply sufficient details to give a clear picture of the reasons for the conclusion.

19. The appeal committee should promptly compose a letter explaining the appeal committee's conclusion and the reasons. The appeal committee should send this letter along with the S-77 report given to the appeal committee by the judicial committee at the beginning of the appeal hearing and the judicial committee's letter explaining the judicial committee's thinking on the decision of the appeal committee to the branch office. The branch office will thereafter provide written direction to assist both committees with bringing the case to a conclusion.

20. After the two committees have considered the observations of the branch office and made a final decision, the original committee should inform the person involved. If the decision is to disfellowship, the judicial committee will arrange to make an appropriate announcement in the congregation and inform the branch office of the date of the announcement.



## Chapter Nine

# Implications of Disassociation

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Disassociation is action taken by the individual

A committee is appointed to provide assistance if possible

Announce and report disassociation if established

1. Whereas disfellowshipping is an action taken by a judicial committee against an unrepentant wrongdoer, disassociation is an action taken by an individual who no longer desires to be one of Jehovah's Witnesses. (1 John 2:19) The body of elders should appoint a committee of three elders to consider the facts.

2. A judicial committee should not continue an investigation into alleged wrongdoing if the accused person makes known his decision to disassociate himself. (*w84* 7/1 p. 31) However, at no time should the elders ask the accused if he desires to disassociate himself. If the elders are handling a particularly difficult case and there is a question about whether the person has disassociated himself, it would be best for the committee to contact the branch office for further direction. If an individual is determined to disassociate himself, then the committee would prepare a summary of the alleged offense(s) and the evidence of such. This would be kept along with information regarding the disassociation. If the person later requests reinstatement, these matters would need to be considered with him at that time.

3. Actions that may indicate disassociation include the following:

See September 7, 2011, letter to all bodies of elders for further direction on filing confidential material.

- **Making known a firm decision to be known no longer as one of Jehovah’s Witnesses.** If the individual is agreeable, the committee should first try to speak with him and provide spiritual assistance. (Gal. 6:1) Does he really desire to disassociate himself, or does he simply no longer want to associate actively with the congregation? Is the desire to disassociate prompted by doubts or discouragement? If he is adamant in his position, he should be encouraged to put his request in writing and sign it. If he does not, then the witnesses to his request should prepare a statement for the confidential files and sign it.
- **Joining another religious organization and making known his intention to remain with it.** If it is learned that a person has taken up association with another religious organization and thus is identified with it, a committee (not judicial) should be selected to investigate matters and endeavor to provide spiritual assistance. If the individual has joined another religious organization and intends to remain with it, he has disassociated himself.
- **Willingly and unrepentantly taking blood.** If someone willingly takes blood, perhaps because of being under extreme pressure, the committee should obtain the facts and determine the individual’s attitude. If he is repentant, the committee would provide spiritual assistance in the spirit of Galatians 6:1 and Jude 22, 23. Since he is spiritually weak, he would not qualify for special privileges for a period of time, and it may be necessary to remove certain basic privileges. Depending on the circumstances, the committee may also need to arrange for an announcement to the congregation: **“The elders have handled a matter having to do with [name**

See November 6, 2014, letter to all bodies of elders regarding procedures when legal issues are involved.

**of person]. You will be glad to know that spiritual shepherds are endeavoring to render assistance.”** On the other hand, if the elders on the committee determine that he is unrepentant, they should announce his disassociation.

- **Taking a course contrary to the neutral position of the Christian congregation.** (Isa. 2:4; John 15:17-19; w99 11/1 pp. 28-29) If he joins a nonneutral organization, he has disassociated himself. If his employment makes him a clear accomplice in nonneutral activities, he should generally be allowed a period of time up to six months to make an adjustment. If he does not, he has disassociated himself.—*km 9/76 pp. 3-6.*

4. The coordinator of the body of elders should approve the announcement before an elder reads it to the congregation. The announcement should be as follows: “**[Name of person] is no longer one of Jehovah’s Witnesses.**”

5. Since disassociation is an action taken by the publisher rather than the committee, there is no arrangement for an appeal. Therefore, the announcement of disassociation can be made on the occasion of the next Service Meeting without waiting seven days. A report of the disassociation should promptly be sent to the branch office, using the appropriate forms.—See 7:33-34.



## Chapter Ten

# Matters Related to Disfellowshipped and Disassociated Ones

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Make yearly visits on those who qualify

Permit them to obtain personal literature at the Kingdom Hall

Assist those having undue association with disfellowshipped or disassociated relatives

1. **Once a year** the body of elders reviews a list of those in the congregation territory who are disfellowshipped or disassociated. They will **call on each one they select in order to see if he wants to return.** (w91 4/15 pp. 22-23) Calls should not be made on those who are active apostates, on those who are trying to lead others into sin, or on those who have made it known that they want nothing to do with God's people. The body will assign two elders to make each call, preferably elders familiar with the case. During a brief visit, the elders may kindly explain what the individual can do to return. In some cases there may be good reason for a follow-up visit. They will report the results to the Congregation Service Committee, and the body will be informed at the next meeting of the elders.

2. **If the elders learn that a disfellowshipped or disassociated person has moved,** they should not send his *Congregation's Publisher Record* (S-21) cards or the confidential file to the congregation where he lives or attends meetings. Since he cannot share in the ministry, the congregation that took disfellowshipping action or acknowledged the disasso-

ciation should retain the cards. However, a brief letter should be sent to the body of elders in whose territory he lives to inform them that a disfellowshipped or disassociated person lives in their territory and to provide his address. This will enable the local elders to follow through and make yearly visits on this one if he qualifies. Generally, there would be no need for the letter to include specific information on the details of the judicial case. However, if the elders are aware of a situation that would disqualify him from yearly visits or there is reason for the elders in the new congregation to be especially on guard, this can be explained in the letter.

3. **If someone gives evidence of repentance and a desire to be reinstated** by changing his course or asks about reinstatement, the authorized elders may speak with him and kindly explain what he needs to do in order to be reinstated.

4. Disfellowshipped and disassociated ones may obtain a personal copy of the **magazines and other literature** at the magazine and literature counters at the Kingdom Hall. *Our Kingdom Ministry* is *not* distributed to such ones. If someone is an active apostate and known to misuse our literature to oppose the organization, the local elders may decide not to make literature available to him.

5. Disfellowshipped and disassociated ones are generally expected to make their own arrangements for **transportation to and from congregation meetings**. However, in some instances a disfellowshipped or disassociated individual who is making a determined effort to regain a right standing with Jehovah may be in a situation that prevents him from obtaining transportation. It may be that he has no car and that family members or others are not able to help him. Perhaps he cannot afford public transportation, or it is not available in his area. It may be that the distance involved, personal safety, or severe

weather make it inadvisable to walk. In cases of such desperate need, the elders can determine whether some assistance may be provided. (w81 9/15 p. 18 par. 14) Such assistance would be viewed as similar to public transportation in that there should be no fraternizing or conversing with the disfellowshipped or disassociated person. (2 John 10, 11) The elders should monitor the situation to make sure that any arrangements made are not abused.

6. If members of the congregation are known to have **undue association with disfellowshipped or disassociated relatives** who are not in the household, elders should counsel and reason with those members of the congregation from the Scriptures. Review with them information from the “*God’s Love*” book, pages 207-208; *The Watchtower* of April 15, 1988, pages 26-30; or the article “Display Christian Loyalty When a Relative Is Disfellowshipped” in the August 2002 *Our Kingdom Ministry*. If it is clear that a Christian is violating the spirit of the disfellowshipping decree in this regard and does not respond to counsel, it may be that he would not qualify for congregation privileges, which require one to be exemplary. He would not be dealt with judicially unless there is persistent *spiritual* association or he openly criticizes the disfellowshipping decision.



## Chapter Eleven

# Reinstatement Committee Procedure

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Allow sufficient time for a wrongdoer to prove his repentance

Be especially cautious if the individual:

Was deceptive

Secretly practiced sin over an extended period of time

Was reprovved or disfellowshipped previously

Conspired to put away his marriage mate

### When a Plea for Reinstatement Is Received

1. The final decision to reinstate a disfellowshipped person is always made by a judicial committee of the congregation that took the disfellowshipping action. If possible, the elders in that congregation who served on the judicial committee should be used for the reinstatement committee. Even if the committee feels that it is much too soon to consider reinstatement, two members of the committee should acknowledge receipt of the request and briefly inform the disfellowshipped one that more time must pass. **Written requests for reinstatement should be responded to promptly.**

2. After offering prayer *without the disfellowshipped person present*, the committee will invite him into the room. The committee should endeavor to put the disfellowshipped one at ease, commending him for his progress and desire to be reinstated. The chairman invites the disfellowshipped one to make a

personal statement. The committee should seek to determine his conduct since the time of disfellowshipping and ascertain his attitude. The disfellowshipped person is then excused from the room while the committee deliberates.

3. The committee should be careful to allow sufficient time, perhaps many months, a year, or even longer, for the disfellowshipped person to prove that his profession of repentance is genuine. (*od* p. 156; *it-2* p. 771) The committee should be especially cautious in some cases. For instance, the wrongdoer may have been deceptive, may have secretly practiced wrongdoing over a long period of time, or may have been repeatedly dealt with judicially in the past for the same or other wrongdoing. Quickly reinstating such a person may embolden others to commit serious sin, as they may feel that little or no discipline will be administered. Where there is evidence of conspiracy between individuals to put away their mates and marry each other, considerable time should elapse for them to prove their repentance and gain reinstatement.—*w83* 3/15 p. 29.

4. The reinstatement committee needs to **be balanced**. Genuine repentance and a turning away from the wrong course—not the attitude of others or merely the time elapsed—are the chief determining factors in deciding when a person may be reinstated.—1 Cor. 5:1, 11-13; 2 Cor. 2:6, 7.

5. The committee should consider the overall pattern of the wrongdoer's life. Does it now show that he is repentant? If so, elders should guard against going to extremes by exacting a point-by-point admission of sins that may not have been clearly proved.

6. **If it is determined that the individual should not be reinstated**, the committee should

explain their reasons and what they expect the individual to do in the future to qualify for reinstatement. After he is dismissed, the committee will conclude with prayer.

7. **If the disfellowshipped person has moved,** a local judicial committee will hear his request for reinstatement where he is now attending meetings. If those elders believe he should be reinstated, they will give the judicial committee of the congregation that disfellowshipped the person their recommendation. They should not let the disfellowshipped one know their recommendation; if the other committee does not agree, knowing that would only cause him frustration. The committee should merely tell him that they must correspond with the elders where he was disfellowshipped and that he will be informed of the decision in due course.

8. The local judicial committee should not pressure the original committee to reinstate the person. The elders on the original committee may be aware of important factors not apparent to others, so it is usually best to respect their judgment. Likewise, the original committee should carefully consider the recommendation of the other committee. Sufficient time may have passed, and the individual may have made drastic changes that the elders on the original committee have not observed. They should keep in mind that the elders making the recommendation have met the individual and have had opportunity to observe his conduct.

9. **If the two congregations are reasonably close to each other,** the committee of the congregation that took the disfellowshipping action should promptly arrange to meet with the disfellowshipped individual after receiving a positive recommendation from the committee of the congregation where he made his plea for reinstatement.

10. **If the elders on the committee of the congregation that took the disfellowshipping action disagree with the recommendation** to reinstate, they should clearly explain their reasons to the other committee.

### **If the Decision Is to Reinstate**

11. If he is being reinstated, the disfellowshipped person can be invited back into the room and informed. At that time Scriptural encouragement and counsel should be given to help him to continue to make spiritual progress. Until the reinstatement is announced, he should continue to conduct himself as a disfellowshipped one. *The committee concludes with prayer with the individual present.* The committee should make sure the branch office is properly informed of the reinstatement.

12. In all cases of reinstatement, **judicial restrictions should be imposed to help** the person see the need for continuing to make ‘straight paths for his feet’ and out of consideration for the congregation’s conscience. (Heb. 12:13) The privilege of sharing in the field service is restored when the individual is reinstated. Other privileges, such as commenting at meetings and giving Theocratic Ministry School talks, can be restored progressively when it is determined that the individual has progressed spiritually to the point that he is qualified and when it is judged by the committee that the extending of such privileges will not be offensive to the congregation. It may be discouraging to the repentant wrongdoer if restrictions are imposed for a prolonged period of time. Therefore, when informing a repentant wrongdoer of restrictions, it would be helpful for the elders to inform him of the date for the next meeting when his progress will be reviewed. The committee may also arrange for a Bible study to be conducted, if needed, which would be reported as field service. It would be

See September 7, 2011, letter to all bodies of elders for direction on filing confidential material.

an exceptional case when many months have passed and restrictions have not been lifted.—See 7:19.

13. **Reinstatement is announced** in the congregation where that person was disfellowshipped as well as in the congregation where he now attends. The coordinator of the body of elders should approve the announcement before an elder reads it to the congregation. The announcement should read as follows: “[**Name of person**] **is reinstated as one of Jehovah’s Witnesses.**” Judicial restrictions should *not* be announced. The committee where he attends will supervise the gradual removal of restrictions.

14. A committee will deal with a disassociated person similarly if he requests reinstatement.

15. When a person is reinstated, he will still need much spiritual assistance. The committee should continue to monitor the person’s spiritual progress.



## Chapter Twelve

# Clarifications and Guidelines on Handling Certain Matters

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Marking disorderly ones  
Weddings  
Scriptural freedom to remarry  
Adulterous marriage  
Child abuse  
Taking brothers to court  
When disasters occur

### Marking Disorderly Ones

1. At times it may be necessary to mark those who display a flagrant disregard for theocratic order though not practicing a grave sin that would result in judicial action. (*w99* 7/15 pp. 29-31) This could include such things as being grossly lazy or critical or being a profitless talker who is a constant 'meddler with what does not concern him.' (2 Thess. 3:11) It may involve one who schemes to take material advantage of others, indulges in entertainment that is clearly improper, or dates when not legally or Scripturally free.—*od* p. 150-151.

2. If the disorderly conduct is *generally unknown to others* and poses no threat to their spiritual well-being, usually it is best to handle things through admonition and counsel. **The elders should not be hasty in giving a warning talk.** However, if the individual does not see the error of his way but continues to be an unwholesome influence, a warning

talk may be given to the congregation.—2 Thess. 3:6, 14, 15; *w99* 7/15 pp. 29-31; *w85* 4/15 pp. 30-31.

- **Example—mark for dating an “unbeliever”:** The elders should first counsel and try to help a disorderly one. If a person *persists* in a way that is disturbing and that has the potential for spreading, they may conclude that there would be reason for a warning talk to be given to the congregation.—2 Cor. 6:14; 2 Thess. 3:11, 14; *w99* 7/15 p. 31.
- It may be that an individual is dating not an actual ‘unbeliever’ but an unbaptized publisher. In such cases a warning talk may not be needed, depending on the circumstances, on the attitude of the Christian, on the level of disturbance to the congregation, and other factors. Nonetheless, if he is dating with a view to marrying someone who is unbaptized, he is not obeying the Bible’s counsel at 1 Corinthians 7:39 to marry “only in the Lord,” and loving counsel should be given. Elders will use reasonableness and discernment in determining whether a particular situation is sufficiently serious and disturbing to require a warning talk.—*od* pp. 150-151; *w04* 7/1 pp. 30-31.

3. If the disorderly one becomes ashamed of his ways and is moved to change, then as elders of the congregation see the adjustment, they can individually decide to end the limitation they have put on personally socializing with him. This will indicate to the congregation that he is no longer marked.

## Weddings

4. Elders may perform a wedding of two Christians or of two unbaptized publishers who are progressing toward baptism. If the couple have a specific elder in mind, they can personally ask him to

See October 12, 2010, letter to all bodies of elders regarding wedding procedures and Scriptural freedom to remarry.

officiate at their wedding. If the couple have no preference, the body of elders can select one of their number to do this. The elder solemnizing a marriage should make sure that he is legally qualified in the state or locality where the wedding takes place. If the speaker does not legally qualify to administer the vows, another elder who meets such legal requirements could administer the wedding vows after the speaker gives the discourse. The elder who administers the vows would complete the necessary documents. Any elder who is asked to give a wedding talk or administer the vows should conscientiously decide whether he wishes to serve in such capacity. (w97 4/15 p. 24; w84 4/15 pp. 13-14) Elders should not perform the wedding of two persons who are not seriously involved in the activities of Jehovah's Witnesses. Neither should the elders be involved, directly or indirectly, in the wedding of a baptized individual to an unbaptized, disassociated, or disfellowshipped person. (1 Cor. 5:11; 7:39) It would be improper to participate in a second wedding years after the initial ceremony, as this would imply that the first wedding was not binding.—w06 10/15 p. 19 par. 8.

5. Before agreeing to officiate, an elder should personally speak with the couple and tactfully but straightforwardly **inquire about their conduct during courtship**. Make sure that all involved are familiar with and follow the direction in the articles in the November 2008 *Our Kingdom Ministry*, page 3; the October 15, 2006, *Watchtower*, pages 18-31; the April 15, 1997, *Watchtower*, pages 23-26; and the April 15, 1984, *Watchtower*, pages 11-15. If it is learned that they have engaged in sexual immorality that requires assistance from a judicial committee, the couple cannot use the Kingdom Hall. If neither is disfellowshipped, it will be up to the discretion of the elder as to whether he will officiate at another location. He may also want to inquire about some of the plans for the wedding and reception and give kindly reminders if needed to help them demonstrate

reasonableness. However, he should remember that what they choose to do is a personal matter as long as this is not unscriptural. (Phil. 4:5; w84 4/15 pp. 11-12) The elder should also **make sure that the bride and groom are legally and Scripturally free to marry**. If either was married before, the elder should ask to see a copy of the divorce decree to make sure that the divorce was finalized. He should also be satisfied that the divorce is Scriptural. If the person's divorce occurred before baptism, the elder should not assume the individual is Scripturally free, as baptism does not dissolve previous marital ties. If either the bride or the groom is from another congregation, the elder should speak or correspond with the elders from that congregation to confirm the person's standing in the congregation, Scriptural freedom to marry, and so forth.

6. **If a couple wishes to use the Kingdom Hall**, they should submit a written request well in advance of the wedding date indicating the specific day and time they desire to use the hall. The Congregation Service Committee should promptly consider the request on behalf of the body of elders. Though it is not a requirement that all in the wedding party be baptized, the wedding party should not include any person whose lifestyle grossly conflicts with Bible principles. (*km* 11/08 p. 3; w84 4/15 p. 15) Any decoration of the Kingdom Hall or rearrangement of the chairs must be approved. Only music selected from *Kingdom Melodies* or that is found in our songbook may be used. The elders may permit a rehearsal at the Kingdom Hall as long as it does not interfere with other congregation arrangements.

7. **The marriage discourse** should reflect dignity, honor, and seriousness. (Heb. 13:4) Its purpose is to impress on the minds of the participants, as well as those observing, the God-given responsibilities that married couples must assume and discharge in full harmony with the Scriptures. It is not appropriate to

tell humorous stories or read poems simply to entertain or amuse the audience. If the branch office provides an outline in the local language, it should be used.

8. Since much of the direction outlined above has generally been given only to congregation elders, **appointed elders should be used to officiate at weddings, if available.** (*km* 11/08 p. 3; *w84* 4/15 pp. 13-14) Also, elders are certified teachers of God's Word, so they are the ones most qualified to highlight the important Scriptural principles that apply on this special occasion.—1 Tim. 3:2.

### Scriptural Freedom to Remarry

See October 12, 2010, letter to all bodies of elders regarding wedding procedures and Scriptural freedom to remarry.

9. **Elders should be very careful** when it comes to giving direction on whether an individual is Scripturally free and should **consult with the branch office** on any questions. This is especially true since the decisions a person makes in such matters will affect not only their relationship with their marriage mate but also their relationship with Jehovah. We therefore as elders shoulder a heavy responsibility in such matters and need to be cautious when offering counsel, especially when the answer may not be readily apparent.—Luke 12:48; Jas. 3:1.

10. Scriptural freedom to remarry requires three conditions: *por-nei'a*; a rejection (refusal to reconcile) by the innocent mate; and a legal, final divorce.—Matt. 5:31, 32; 19:9; Heb. 13:4.

11. If a dedicated Christian who accuses his believing mate of adultery and **wishes to establish freedom to divorce and remarry** approaches an elder, the matter should be referred to the body of elders. The accuser is not free unless the evidence establishing wrongdoing is sufficient to warrant the formation of a judicial committee. (Deut. 19:15; John 8:17) If the accused mate is associated with another congregation, the evidence should be presented to

the elders of that congregation for review and a determination. *The publisher should be advised that he is not to view himself as Scripturally free until the elders have investigated and guilt is established.*

12. In some cases adultery is not proved, but it is established by confession or by two or more witnesses that the mate stayed *all night* in the same house with a person of the opposite sex (or a known homosexual) *under improper circumstances*. The elders should carefully consider the situation. Were the individuals together *all night*? Were *improper* circumstances involved? For example, were the two persons alone? Is there evidence of a romantic relationship? What were the sleeping arrangements? Even if adultery is not established, it may be that the Christian was involved in an immoral sleeping arrangement. Although the elders cannot tell the innocent mate that he is free to marry because adultery was not proved, in view of the circumstances, if the innocent mate is convinced that adultery did occur, the elders may allow him to take responsibility before Jehovah for obtaining a Scriptural divorce; if he remarries, no judicial action will be taken.

13. Even **if the accused mate is not one of Jehovah's Witnesses** (disfellowshipped, disassociated, or never baptized), two witnesses are also generally required to establish wrongdoing that would provide a basis for Scriptural freedom. An exception may be made, however, if the unbeliever privately makes an **unambiguous confession of adultery** to the Christian mate. In such a case, if the innocent Christian mate believes that the confession is true and does not wish to reconcile, he can submit a letter to the elders outlining his situation. The body of elders should then consider the letter. Is there any known reason to conclude other than that the unbelieving mate has been immoral? For example, was the confession worded ambiguously? Did the unbeliever

later deny making the confession? If the unbeliever is willing to speak with the elders and matters are unclear, the elders may choose to ask the accused mate directly. If there is no known reason to conclude otherwise, the innocent mate can be allowed to take responsibility before Jehovah for obtaining a Scriptural divorce; if he remarries, no judicial action will be taken.—w77 pp. 607-608.

14. The following constitutes rejection by the innocent mate:

- The innocent mate *initiates* a divorce either before or after learning of the adultery.
- The innocent mate *signs a divorce decree indicating he does not object* to a divorce initiated by the guilty mate, either before or after learning of the adultery. Note: In some lands it is possible for the innocent mate to sign divorce documents that stipulate custody of the children and financial support without indicating he agrees with the divorce; his signing such papers in itself would *not* indicate a rejection.—w00 12/15 pp. 28-29.
- Though verbally expressing forgiveness and not seeking a divorce, the innocent mate *refuses to resume sexual relations for a very prolonged period of time*, a year or even years. Before indicating to the guilty mate that he is free to pursue a Scriptural divorce, the elders should consult with the branch office. Note: The innocent mate is not required to make a quick decision whether to forgive or not.—w74 pp. 671-672.

### **Adulterous Marriage**

15. If a divorced person remarries and he was not Scripturally free to do so—in other words, if *adultery and rejection by the innocent mate* had not occurred—he has entered into an adulterous marriage.

In Jehovah's eyes, he has married someone while still bound to another. Entering into such a marriage would call for judicial action.

16. If the disfellowshipped one was eventually reinstated, the elders would be very cautious in extending any special privileges. He could share in the cleaning and repair of the local Kingdom Hall. He may eventually give student talks in the Theocratic Ministry School if his doing so would not disturb others. However, **he would not be assigned to help with literature, accounts, magazines, attendants, or similar privileges in the congregation as long as the innocent former mate is alive, unmarried, and has not been guilty of *por-nei'a*.**—w83 3/15 p. 29.

17. If a Christian did not enter into an adulterous marriage but **deliberately committed adultery in a scheming way so as to end his marriage or he pressured the innocent mate to reject him** and eventually agree to a divorce, he has dealt treacherously with her. (Mal. 2:14-16) His conduct is similar to entering into an adulterous marriage, and he would not qualify for special privileges for *many years*.

See September 7, 2011, letter to all bodies of elders for direction on filing confidential material.

## Child Abuse

18. You should **immediately call the branch office** for direction if you learn of an accusation of child abuse, regardless of the age of the victim now or at the time of the alleged abuse, even if it occurred before the alleged perpetrator's baptism. The branch office will then give direction based on the circumstances involved in each situation.

See October 1, 2012, letter to all bodies of elders regarding child abuse.

19. Child abuse is a crime. **Never suggest to anyone that they should not report an allegation of child abuse to the police or other authorities.** If you are asked, make it clear that whether to report the matter to the authorities or not is a personal

decision for each individual to make and that there are no congregation sanctions for either decision. Elders will not criticize anyone who reports such an allegation to the authorities. If the victim wishes to make a report, it is his or her absolute right to do so. —Gal. 6:5.

20. When a known child molester moves to another congregation, the Congregation Service Committee should send a letter of introduction with full and complete information about his background and current situation. Any letter from the branch office concerning the child molester should not be photocopied or sent to the new congregation. However, the new congregation should be clearly informed of any restrictions imposed by the branch office. A copy of the letter of introduction should be sent to the branch office.

21. In a case in which a brother denies an allegation of child abuse and he has been accused by only one witness, the following direction is given if he moves to another congregation. The elders should consult the branch office before sending any information regarding the accusation to the elders in the new congregation. It would be helpful if your letter to the branch office provided a detailed summary of the matter and explained the spiritual condition and personal circumstances of the accused and the accuser. With regard to the accused, the following questions should be answered: (1) What is his interaction with children? (2) Does he admit to any activity with the accuser that could have been misinterpreted by the accuser as sexual abuse, or does he claim to have a poor memory of the accusation? (3) What is his response to why the accuser has made the allegation? (4) Has he had to be counseled for any other matters of a sexual nature, such as inappropriate conduct with adult sisters or pornography? (5) What is the level of his spirituality? (6) Do all the elders on the body believe that he can be trusted with children?

The following questions should be answered with regard to the accuser: (1) What is the level of maturity of the child or youth? (2) Is he (or she) describing conduct that one his age would not normally know about? (3) Is the child or his parents known to be serious, mature? (4) Is his memory consistent, or is it intermittent, or does it involve repressed memories? (w95 11/1 pp. 25-26) (5) What is the reputation of the parents? (6) Are they spiritually and emotionally mature? After carefully considering the matter, the branch office will then give you direction as to what information about the allegation should be shared, if any, with the elders of the new congregation.

### **Taking Brothers to Court**

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

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

23. However, there are legal matters over which the congregation does not have authority and which may therefore be taken to a secular court for judgment without violating the principle or the spirit of 1 Corinthians 6:1-8. These include:

- Getting a divorce decree, child custody and support, alimony.

- Obtaining insurance compensation. If a person suffers loss or is injured in or by an automobile owned by a spiritual brother, it might be necessary legally to sue the brother in order to obtain compensation from the brother's insurer.
- Being listed among creditors in bankruptcy procedures.
- Probating wills.
- Certain countersuits. For example, if a *worldly creditor* sues a brother, it might be necessary for the brother, for his own protection, to file a countersuit even though spiritual brothers may be included in the action.
- If a brother takes legal action against another baptized Witness, it would not be a violation of 1 Corinthians 6:1-8 for the one being sued to defend himself or to countersue. This is true whether the matter was first taken before the elders or not.

### When Disasters Occur

See January 6, 2012, letter to all bodies of elders regarding disaster preparedness and response.

24. When the local congregation is affected by a disaster, elders should assist the publishers in the following ways:

- **Quickly make assessment of the immediate needs of the brothers and sisters.** Group overseers can take the lead to locate each family in their field service group and inquire of their well-being. They will next want to communicate their findings to the coordinator or another elder, if he is not available, even if all is well.
- **Take care of the immediate needs** by arranging for medical treatment and supplies, such as water, food, and shelter. (John 13:35; Gal. 6:10) If advance warning of a disaster is given, as with some major storms, elders should ensure that everyone is in a safe location and if time per-

mits, should obtain and distribute supplies that may be needed.

- **Give spiritual and emotional support** to the congregation, and resume congregation meetings as quickly as possible.—*km* 1/07 p. 4; *g96* 6/22 p. 17.
- In addition to the immediate physical needs of the brothers, is there property damage? Is damage to Kingdom Halls and individual homes major or minor? (For example, major would be roof destroyed, several feet of water in home; minor would be missing shingles on roof, windows broken, and so forth.) To **gather the necessary information**, responsible elders in the area may help in assessing the damage. Once this information is gathered, the coordinator or another elder may **inform the circuit overseer** of the damage and the health condition of the brothers and sisters in the congregation.
- When the **circuit overseer** has received the report from the elders, he **will promptly call the branch office**. The branch office will determine whether there is a need for further assistance.
- **Other assistance** may be provided, such as checking to see what government aid may be available.—*w66* 2/1 pp. 95-96.

25. If the disaster occurs in another area, elders can take the lead in assisting by doing the following:

- Remember the brothers and sisters in your prayers.—2 Cor. 1:8-11.
- If you wish to provide monetary assistance, you may send your donations to the worldwide work in the land in which you live, either through the congregation or directly. In this way, “the faithful and discreet slave,” through the organizational arrangements set in place

by the Governing Body, cares for the needs of the worldwide brotherhood in an orderly manner.—Matt. 24:45-47; 1 Cor. 14:33, 40; *km* 1/05 “Question Box.”

- Do not send materials or supplies to the disaster area unless specifically requested by the brothers in charge. This will assure an orderly relief effort and the proper distribution of goods.
- Please do not telephone the branch office just for information, as this can tie up phone lines that are needed to handle incoming calls from the disaster area.

26. **Following a disaster**, the publishers can make good use of opportunities to comfort others spiritually and, to the extent possible, to help in practical ways according to the need. Aiding the brothers in these ways takes time and effort. However, love for the whole association of brothers will prompt us to do what we can to help those in need.—2 Cor. 8:1-12.



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# WATCHTOWER

BIBLE AND TRACT SOCIETY OF NEW YORK, INC.

CABLE WATCHTOWER

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July 1, 1989

TO ALL BODIES OF ELDERS IN THE UNITED STATES.

C O N F I D E N T I A L

Dear Brothers:

We are writing to help all of you as individual elders be aware of a growing concern regarding the handling of your duties that may involve legal issues or questions. **Due to its importance, the presiding overseer should arrange for a special meeting of the body of elders to read and consider this letter carefully.**

In spreading the Kingdom message, it is appropriate that we be bold and outspoken. Jesus commanded that "what you hear whispered, preach from the housetops." (Matthew 10:27) Even when worldly authorities demand that we keep silent, we reply as did the apostles: "We cannot stop speaking about the things we have seen and heard." (Acts 4:20) The Christian congregation will continue to declare the Kingdom message boldly until Jehovah says the work is done.

Elders share the obligation to shepherd the flock. However, they must **be careful not to divulge information about personal matters to unauthorized persons.** There is "a time to keep quiet," when "your words should prove to be few." (Ecclesiastes 3:7; 5:2) Proverbs 10:19 warns: "In the abundance of words there does not fail to be transgression, but the one keeping his lips in check is acting discreetly." Problems are created when elders unwisely reveal matters that should be kept confidential. Elders must give special heed to the counsel: "Do not reveal the confidential talk of another." (Proverbs 25:9) Often the peace, unity, and spiritual well-being of the congregation are at stake. Improper use of the tongue by an elder can result in serious legal problems for the individual, the congregation, and even the Society.

While we as Christians are ready to forgive others who may wrong us, those in the world are not so inclined. Worldly persons are quick to resort to lawsuits if they feel their "rights" have been violated. Some who oppose the Kingdom preaching work readily take advantage of any legal provisions to interfere with it or impede its progress. Thus, elders must especially guard the use of the tongue. Jesus faced opposers who tried to "catch him in speech, so as to turn him over to the government." (Luke 20:20) He instructed us to be "cautious as serpents and yet innocent as doves" in such situations. (Matthew 10:16) Where such a threat exists, our position as elders should be in line with David's words: "I will set a muzzle as a guard to my own mouth, as long as anyone wicked is in front of me."—Psalm 39:1.

TO ALL BODIES OF ELDERS

July 1, 1989

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In recent years, this matter has come to be a cause for increasing concern. The spirit of the world has sensitized people regarding their legal "rights" and the legal means by which they can exact punishment if such "rights" are violated. Hence, a growing number of vindictive or disgruntled ones, as well as opposers, have initiated lawsuits to inflict financial penalties on the individual, the congregation, or the Society. **Many of these lawsuits are the result of the misuse of the tongue.** As elders, remember that ill-advised statements or actions on your part can sometimes be interpreted legally as violating others' "rights."

**The need for elders to maintain strict confidentiality has been repeatedly stressed.** Please see The Watchtower of April 1, 1971, pages 222-4, and September 1, 1987, pages 12-15. The September 1977 Our Kingdom Service, page 6, paragraph 36, and the ks77 text-book, page 65, also provide helpful direction and counsel. That material strongly emphasized the elders' responsibility to avoid revealing confidential information to those not entitled to it.

The legal consequences of a breach of confidentiality by the elders can be substantial. If the elders fail to follow the Society's direction carefully in handling confidential matters, such mistakes could result in successful litigation by those offended. Substantial monetary damages could be assessed against the elders or congregation. In some cases where the authorities are involved, certain complications could lead to a fine or imprisonment. These possibilities underscore **the need for elders to be discerning and to follow carefully directions provided by the Society.**

## I. WHAT TO DO IN SPECIFIC CASES

### A. Judicial Committee Matters

Judicial committees must follow carefully the Society's instructions in carrying out their duties. (Note ks77, pages 66-70; ks81, pages 160-70.) Anything submitted in writing to the committee by the alleged wrongdoer or by witnesses should be kept in strict confidence. If it is necessary to continue at a later time a committee hearing, the members of the committee should submit to the chairman any personal notes they have taken. The chairman will keep these notes in a secure place to prevent breaches of confidentiality. The notes may be returned to the individual elders when the hearing resumes. Upon conclusion of the case, the chairman should place only necessary notes and documents, a summary of the case, and the S-77 forms in a sealed envelope for the congregation file. Nothing should be preserved outside of this sealed envelope (including unnecessary personal notes) by any elder on the committee. Obviously, no committee will ever allow judicial proceedings to be tape recorded or allow witnesses testifying before the committee to take notes.

## **B. Child Abuse**

Many states have child abuse reporting laws. When elders receive reports of physical or sexual abuse of a child, they should contact the Society's Legal Department immediately. Victims of such abuse need to be protected from further danger.—See "If the Worst Should Happen," Awake! January 22, 1985, page 8.

## **C. Search Warrants and Subpoenas**

1. A search warrant is a court order authorizing the police to search premises to locate evidence that may be used in a criminal prosecution. No elder should ever consent to the search of a Kingdom Hall or any other place where confidential records are stored. However, armed with a search warrant the police do not need consent and may even use force to accomplish their task. Likely before obtaining a search warrant, the police or other governmental officials will make inquiries regarding confidential records, make request to obtain the records, or indicate that they will seek a search warrant if the elder(s) involved does not cooperate. In any such situation, the Society's Legal Department should be called immediately.

At any time an elder is confronted with a search warrant (whether given advance notice or not), the elder should first ask to read the warrant. After reading it he should ask if he can call for legal guidance and then call the Society's Legal Department. If for some reason the Legal Department cannot be contacted, the elders involved should make every effort to obtain the assistance of a local attorney for the purpose of protecting the confidentiality of the records. It may be impossible to stop determined officers from conducting the search authorized by the warrant. Conscientious elders will want to do all they reasonably and peaceably can to preserve the confidentiality of the congregation in harmony with the principle set out in Acts 5:29.

2. Subpoenas are demands for records or for the appearance of an individual at a trial or deposition to give testimony. Subpoenas may be issued by a court or in some cases by a governmental agency or an attorney. If an elder receives a subpoena, he should contact the Society's Legal Department immediately. Never turn over records, notes, documents, or reveal any confidential matter sought by subpoena without receiving direction from the Legal Department.

## **D. Crimes and Criminal Investigations**

In some cases the elders will form judicial committees to handle alleged wrongdoing that also could constitute a violation of Caesar's criminal laws (e.g., theft, assault, etc.). Generally, a secular investigation into a matter that is a concern to the congregation should not delay conducting a judicial hearing. To avoid entanglement with the secular authorities who may be investigating the same matter, the strictest confidentiality (even of the fact that there is a committee) must be maintained.

If the alleged wrongdoer confesses to the sin (crime), no one else should be present besides the members of the committee. When evidence supports the accusation but genuine repentance is not displayed resulting in a decision to disfellowship, this should be handled in the normal course regarding advice of appeal rights and announcements to the congregation. In cases of serious criminal wrongdoing (e.g., murder, rape, etc.), or where the criminal conduct is widely known in the community, the body of elders should contact the Society before proceeding with the judicial committee process.

#### **E. When Servants and Publishers Move**

A considerable number of publishers, including **elders and ministerial servants move from one congregation to another.** Sometimes the circumstances surrounding their departure are unsettled. Some appointed brothers may be experiencing problems that have brought their qualifications into question. It is not uncommon for a body of elders to hold back in giving counsel, allowing a brother to move without discussing his problem. Thereafter, they decline to recommend his reappointment in his new congregation. Often such a brother protests, requiring extensive correspondence between the bodies of elders. Much personal, and sometimes embarrassing, information must then be passed on. Such mishandling of things greatly increases the potential for serious repercussions. Problems can be avoided by the body of elders assuming its responsibility to inform a brother that he will not be favorably recommended, fully explaining the reasons why. **Every effort should be made to resolve any difference before he leaves, eliminating any need for controversy involving his new congregation.** The body should assign two elders to meet with him before he moves, letting him know whether they are recommending him to the new congregation.

This would likewise apply to publishers who move at a time when their personal conduct requires investigation by the elders. **If serious accusations of wrongdoing have been made against an individual and he moves to another congregation before matters are finalized, usually it is best for the elders in the original congregation to follow through in handling matters, if possible and if distance permits.** They are acquainted with the individual and the circumstances surrounding the alleged wrongdoing; this ordinarily puts them in the best position to get the facts and to handle the case. Handling matters in this way will eliminate the need to reveal confidential information unnecessarily about the private lives of individuals.

#### **F. When Lawsuits Are Threatened**

If the congregation or the elders (in their capacity as elders) are threatened with a lawsuit, the Society's Legal Department should be contacted immediately. No statements should be made by any member of the body of elders about the merits or validity of an actual or threatened lawsuit without authorization from the Society.

## **G. Child Custody**

Elders may learn that a publisher is facing a dispute over child custody in a divorce proceeding. If the parental rights of such is challenged on the basis of our Christian beliefs, or on the assertion that our beliefs are harmful to a child's best interests, the elders should immediately write to the Society's Legal Department. In a rare emergency, a telephone call may be necessary. The Legal Department will assess the facts and determine the degree of its involvement, if any. Elders have no authority to make any promises about the Society's paying legal fees or handling specific cases. There is no need to contact the Society if there is no indication that the beliefs and practices of Jehovah's Witnesses will be attacked in a child custody dispute.

When you write to the Society's Legal Department about a specific case, please provide the following information:

1. The names of the parents and their attorneys.
2. The number of children involved and their ages.
3. A brief description of the facts, including the presence of any apostates.
4. An assessment of the Christian parent's spiritual condition—Is he or she new in the truth? Active? Inactive? Balanced?
5. The status of the legal proceedings—Has the matter gone to trial? Has the trial date been set? If so, when?

## **II. POINTS TO REMEMBER**

### **A. Appreciate the Importance of Maintaining Confidentiality**

Elders must exercise extraordinary caution when it comes to handling confidential information about the private lives of others. Do not mistakenly minimize the gravity of a breach of confidentiality. Unauthorized disclosure of confidential information can result in costly lawsuits. Even if a lawsuit turns out favorably, valuable time and energy that could have been devoted to Kingdom interests will be lost.

### **B. Do Not Make Statements to Secular Authorities Until You Receive Legal Advice from the Society**

You are not legally required to make immediate responses to secular authorities about matters that could involve the disclosure of confidential information. Voluntarily allowing the Kingdom Hall or confidential records to be searched, where no search warrant is produced, could infringe on the legal rights of the congregation or of others. No statements should be made until you have an understanding of your legal position from the Society's Legal Department.

### C. Be Extremely Careful with Written Material

All material related to judicial matters should be kept in a safe place, accessible only to elders. **Final reports on the handling of judicial matters should be placed in a sealed envelope in the congregation file.** A judicial committee should avoid sending to an individual any kind of correspondence that accuses him of specific wrongdoing. (Note ks77, pages 68-9.) **Nothing should be put in writing to any disfellowshipped person to advise him of his status or the reasons for it without specific direction from the Society.** The rules and procedures of Jehovah's Witnesses do not require such written disclosures. Anything in writing submitted to a judicial committee should be kept in strict confidence. If a judicial committee disfellowships an individual, he should be informed **orally** of the action taken and of the right to appeal. If the wrongdoer refuses to attend the hearing, two members of the judicial committee should attempt to contact the individual at his home and inform him **orally** of the decision. If this is not possible, the two elders may be able to inform him by telephone.

### D. Guard the Use of Your Tongue

Think before you speak. Do not discuss private and judicial matters with members of your family, including your wives, or with other members of the congregation. Be extremely careful not to inadvertently disclose private information when others are present, such as when speaking on the telephone with others listening in or nearby. (Note ks77, page 65.) At times, complicated judicial cases may necessitate consultation with an experienced, mature elder in another congregation or with the circuit overseer. Unless the circuit overseer is the elder consulted, only the pertinent details should be discussed and names should not be used.

Elders bear a heavy responsibility in ministering to the needs of the Christian congregation, and observing confidentiality as they do so. (1 Corinthians 16:13) We trust that the information in this letter will help you carry this burden. Please be assured of our love and prayers, and may Jehovah continue to bless you as you shepherd his flock.—1 Peter 5:1-3.

Your brothers,

*Watchtower B. & F. Society*

OF NEW YORK, INC.

P.S. Due to the importance of the information that is presented herein it is suggested that the body of elders jointly read and consider this letter as soon as possible after its receipt in the congregation. Please do not make any copies of this letter, nor should it be read by others. It should be kept in the congregation's confidential files for any future reference that may be required by the body of elders.

# Christian Congregation of Jehovah's Witnesses Congrégation chrétienne des Témoins de Jéhovah



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November 6, 2014

TO ALL BODIES OF ELDERS

Re: Procedures when legal issues are involved

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Dear Brothers:

1. This letter replaces the letter dated April 9, 2012, to all bodies of elders on the same subject. That letter should be removed from the congregation permanent file of policy letters and be destroyed. Significant adjustments are found in paragraph 7 with regard to broadcasting confidential meetings, and in paragraph 35 with regard to “Do-not-calls”.

2. Elders carry a heavy responsibility in these “critical times.” (2 Tim. 3:1) You must teach and shepherd the flock, set a good example in field service, maintain good spiritual habits, and care for your families’ spiritual, emotional, and physical needs. We very much appreciate and commend you for your sincere efforts to care for each of these responsibilities.

3. Your task is made more challenging by the fact that we live in a complex society in which people have become increasingly proud, greedy, and litigious. (2 Tim. 3:2-4) Further, in response to growing social problems, governments at times enact laws that impose additional responsibilities on the ministers of all religions. As Christians, we recognize Jehovah’s supreme authority and obey laws of the land that do not conflict with God’s law. (Matt. 22:21; Rom. 13:1, 2) It is therefore important that as elders you act wisely and with discernment and always follow the organization’s procedures and directions for handling congregation matters that involve legal issues.—Prov. 2:6-9.

4. Direction on handling child abuse matters can be found in separate correspondence. However, we are pleased to provide consolidated direction on handling other congregation matters involving legal issues. Please give this information your prayerful consideration.

## CONFIDENTIALITY

5. As overseers, you are often entrusted with knowledge of sensitive and confidential information. Elders must be careful **never to divulge confidential information to persons who**

**are not authorized to receive it.** There is “a time to be silent” and a time when “your words should be few.” (Eccl. 3:7; 5:2) Proverbs 10:19 warns: “When words are many, transgression cannot be avoided, but whoever controls his lips acts discreetly.” Unnecessary spiritual and legal problems result when elders unwisely reveal matters that should be kept confidential. You must therefore give special heed to the counsel: “Do not reveal what you were told confidentially.” (Prov. 25:9) When elders disregard this counsel, trust in the elder body is threatened.—w96 3/15 p. 18 par. 12; w91 11/15 p. 23 par. 19; w87 9/1 pp. 12-15.

6. If an elder were to breach confidentiality, he could subject himself and the organization to civil liability. In addition, an elder’s breach of confidentiality could result in a legal waiver of confidential religious communication privilege or the solicitor-client privilege. Confidential religious communication privilege generally prevents an elder, under specific circumstances, from having to disclose confidential communications between the elder and a member of the congregation, and the solicitor-client privilege generally protects an elder from having to disclose confidential communications between the elders and his lawyer, including the Legal Department.

7. **Wireless communication:** It is also important to avoid *inadvertently* revealing confidential information. While what is presented at our meetings and assemblies is generally not confidential, on occasion meetings are held that are of a confidential nature. For example, the branch office may sponsor schools for congregation elders and ministerial servants held at a Kingdom Hall. On such occasions, we have no objection to the use of wireless microphones as long as the broadcast range does not go beyond the classrooms and/or the intended audience. If the Kingdom Hall uses an FM transmitter, be sure this is turned off during confidential meetings.

8. When calling the branch office or when otherwise discussing confidential matters by phone with persons entitled to such information, make sure that no one—including family members—can overhear the conversation. For such conversations, it is permissible to use a cordless *digital* telephone. Cordless *analog* telephones do not provide adequate privacy and should not be used. If you are not certain whether you have a *digital* cordless telephone, it may be best to use a landline telephone. Therefore, please make sure that your telephone is not a cordless *analog* telephone.

9. Most cellular telephone providers today have replaced older analog networks with more secure digital networks. These signals are encrypted and considered to be secure from people seeking to monitor conversations. Therefore, cellular telephones may be used when calling the branch office or when discussing confidential matters with fellow elders.

10. **When someone seeks confidential information:** You should never reveal confidential information to anyone unless theocratic procedure requires it or the branch office has instructed you to do so. (Persons seeking confidential information may include an investigator, a lawyer, a policeman, a detective, other law enforcement officers or government officials, school personnel, parties to a lawsuit, family members [whether they are Jehovah’s Witnesses or not], and even other elders or other persons who may not be entitled to the information.) This applies to written materials and unwritten knowledge possessed by the elders. It applies to records pertaining to a particular case and general materials, such as letters from the organization, the *Shepherding* textbook, and the *Organized* book. Even when secular authorities request confidential information, you are not obligated to answer questions before consulting the

Legal Department. (*ks10* chap. 6 par. 19) Oftentimes secular authorities request confidential information to which they are not legally entitled. Thus, you could subject yourself and the organization to civil liability if you reveal such confidential information.

11. If any unauthorized person seeks confidential information from you, simply state: “As a minister I have a duty to keep certain matters confidential and must consult my lawyer before answering any questions.” There is no need to state that you will be contacting the Legal Department. If the inquiring party presses for more information about a confidential matter or for the identity of your lawyer, do not be intimidated by threats and do not make any other statements. Simply ask for the person’s name, telephone number, title, and the office he represents, and tell him that you will need to talk to your lawyer before you respond to his request. Then, call the Legal Department immediately for legal direction.

12. **Subpoenas:** A subpoena or subpoena duces tecum is an official written demand for oral testimony or records. If you receive a subpoena, or if you hear that one may be issued seeking oral or written information from someone concerning a congregation matter, call the Legal Department immediately. If possible, have the subpoena that has been served on hand when you make the call, and be prepared to fax a copy of it. **Never turn over records, notes, or other documents or reveal any confidential matter** sought by subpoena without first receiving legal direction from the Legal Department. Many documents and records in congregation files may be protected from disclosure based on confidential religious communication privilege or the solicitor-client privilege. If you receive a subpoena intended for someone else, call the Legal Department immediately, even before you contact the party for whom the subpoena was intended. If someone threatens to get a subpoena for congregation-related records or testimony, call the Legal Department immediately, even if no actual subpoena has yet been served.

### CRIMES AND CRIMINAL INVESTIGATIONS

13. **Handling reports of the abuse of elderly and disabled persons:** At times, the law may require ministers to report the abuse of elderly and disabled persons to the authorities. Elders should therefore call the Legal Department for legal advice whenever they receive an allegation that an elderly or disabled person has been abused. The types of adult abuse that are reportable to authorities differ from province to province. Adult abuse can be physical, sexual, or emotional and can include neglect or abandonment by a caretaker, self-neglect, forced labor, and financial or other types of exploitation. In some provinces adult abuse reporting statutes apply to disabled persons older than the age of majority. In any event, we want to do all we can to protect elderly and disabled persons from harm, in harmony with the principles of God’s Word that direct us to have tender compassion for disadvantaged ones.—Ps. 72:13, 14.

14. **Handling reports of other crimes:** When the elders learn of alleged criminal activity on the part of one of Jehovah’s Witnesses or someone associated with the congregation as the accused or the victim, they should immediately call the Legal Department. In some cases, the elders will form a judicial committee to handle alleged wrongdoing that may also constitute a violation of criminal law (e.g., murder, rape, child abuse, fraud, theft, assault). Generally, the elders should not delay the judicial committee process, but strict confidentiality must be maintained to avoid unnecessary entanglement with secular authorities who may be conducting a criminal investigation of the matter. For example, even the fact that a judicial committee has been formed should not be disclosed to persons not entitled to know. (*ks10* chap. 6 par. 18) In

addition, the Legal Department should be contacted for legal advice on how to protect confidentiality that is specific to the circumstances of the case.

15. **Search warrants:** Elders should never give consent for anyone to search a Kingdom Hall or any other place where confidential records are stored. Conscientious elders do all they reasonably and peaceably can to preserve the confidentiality of the congregation in harmony with the principle set out in Acts 5:29. However, law enforcement officers do not need your consent if they have a search warrant. A search warrant is a court order authorizing the authorities to search certain premises to locate evidence that may be used in a criminal prosecution.

16. If a law enforcement officer claims to have a search warrant, ask to see and read it and request his name and badge number. If your request is denied, tell the officer that you do not consent to the search, but do not try to physically stop him. Then, whether you have been allowed to read the search warrant or not, call the Legal Department immediately for legal advice. If for some reason you are not allowed to call or you are unable to contact the Legal Department at that moment, call as soon as possible. If the authorities threaten to get a search warrant to look for congregation records or other confidential information, call the Legal Department immediately, even if the warrant has not yet been issued.—*ks10* chap. 6 par. 19.

17. **Restraining orders or orders of protection:** At times an individual will obtain a restraining order or order of protection against someone else. The elders should not try to read, understand, or enforce a restraining order between private parties, and neither should an elder try to provide legal advice. If anyone asks the elders any questions about the restraining order, politely tell the person that a restraining order is a personal legal matter that does not involve the congregation. Thereafter, the elders should call the Legal Department immediately for direction.

### **DISRUPTIVE INDIVIDUALS AT CONGREGATION MEETINGS**

18. It is best to ignore trivial or minor disturbances created by individuals at congregation meetings. But if an individual persists in this course of action and is distracting others, two elders should ask him to leave. If a second elder is not readily available, a mature ministerial servant can be asked by an elder to join him. If the disruptive individual refuses to leave, you should inform him that if he does not leave and continues to distract others, you will contact the police to have them deal with him. If the individual does not cooperate, you should telephone the police. When the police arrive, you may inform them that the individual is causing a disturbance and that his implied invitation to attend the meeting has been revoked. You may also inform the police that you are willing to file trespassing charges if it seems prudent and necessary under the circumstances. If you feel the need for further direction, please contact the Service Department.

19. Elders wisely avoid being provoked into physically removing a disruptive person from the premises, as the individual may be attempting to create a basis for legal action. Thus, the elders should generally not try to forcibly remove a disruptive individual from the Kingdom Hall. If an individual is violent from the outset, the police can be called immediately. There is no need to warn him. In the event that a person is physically attacked, that person has the right to defend himself from harm, and the elders should do what they reasonably can to help protect the individual. If those who are being physically attacked are unable to flee from an assailant who appears determined to cause injury, a Christian may try to ward off such attacks and even strike

out in defense if necessary. Of course, any such defensive action would be solely to protect oneself or others from the attacker until the police arrive.—*g91 7/8 p. 13; g87 11/22 p. 28.*

### **SUICIDES AND ATTEMPTED OR THREATENED SUICIDES**

20. At times, judicial committees may deal with someone who is so distraught that he attempts or threatens to commit suicide. In such cases it may be best for the committee to suspend the hearing and focus on helping the person to regain his balance. In any event, the elders should treat the person with extreme thoughtfulness and kindness.—*ks10 chap. 5 par. 4; chap. 6 par. 16.*

21. In addition, elders should immediately call the Legal Department for legal direction whenever they learn of an actual suicide, a threatened suicide, or an attempted suicide. Whether a family member or close friend with knowledge of the suicide threat or suicide attempt reports it to authorities is a personal decision for him to make. (Gal. 6:5) Elders should not discourage anyone from reporting the matter. Family members who are aware of the suicide threat or attempt should be encouraged to take positive steps to prevent the person from harming himself.

### **WHEN LAWSUITS ARE THREATENED**

22. Elders should call the Legal Department immediately when they learn of any threatened legal action or actual lawsuit against the organization, congregation, or elders. If you are contacted by a lawyer or the media regarding a threatened or actual lawsuit before you have had an opportunity to call the Legal Department, get the caller's name, law office name, telephone numbers, deadline, and cause of action, and let the caller know you will try to call him back before that deadline. Then call the Legal Department immediately for assistance. No elder should make any statement about the merits or validity of an actual or threatened lawsuit before calling the Legal Department.—*ks10 chap. 6 par. 18.*

### **CHILD CUSTODY**

23. Legal precedents are available to assist the lawyer representing a publisher involved in a child custody or visitation matter in which our religion is under attack. The precedents should be requested by the *body of elders only*, with the publisher's permission, in a case in which it is evident that the publisher's religious beliefs will be at issue. For those facing secular issues on child custody or visitation, helpful information can be found in the October 2009 *Awake!*, pages 21 and 27; the December 8, 1997, *Awake!*, pages 3-12; the chart found in the April 22, 1991, *Awake!*, page 9; and the October 22, 1988, *Awake!*, pages 2-14.

24. Elders should not make any promises to publishers about the organization's involvement. If a publisher requests assistance, please determine the following before calling the Legal Department:

- **Is there litigation?** In other words, has someone been served with papers to appear in court? If litigation has not begun, the Legal Department will usually not send the precedents to the publisher's lawyer to avoid giving the impression that we are encouraging litigation. It is better if the parties can settle the issue between themselves without going to court.
- **Is the litigation between the two biological parents?** Sometimes the litigation involves a parent and grandparent, two sets of grandparents, parent and step-parent, and so forth. The precedents address the law as applied to parents, not

grandparents, and will not be sent in such cases. Nevertheless, if it appears one party is actively using a religious issue against the other, you may contact the Legal Department to explain the extenuating circumstances and inquire whether any type of assistance would be available.

- **Is the publisher requesting the precedents one of Jehovah's Witnesses in good standing?** Unbaptized publishers, advanced Bible students, or baptized persons on judicial restrictions will be considered on a case-by-case basis. In the judgment of the elders, would it shock or upset the congregation if they learned that the organization was helping this person? If so, precedents will not be sent.
- **Is the other party to the litigation *not* one of Jehovah's Witnesses?** This includes those who were never in the truth as well as disfellowshipped and disassociated persons. However, precedents will not be sent if both parties are Witnesses, even if the other party is currently inactive and not leading a Christian life. Nevertheless, if it appears one parent is actively using a religious issue against the other, you may contact the Legal Department to explain the extenuating circumstances and inquire whether any type of assistance would be available.
- **Is there a religious issue?** Does the non-Witness party allege that the Witness is not a fit parent because she will not allow the children to celebrate holidays, get a college education, receive a blood transfusion, participate in school sports, or associate with anyone outside of the congregation? Does he allege that exposure to two religions will confuse the child or that Jehovah's Witnesses are a cult? If disfellowshipped, does he allege that he will be alienated from his children because of being "shunned?" If these or similar religious issues are not present in the litigation, the precedents are not appropriate and will not be sent.

25. If the answer to all five questions is yes, precedents may be requested to be sent to the publisher's lawyer. The lawyer is likely to charge the publisher to review the precedents provided. Please be prepared to provide the names of the parents and their solicitors; the number of children involved and their respective ages; the spiritual condition of the Christian parent; a brief description of the facts, including any apostate involvement; and the status of the litigation. If the answer to all five questions is not yes, please explain to the publisher why precedents will not be requested at this time. If circumstances change, this matter can be revisited. The *Awake!* issues listed previously may still be helpful to an individual who does not qualify to receive the precedents.

### VEHICLE ACCIDENTS

26. When elders become aware that a publisher driving a vehicle in the ministry, traveling to or from a meeting, or engaging in any other theocratic activity was involved in a vehicle accident resulting in a death or serious injury, the elders should immediately call the Legal Department. If you are contacted by anyone (solicitor, other driver, passenger, investigator, or policeman) who requests a statement, you should not discuss the accident or publishers involved. You should simply ask for the caller's name, telephone number, title, and the office he represents and tell him that you will need to talk to your lawyer before responding to any questions or inquiries. There is no need to state that you will be contacting the Legal

Department. You should then call the Legal Department immediately for further direction on how to proceed.

### WHEN A PUBLISHER HAS A PERSONAL LEGAL QUESTION

27. At times, publishers may approach elders with personal legal questions. Elders should not give legal advice to publishers. Kindly tell the publisher that you are not qualified to give legal advice and suggest that he consult his own legal counsel. Of course, if an elder happens to be a lawyer, he may have clients who are Jehovah's Witnesses. In such cases, it is the elder's professional qualifications, and not his position as an elder in the congregation, that enable him to provide legal advice in his professional capacity to a fellow Witness. Any professional services that he renders would not be sponsored by the congregation but would be a private arrangement between a legal professional and his client. *Additionally, elders should never direct or suggest that publishers call or write the Legal Department to receive legal advice and direction regarding personal matters.*

### NONNEUTRAL ACTIVITY

28. When reporting to the branch office that an individual has disassociated himself by engaging in nonneutral activity, the wording on the report should be in harmony with Scriptural guidelines. Please use such expressions as "violated neutrality" or "took a nonneutral course." Isaiah 2:4 and John 15:17-19 support these descriptions. Other expressions should not be used. The same caution is to be exercised in all correspondence with the branch office or with other congregations.—Each elder should adjust the notation next to the last bullet in paragraph 3 of chapter 9 in the *Shepherding* textbook to read as follows: "See letter dated, November 6, 2014, regarding procedures when legal issues are involved."

### WITNESSING DIFFICULTIES

29. **Courtesy telephone notifications before working in the door-to-door ministry:** Prior to engaging in the public ministry, publishers (1) should not obtain a permit or register with police or municipal officials; (2) should not physically go to any police station or government office; and (3) should not provide the police or municipal officials, whether in person, by fax, or by mail, any papers, forms, lists, or other documents. Of course, if your congregation has received previous direction from the Legal Department regarding courtesy telephone notifications, you should continue to abide by that direction.

30. In the event that a publisher is stopped by the police while engaged in the door-to-door ministry and is directed to obtain a permit, to provide prior notification in person or by telephone to police or any other municipal official, or to respond to demands for any other information, the publisher should not get involved in a discussion of his legal rights in an attempt to resolve the matter. Rather, he should promptly and politely leave the territory if directed to do so. (Rom. 12:18) The publisher should then inform the body of elders of any such incident. Thereafter, please immediately contact the Legal Department for further direction rather than trying to resolve the matter on your own.

31. **"No Trespassing" signs at individual dwellings:** It may be that when a "No Trespassing" sign is posted, the intent of the sign is to prevent people from wandering about on the homeowner's property. However, he may not have an objection to someone coming straight to his door. Nevertheless, as a general rule, householders have a right to privacy and the right to prohibit anyone, including publishers, from entering their property by posting a "No

Trespassing” sign. Publishers need to be aware of the possible consequences of ignoring a “No Trespassing” sign. If publishers call at a home or enter the grounds around a home where a “No Trespassing” sign is posted, they may be subject to prosecution under provincial or territorial trespass to property legislation and receive a monetary fine. To be prosecuted for such conduct is a real possibility and a serious matter. In addition, we are living in litigious times. Publishers ignoring a posted directive to stay away may also face civil liability if sued by an irate householder. (Matt. 10:16) Publishers should keep in mind that if they decide not to go to a particular door because of a posted “No Trespassing” sign, other means of contacting the homeowner are available, such as telephone witnessing and letter writing.—*km 1/10 pp. 4-6; km 5/02 p. 7.*

32. **“No Trespassing” signs in communities and apartment complexes:** It is important to note that a “No Trespassing” sign posted on a *home* may be viewed differently from a “No Trespassing” sign placed on a *public street* or at the entrance to a *community* or *apartment complex*. With that in mind, we have no legal objection to publishers preaching in subdivisions and apartment complexes in which they have not experienced difficulties with the authorities or the management, even if there is a sign posted at the entrance.

33. If you experience difficulties with the management of any subdivision or apartment complex, immediately comply with any demands to leave the territory and then write to the Legal Department providing the name and address of the subdivision or apartment complex, the name of the on-site manager (if applicable), a description of the difficulty, and the date(s) of the incident(s). On the other hand, if a *resident* of a subdivision or apartment complex, rather than the *management*, applies a posted sign to our ministry or insists that we cannot preach in the complex, you may wish to mark the individual as a do-not-call and return to preach at another time.

34. **“No Soliciting,” “No Peddling,” or “No Canvassing” signs:** “No Trespassing” signs are different from signs such as “No Soliciting,” “No Peddling,” or “No Canvassing.” If a *municipality* endeavors to enforce the application of such signs to our preaching activity, please contact the Legal Department. However, if a *householder* at any time informs a publisher that such a sign posted on his property applies to our ministry, the publisher should assure the householder that his wishes will be honored.

35. **“Do-not-calls”:** If a householder insists that no further visits be made by Jehovah’s Witnesses, a dated note should be placed in the territory envelope so that publishers working the territory in the future do not call at that address. Such direction would apply whether or not the householder has posted a sign indicating his wishes. Under the direction of the service overseer, elders should be assigned to visit these homes every two years. It could be explained that we are calling to inquire if the same householder still lives there. If there is a reasonable response, future calls can be made in the usual way. If the householder continues to insist that no further visits be made by Jehovah’s Witnesses, no further visits should be made until two years pass. The local body of elders can decide if the circumstances in a particular case make it advisable to handle things differently.

36. Elders bear a heavy responsibility in ministering to the needs of the Christian congregation while observing confidentiality and complying with Caesar’s laws. (Rom. 13:1-4) We trust that the information in this letter will help you carry out this responsibility. Please be

Re: Procedures when legal issues are involved

November 6, 2014

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assured of our love and prayers, and may Jehovah continue to bless you as you shepherd his flock.—1 Pet. 5:1-3.

Your brothers,

*Christian Congregation  
of Jehovah's Witnesses*

cc: Circuit overseers

PS to secretary:

This letter should be retained in the congregation permanent file of policy letters. You may wish to update the congregation copy of *Index to Letters for Bodies of Elders* (S-22) at this time as well.

# Christian Congregation of Jehovah's Witnesses



2821 Route 22, Patterson, NY 12563-2237 Phone: (845) 306-1100

October 1, 2012

TO ALL BODIES OF ELDERS

Re: Child abuse

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Dear Brothers:

1. This letter updates the letters to all bodies of elders regarding child abuse dated March 23, 1992; February 3, 1993; August 1, 1995; March 14, 1997; July 20, 1998; May 24, 2002; April 1, 2004; June 5, 2006; and May 24, 2010. Those letters should be removed from the congregation permanent file of policy letters and be destroyed. *No one should keep originals or copies of any of those letters.*

2. Additionally, much fine direction has been included in the *Shepherding* textbook. Thus, elders should first consult the *Shepherding* textbook and review the Scriptural principles involved. They should thereafter study the additional points outlined in this letter. As you review this letter, please note that paragraphs 3-7 set forth **legal** concerns regarding accusations of child abuse. Paragraphs 8-20 set forth **congregational** concerns. This letter should be carefully consulted any-time a matter involving child abuse arises.

## LEGAL CONCERNS REGARDING ACCUSATIONS OF CHILD ABUSE

3. **What is child abuse from a legal standpoint?** Child abuse includes the sexual or physical abuse of a minor (a person less than 18 years of age). It would also include the extreme neglect of a minor by his parent or guardian. Child *sexual* abuse generally includes sexual intercourse with a minor; oral or anal sex with a minor; fondling the genitals, breasts, or buttocks of a minor; voyeurism of a minor; indecent exposure to a minor; soliciting a minor for sexual conduct; or any kind of involvement with child pornography. Depending on the circumstances of the case, it may also include “sexting” with a minor. “Sexting” describes the sending of nude photos, seminude photos, or sexually explicit text messages electronically, such as by phone.

4. Most states have child-abuse reporting laws that, depending on the facts, mandate elders to report an accusation to the authorities. Thus, when elders learn of an accusation of child abuse, two elders from their congregation should *immediately* call the Legal Department for legal advice. If the individuals involved are in different congregations, each body of elders should arrange for two of their elders to call the Legal Department. A call should be made even when both persons involved in sexual misconduct are minors. The elders should *not* ask an alleged victim, the accused person, or relatives of the victim or accused to call the Legal Department. The elders should call the Legal Department even in the following situations:

- The alleged abuse occurred many years ago.
- The alleged abuse is based on the testimony of only one witness.
- The alleged abuse is believed to be a repressed memory.
- The alleged abuse involved perpetrators or victims who are deceased.
- The alleged abuse is believed to have already been reported to the authorities by someone.
- The alleged perpetrator or victim is no longer a member of the congregation.
- The alleged abuse occurred before the alleged perpetrator or victim was baptized.
- The alleged victim is now an adult.
- The alleged abuse occurred in the past, and you are not certain whether the elders involved at the time called the Legal Department for direction.

5. The Legal Department will provide you with legal advice based on the facts and the applicable law. If the individual who is accused of the child abuse is associated with a congregation, please provide the Legal Department with his date of birth and, if applicable, his date of baptism. After a report has been made to the Legal Department, depending on the need, the elders may be directed to contact the Service Department for assistance with questions regarding theocratic or judicial aspects of the case or regarding how to protect children.

6. Two elders should also call the Legal Department regarding any prison inmate who has been accused of child abuse in the past and who is now associating with a congregation, such as by attending congregation meetings held in the prison. This would apply whether he is baptized or not. In some cases, elders may not be authorized to inquire of the offense that an inmate may have committed. But if the elders learn that the alleged offense has to do with child abuse, they should call the Legal Department immediately.

7. If the elders become aware of minors associated with a congregation “sexting” with other minors or of adults “sexting” with minors, the Legal Department should be called *immediately*. The Legal Department does not need to be called when the elders receive reports of adults (that is, cases in which all parties involved are at least 18 years old) “sexting” one another.

#### **CONGREGATIONAL CONCERNS REGARDING ACCUSATIONS OF CHILD SEXUAL ABUSE**

8. **What is child molestation from a congregational standpoint?** *Webster’s Ninth New Collegiate Dictionary* defines “pedophilia” as “sexual perversion in which children are the preferred sexual object.” (See “Questions From Readers” in *The Watchtower* of February 1, 1997, page 29.) Deuteronomy 23:17, 18 condemns such practices as “detestable.” (See the footnotes to verses 17 and 18 in the *Reference Bible*. Also, see the footnote on page 10 of the October 8, 1993, issue of *Awake!*) In harmony with these references, we are herein discussing sexual perversion in which children are the object of sexual abuse, including fondling, by an adult. We are not discussing a situation wherein a minor who is a willing participant and who is approaching adulthood has sexual relations with an adult who is a few years older than the minor nor, generally speaking, are we discussing situations in which only minors are involved. Rather, we are referring to situations in which it is established that an adult brother or sister has been guilty of sexually abusing a young child or has been sexually involved with a minor who is approaching adulthood and who was not a willing participant.

9. As spiritual shepherds, elders should continue to make every effort to protect all in the congregation, especially children, from the unwholesome practices of the world. (Isa. 32:1, 2) One of these is child sexual abuse. We abhor the sexual abuse of children and will not protect any perpetrator of such repugnant acts from the consequences of his gross sin. (Rom. 12:9) Elders should take seriously their responsibility in this matter so that the congregations will be safeguarded from any valid accusation of neglect in protecting children from sexual abuse.

10. Regardless of whether the law requires the elders to report an accusation to the authorities, steps need to be taken to protect children. Elders should help the parents of the children involved to understand that they have the primary responsibility for protecting their children. Obviously, such parents will be keenly interested in taking precautions in this regard. Our publications contain helpful information on how parents can protect their children.—*w10* 11/1 p. 13; *w08* 10/1 p. 21; *g* 10/07 pp. 3-11; *lr* pp. 170-171; *g03* 2/8 p. 9; *g99* 4/8 pp. 9, 11; *g97* 4/8 p. 14; *w96* 12/1 pp. 13-14; *fy* pp. 61-62; *g93* 10/8 pp. 5-13.

11. In addition, the elders should investigate *every* allegation of child sexual abuse. When elders learn of an accusation, in addition to this letter, they should carefully review the direction outlined in the *Shepherding* textbook, chapter 12, paragraphs 18-21. However, in evaluating the evidence for internal congregational purposes, they must bear in mind the Bible's clear direction: "No single witness should rise up against a man respecting any error or any sin . . . At the mouth of two witnesses or at the mouth of three witnesses the matter should stand good." (Deut. 19:15) This requirement to consider testimony of two or three witnesses was confirmed by Jesus. (Matt. 18:16) Thus, although they investigate every allegation, the elders are not authorized by the Scriptures to take congregational action unless there is a confession or there are two credible witnesses. However, even though the elders are not authorized to take congregation action when there is only one witness, the elders should remain vigilant with regard to the conduct and activity of the accused. (See paragraph 12 of this letter.) If two persons are witnesses to separate incidents of the same kind of wrongdoing, their testimony can be deemed sufficient to take judicial action. (1 Tim. 5:19, 24, 25) If the person is not repentant over the gross sin, disfellowshipping action would be warranted. If the decision is to reprove, the reproof should be announced. (*ks10* chap. 7 par. 20, second bullet) This will serve as a protection for the congregation. Information concerning an individual accused of child molestation, proved or otherwise, should be placed in the congregation confidential file and marked "Do Not Destroy" and kept indefinitely. This includes *Notification of Disfellowshipping or Disassociation* (S-77) forms on individuals who have been disfellowshipped for child sexual abuse and then later reinstated. **Because of the delicate nature of handling a judicial case where an adult sexually abuses a child, please contact your circuit overseer.** He will designate an experienced elder from your circuit to serve as chairman of the judicial committee.

12. Loving elders should take steps to protect children, especially when a judicial committee determines that the one who has sexually abused a child is repentant and will be allowed to remain a member of the Christian congregation. The same concern would be shown when one who has sexually abused a child is disfellowshipped, later cleans up his life, and is reinstated. The elders should be especially mindful of the activity of any who are known to have sexually abused a child in the past. They should also ensure that newly-appointed elders are made aware of this caution. It would be appropriate for elders to talk kindly but very frankly to individuals who have manifested a weakness in this regard, strongly cautioning them to refrain from displaying affection for children, to avoid hugging or holding children on their lap, never to be alone with a child (other than their

own), not to allow children to spend the night in their home, not to work alone in field service (hence, they should always be accompanied by another adult), and not to cultivate friendships with children. This not only serves to protect children but will help to prevent those who have sexually abused a child from putting themselves in the way of temptation, being subjected to an unfounded accusation, or doing things that may cause concern to others in the congregation. (1 Cor. 10:12, 32) If the individual does not follow this direction from the elders, the elders should *immediately* call the Service Department for assistance.

13. **If the individual does not follow the above direction from the elders, or if the elders believe he may be a “predator,” the elders should immediately call the Service Department for assistance.** A “predator” is one who clearly lacks self-control and by his actions provides reason to believe he will continue to prey on children. Not every individual who has sexually abused a child in the past is considered a “predator.” **The branch office, not the local body of elders, determines whether an individual who has sexually abused children in the past will be considered a “predator.”** If the branch office determines that an individual will be considered a “predator,” parents with minor children will need to be warned of the danger that exists so that they can protect their children. In such a case, and **only after receiving direction and instructions from the Service Department**, two elders should be assigned to meet with the parents of minor children in order to provide a warning. At the same time that parents are warned about an individual, it would be appropriate for the elders to inform the individual that parents in the congregation will be discreetly informed.

14. What step should be taken when you learn of an adult who has been viewing **child pornography**? As stated in paragraph 4 of this letter, two elders should call the Legal Department. After receiving legal direction, the elders will be directed to contact the Service Department for theocratic direction.

15. **Who is considered a known child molester?** The January 1, 1997, *Watchtower* article “Let Us Abhor What Is Wicked” mentions on page 29 that a man “known to have been a child molester” does not qualify for privileges in the congregation. The expression “known to have been a child molester” has reference to how such a man is considered in the community and in the Christian congregation. In the eyes of the congregation, an adult “known” to be a former child molester is not “free from accusation” or “irreprehensible,” nor does he have “a fine testimony from people on the outside.” (1 Tim. 3:1-7, 10; 5:22; Titus 1:7) In view of his past, those in the community would not respect him and congregation members might be stumbled over his appointment. **Keep in mind that the branch office, not the local body of elders, determines whether one who has sexually abused a child is considered a known child molester.**

16. **When a known child molester moves to another congregation**, the elders should follow the procedure set forth in the *Shepherding* textbook, chapter 12, paragraph 20. If a known child molester is in prison and is transferred to another facility or is released, it is important to inform the appropriate congregation of his situation in writing, if it is possible to do so. This direction also applies when one considered a “predator,” as outlined in paragraph 13 of this letter, moves to another congregation.

17. From time to time, **local authorities may inform you** that a sex offender is living in your area. The notice usually provides the address of the individual and may state the nature of his

criminal activity. In such a case, the elders should list that address on the appropriate territory card as a “Do Not Call.” Thereafter, two elders can periodically make calls on that address. Following this direction will assist you in protecting the flock.

18. **Sexual misconduct involving only minors:** What steps should elders take when minors (persons less than 18 years of age) engage in sexual misconduct with one another? As stated in paragraph 4 of this letter, two elders should call the Legal Department even when both persons are minors. Minors who have sexual contact with one another are generally not considered as child molesters by the congregation. However, regardless of the ages of those involved, such misconduct is serious. Elders should be alert to render assistance and to protect children. The body of elders should also arrange for the minor(s) to receive assistance in the presence of their believing parent(s), in harmony with the principles and guidelines found in the Scriptures and in our publications.

19. When baptized minors become involved in “sexting,” the elders must use good judgment in determining whether the wrongdoing has escalated to a point warranting judicial action. Helpful information can be found in “Questions From Readers” in the July 15, 2006, issue of *The Watchtower*. Please review this material carefully before concluding that a baptized minor is guilty of gross uncleanness or “brazen conduct, loose conduct.” (*ks10* chap. 5 par. 9) However, if the baptized minor has been previously counseled and persists in the wrong course, in most cases, judicial action is taken. Each case must be evaluated on its own merit. If elders have questions regarding a specific case they should contact the Service Department. Also, keep in mind that Christian parents should be included in any discussions the elders have with a minor who may be involved in “sexting.”

20. The potential serious consequences associated with “sexting” underscore the importance of Christian parents supervising their children’s use of cellular telephones and other means of electronic communication. Excellent suggestions can be found on pages 6-7 of the November 2009 issue of *Awake!* (Matt. 24:45) When a minor has been involved in “sexting,” elders can use such excellent material to offer Scriptural counsel and encouragement to both the parents and the child.—1 Pet. 5:2, 3.

### HELPING VICTIMS OF CHILD SEXUAL ABUSE

21. Some Christians may become troubled with memories and feelings associated with past child sexual abuse. When an elder is approached by someone concerned or distraught about such memories, he should “speak consolingly.” (1 Thess. 5:14) Elders should manifest an empathetic, compassionate, patient, and supportive response to those approaching them about such memories. An elder must never be alone with or become the sole confidant of a sister to whom he is not closely related. Helpful suggestions and guidelines can be found in the *Shepherding* textbook, chapter 4, paragraphs 21-28. **The elders should carefully review this material when helping victims of child sexual abuse.**

### RESTRICTIONS AND PRIVILEGES

22. It cannot be said in every case that one who has sexually abused a child could never qualify for privileges of service in the congregation. However, the elders will certainly want to be very cautious, especially when dealing with one who had repeatedly engaged in this kind of wrongdoing or who had been disfellowshipped for such an offense. Before privileges can be extended, such a man must meet the Scriptural qualifications of being “self-controlled” and “irreprehensible.” He must “also have a fine testimony” from individuals inside and outside the congregation. (Titus 1:6-8;

1 Tim. 3:2, 7) Elders should keep in mind what is stated in the January 1, 1997, *Watchtower* article "Let Us Abhor What Is Wicked," page 29, paragraph 2: "Child sexual abuse reveals an unnatural fleshly weakness. Experience has shown that such an adult may well molest other children. True, not every child molester repeats the sin, but many do. And the congregation cannot read hearts to tell who is and who is not liable to molest children again. (Jeremiah 17:9) Hence, Paul's counsel to Timothy applies with special force in the case of baptized adults who have molested children: 'Never lay your hands hastily upon any man; neither be a sharer in the sins of others.' (1 Timothy 5:22)."

23. Hence, privileges of service should never be extended hastily. Considerable time should always pass before one who has sexually abused a child is recommended, if ever. It would be up to the local body of elders to determine whether such a recommendation should be made to the branch office, taking into account all factors in each individual case. Please note that unless specifically approved by the branch office, one who has sexually abused a child should not be used to conduct any meetings held in the congregation or in a prison, and he does not qualify to work on any Kingdom Hall project other than one involving the congregation where he serves as a publisher.

24. If the elders as a body conclude that one who has sexually abused a child in the distant past may now qualify for privileges, they should assign two elders to call the Service Department.

25. In view of the foregoing, each elder should make the following notation next to chapter 3, paragraph 20; chapter 5, paragraph 10, second bullet; chapter 7, paragraph 20, second bullet; and chapter 12, paragraph 18, of the *Shepherding* textbook: "See letter dated October 1, 2012, to all bodies of elders."

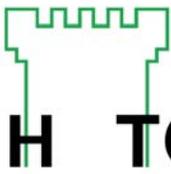
26. It is hoped that the direction provided in this letter will help you brothers in handling matters in the congregation so as to protect children from sexual abuse and, at the same time, balance Bible-based justice and mercy. We also hope this direction will assist you to lovingly help victims of child sexual abuse. May Jehovah's rich blessing continue to be with you in carrying out your many responsibilities as shepherds of the flock. With this letter we send our warm Christian love and best wishes.

Your brothers,  
*Christian Congregation  
of Jehovah's Witnesses*

cc: Traveling overseers

PS to secretary:

This letter should be retained in the congregation permanent file of policy letters. You may wish to update the congregation copy of *Index to Letters for Bodies of Elders* (S-22) at this time as well.



# WATCH TOWER

BIBLE AND TRACT SOCIETY OF BRITAIN

THE RIDGEWAY LONDON NW7 1RN

TELEPHONE 020 8906 2211

July 11, 2002

TO ALL CONGREGATIONS IN BRITAIN

Dear Brothers:

At Psalm 144:15 we read: “Happy is the people whose God is Jehovah!” We see the truthfulness of this inspired statement when we associate with our brothers and sisters at conventions, assemblies, and congregation meetings. We enjoy a warm atmosphere of peace while we benefit from fine spiritual encouragement from Jehovah and his organization. (Psalm 29:11) What a contrast to those of the world who lack true spiritual guidance and a solid hope for the future!—Isaiah 65:13.

What enables us to maintain our happy spirit? For one thing, we fear Jehovah and we deeply respect the admonition in His Word, including what the Bible says on sexual matters. (1 Corinthians 6:9, 10; Hebrews 13:4) At first, it was not easy for some of us to bring our lives into harmony with Jehovah’s elevated standards. We had to make significant changes in our lifestyle before we could qualify for membership in Jehovah’s clean, spirit-directed organization. Was it worth the effort? Absolutely! How happy we are to be living in harmony with God’s righteous requirements!

In recent weeks, the press in this country has focused attention on the way accusations of child abuse are handled by various religious organizations. Such reports may cause some sincere individuals to ask about the procedures followed by Jehovah’s Witnesses. Therefore, we believe that it will be beneficial to review with you our Bible-based position, so that you will “know how you ought to give an answer” to any who may inquire.—Colossians 4:6.

Simply stated, we abhor the sexual abuse of children and will not protect any perpetrator of such repugnant acts from the consequences of his gross sin. (Romans 12:9) We expect the elders to investigate every allegation of child abuse. Even one abused child is one too many. However, in evaluating the evidence, they must bear in mind the Bible’s clear direction: “No single witness should rise up against a man respecting any error or any sin. . . . At the mouth of two witnesses or at the mouth of three witnesses the matter should stand good.” (Deuteronomy 19:15) Later, this requirement to consider testimony of two or three witnesses was confirmed by Jesus. (Matthew 18:16) Thus, although they investigate every allegation, the elders are not authorized by the Scriptures to take congregational action unless there is a confession or there are two credible witnesses. However, if two persons are witnesses to separate incidents of the same kind of wrongdoing, their testimony can be deemed sufficient to take action.—1 Timothy 5:19, 24, 25.

What if someone is a proven child molester? The article “Let Us Abhor What is Wicked!” published in the January 1, 1997, issue of *The Watchtower* had this to say on page 29: “For the protection of our children, a man known to have been a child molester does not qualify for a responsible position in the congregation. Moreover, he cannot be a pioneer or serve in any other special, full-time service.” We take such decisive action because we are

TO ALL CONGREGATIONS IN BRITAIN

July 11, 2002

Page 2

concerned with maintaining Bible standards and protecting our children. (1 Timothy 3:2, 9, 10) Everyone in the organization is expected to meet the same requirements, namely, to be clean physically, mentally, morally, and spiritually.—2 Corinthians 7:1; Ephesians 4:17-19; 1 Thessalonians 2:4.

Our position is that secular authorities deal with crime while elders deal with sin. To avoid a miscarriage of justice, elders must not interfere with, prevent, or impede any secular investigation into child abuse. The elders are directed to ensure that secular laws are adhered to. (Romans 13:1) To that end, they are instructed to contact the Legal Department at Bethel whenever they receive information from even one person who alleges that child abuse has occurred. When a report is received, guidance is given by the Legal Department to ensure that (1) the alleged victim, and other potential victims, are protected from possible abuse, and (2) that counsel is given to report crime to the proper authorities and to comply with any additional legal requirements. The elders know that it is the absolute right of the victim, his or her family, or anyone else, to report the matter to the authorities if they so choose.—Galatians 6:5.

At least since 1981, articles have been published in our journals, *The Watchtower* and *Awake!*, with a view to educating Jehovah's people and the public on the need to protect children from child abuse. Besides the above-quoted article, there was the article "Help For the Victims of Incest," which appeared in the October 1, 1983, *Watchtower*. *Awake!* has featured such articles as "Your Child is in Danger!," "How Can We Protect Our Children?," and "Prevention in the Home" (October 8, 1993) as well as "Child Molesting—Every Mother's Nightmare," in its January 22, 1985 issue.

We believe that we have a strong, Bible-based policy on child abuse. Over the years, as we have noted areas where our policy could be strengthened, we have not hesitated to follow through. At Kingdom Ministry Schools the elders receive ongoing reminders regarding this policy and related matters. And we continue to urge the elders to follow closely the procedures that we have established.

The moral cleanness of the congregation continues to be of vital concern to the "faithful and discreet slave." (Matthew 24:45) As we keep applying Scriptural principles in our lives, our happiness will increase. We trust that these reminders will be helpful to you as you share the Kingdom hope with right-hearted ones. We have much to be grateful for in the way of spiritual refreshment as a result of attending the "Zealous Kingdom Proclaimers" District Conventions. What a happy prospect! Yes, there is no doubt about it: "Happy is the people whose God is Jehovah!"—Psalm 144:15.

Your brothers,

*Watch Tower B. & J. Society*  
OF BRITAIN

**Note to the presiding overseer:** Please adjust your meeting for this Sunday, 14<sup>th</sup> July. After the public talk please have a half-hour Watchtower summary (without paragraphs being read) and then devote the rest of the meeting to reading this letter. The letter should be read by one of the elders. All Scriptures that are cited but not quoted should be read. If this letter does not reach you in time, or if your congregation is attending a district convention, please adjust your service meeting for the week of 15<sup>th</sup> July to schedule half-an-hour to read this letter.

  
**WATCH TOWER**  
Bible and Tract Society of Pennsylvania  
Office of Public Information  
25 Columbia Heights, Brooklyn, NY 11201-2483, U.S.A.  
Phone: (718) 560-5600 Fax: (718) 560-5619

*Original via fax*

May 9, 2002

Betsan Powys  
BBC Panorama

Dear Ms. Powys:

This is in response to your fax of April 30, 2002, in which you advise us that BBC-TV is preparing a program on the way Jehovah's Witnesses handle child abuse matters. You have kindly offered us the opportunity to be interviewed on-camera; however, we must respectfully decline.

We are not opposed to giving interviews in general; however, it is likely that among those whose views will be expressed on your broadcast will be some persons who are Jehovah's Witnesses. In our view, it would be neither proper nor Scriptural for us to place ourselves in what might turn out to be an adversarial position with our Christian brothers and sisters in a public setting. (1 Corinthians 6:1-8; Ephesians 4:2) We trust that you will understand our position in this regard.

Although unable to participate in an interview, we are certainly willing to comment on the questions that you raised in your fax. We note that these center almost exclusively on the nature of the records that we keep on alleged child abusers. You tell us that it is vital that we answer your questions on our record-keeping procedures because of the "very serious nature of the allegations made to the programme," although you do not specify what the allegations are. First of all, however, please allow us to comment on the way that child abuse accusations are handled by Jehovah's Witnesses. We realize that you did not ask us to touch on this aspect; nevertheless, it is essential that we comment on it to provide an appropriate, frank answer.

In the United States, when any one of Jehovah's Witnesses is accused of an act of child abuse, the local elders are expected to investigate. The procedure is as follows. Two elders meet separately with the accused and the accuser to see what each says on the matter. If the accused denies the charge, the two elders may arrange for him to have the opportunity to confront the accuser in their presence. If during that meeting the accused still denies the charges and there are no others who can substantiate them, the elders cannot take action within the congregation at that time. Why not? As a Bible-based organization, we must adhere to what the Scriptures say, namely, "No single witness should rise up against a man respecting any error or any sin . . . at the mouth of two witnesses or at the mouth of three witnesses the matter should stand good." (Deuteronomy 19:15) Jesus reaffirmed this principle as recorded at Matthew 18:15-17.

When the branch office receives an allegation of child abuse, a check of the records might reveal that similar, uncorroborated allegations were lodged against the same person in the past, perhaps when he was living in another part of the country. When a second credible allegation by a different person is lodged against the same individual, the elders are authorized by the Scriptures to handle the case.

However, even if the elders cannot take congregational action, they are expected to report the allegation to the branch office of Jehovah's Witnesses in their country, if local privacy laws permit. Again, privacy laws permitting, a record is made at the branch office that the individual has been accused of child abuse. Each branch office of Jehovah's Witnesses keeps its own records, if that is allowed by local jurisdiction. In the United States we do not have records of child abusers who live in other lands. If privacy laws do not allow such records to be kept, the elders do whatever is permitted within the law to see to it that children are protected. The aim is to balance the right to privacy of the individual with the overriding need to protect the safety of children.—1 Timothy 5:19.

In addition to making a report to the branch office of Jehovah's Witnesses, the elders may be required by law to report even uncorroborated or unsubstantiated allegations to the authorities. If so, we expect the elders to comply. Additionally, the victim may wish to report the matter to the authorities, and it is his or her absolute right to do so. In the United States, reporting requirements vary from state to state. It can be quite a challenge to keep abreast of the reporting requirements, but our Legal Department makes every effort to do so.

If, when confronted, the accused confesses that he is guilty of child abuse, the elders take appropriate action. If he is not repentant, he will not be permitted to remain a member of the congregation. Even if he is repentant--is cut to the heart, and is thus resolutely determined to avoid such conduct in the future--what was stated in the January 1, 1997, issue of The Watchtower applies. The article said: "For the protection of our children, a man known to have been a child molester does not qualify for a responsible position in the congregation. Moreover, he cannot be a pioneer [full-time missionary of Jehovah's Witnesses] or serve in any other special, full-time service." (1 Timothy 3:2, 7-10) We take such action because we are concerned with maintaining Bible standards and protecting our children. Everyone in our organization is expected to meet the same requirements, namely, to be clean physically, mentally, morally, and spiritually.—[2 Corinthians] 7:1; Ephesians 4:17-19; 1 Thessalonians 2:4.

In a few instances, individuals guilty of an act of child abuse have been appointed to positions within the congregation if their conduct has been otherwise exemplary for decades. All of the circumstances would need to be considered carefully. Suppose, for example, that a long time ago a 16-year-old boy had sexual relations with a consenting 15-year-old girl. Depending upon the U.S. jurisdictions where he lived when this happened, elders are required to report this as an incident of child abuse. Let us say that twenty years have passed. The child abuse reporting law may have changed; he may even have married the girl! Both have been living exemplary lives and they are respected. In such a rare case, the man could possibly be appointed to a responsible position within the congregation.

Our procedures have been refined over time. Our policy over the past several years has been that at least twenty years must have passed before an individual who committed an act of child abuse could even be considered for appointment to a responsible position in the congregation, if ever. The Bible teaches that individuals can repent of their sins and "turn to God by doing works that befit repentance," and we accept what the Bible says. (Acts 26:20) Still, the safety of our children is of the utmost importance, so we realize that the local elders must be very careful when recommending individuals who may have been guilty of an act of child abuse in the distant past.

You have been told that here in the United States we have compiled a list of 23,720 names of child abusers. That is false. First of all, the total number of names in our records is considerably lower

than that. In addition, it is not meaningful to focus on the number of names we have in our records. This is because our figures include the names of many persons who have only been accused of child abuse whereas the charges have not been substantiated. We keep these records to document our compliance with what the law requires in many U.S. jurisdictions. Also included on our list are allegations made on the basis of so-called "repressed memories," the validity of which many authorities challenge. Then there are the names of persons who have been accused of abusing children before becoming Jehovah's Witnesses as well as individuals who have never been baptized Witnesses but whose names we are obliged to keep because of their association with the Witnesses. (An example of this would be a non-Witness father or step-father who is accused by his Witness children or step-children of abusing them.) To be safe, we also list the names of persons who may or may not be considered as child abusers, depending upon the jurisdiction where they live (for example, that 16-year-old boy who had sexual relations with the consenting 15-year-old girl). The name of an individual who was guilty of voyeurism or involved with child pornography, as further examples, would also be included on the list. And, to be sure, the list also includes names of persons who are actually guilty of child abuse. We do not apologize for keeping such records here in the United States. Apart from being legally needed, they have been very helpful to us in our efforts to protect the flock from harm. (Isaiah 32:2) Christian parents can rightly feel secure in the knowledge that such efforts are made to screen out possible child abusers from appointment to responsible positions within the congregation.

Ms. Powys, please do not conclude that we believe that our system is perfect. No human organization is perfect. But we do believe that we have a strong, Bible-based policy on child abuse. Anyone in a responsible position who is guilty of child abuse would be removed from his responsibilities without hesitation. We certainly would not knowingly transfer him to serve elsewhere.

Child abuse is abhorrent to us. Even one abused child is one too many. At least since 1981, our journals, *The Watchtower* and *Awake!*, have featured articles to educate both Witnesses and the public regarding the importance and need to protect children from child abuse. Among others, there was the article "Let Us Abhor What Is Wicked!" published in the January 1, 1997, issue of *The Watchtower*; "Help For the Victims of Incest" in the October 1, 1983, *Watchtower*; "Your Child Is in Danger!", "How Can We Protect Our Children?", and "Prevention in the Home," all in the October 8, 1993, *Awake!*, as well as "Child Molesting—Every Mother's Nightmare" in the January 22, 1985, *Awake!* Over the years, as we have noted areas where our policies could be strengthened, we have followed through. We are continuing to refine them.

We trust that you will find the information in this letter to be helpful. As you will note, we have responded to the broad issues you raise rather than providing specific answers to your detailed list of questions. We note that you sent a similar list of questions to our offices in London. We understand they are answering your questions in accordance with their procedures and adherence to British law. With every good wish, I am,

Very truly yours,

  
J. R. Brown  
Director  
Office of Public Information

**FILED**  
Clerk of the Superior Court  
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17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
18 **COUNTY OF SAN DIEGO**

19 JOSE LOPEZ, an Individual,  
20 Plaintiff,

21 v.

22 DOE 1, LINDA VISTA CHURCH;  
23 DOE 2, SUPERVISORY  
24 ORGANIZATION; DOE 3,  
25 PERPETRATOR; and DOES 4 through  
26 100, inclusive,  
27 Defendants.

CASE NO. 37-2012-00099849-CU-PO-CTL

**DECLARATION OF GERRIT LÖSCH IN  
SUPPORT OF MOTION TO QUASH  
ORDER GRANTING PLAINTIFF'S  
MOTION TO COMPEL DEPOSITION OF  
GERRIT LÖSCH**

Hearing Date: TBD  
Time: TBD  
Dept: C-65  
Judge: Joan M. Lewis  
Complaint Filed: June 29, 2012  
Trial Date: June 27, 2014

28 I, Gerrit Lösch, declare as follows:

1. I am over 18 years of age, of sound mind, and competent to make this Declaration.

I have personal knowledge of the matters contained herein, and they are all true and correct.

2. I provide this Declaration to support the Motion to Quash Order Granting Plaintiff's "Motion to Compel the Deposition of Gerrit Lösch and the Underlying Notice of

1 Taking the Deposition of Gerrit Lösch, with Production of Documents Required – Videorecorded  
2 for Use at Trial.”

3 3. If called upon to testify in this civil action, I would provide the information  
4 contained in this Declaration.

5 4. I was not served with the Notice of Deposition, but I learned that Plaintiff vacated  
6 the original deposition date after Watchtower objected to the Notice.

7 5. I recently learned that this Court entered an Order compelling Watchtower Bible  
8 and Tract Society of New York, Inc. (sued as Doe 1; hereinafter referred to as “Watchtower”) to  
9 produce me for deposition, but I have not been served with a copy of the Court’s Order.

10 6. I am a member of the ecclesiastical Governing Body of Jehovah’s Witnesses,  
11 having been appointed to serve in that capacity on July 1, 1994. I was not on the Governing Body  
12 in 1986 when the Plaintiff alleges he was abused by Gonzalo Campos.

13 7. The Governing Body of Jehovah’s Witnesses is the highest ecclesiastical authority  
14 for the faith of Jehovah’s Witnesses, and it exercises spiritual oversight for Jehovah’s Witnesses  
15 worldwide.

16 8. I am not, and never have been, a corporate officer, director, managing agent,  
17 member, or employee of Watchtower. I do not direct, and have never directed, the day-to-day  
18 operations of Watchtower. I do not answer to Watchtower. I do not have, and never have had,  
19 any authority as an individual to make or determine corporate policy for Watchtower or any  
20 department of Watchtower.

21 9. Watchtower does not have, and never has had, any authority over me.

22 10. I have no personal knowledge of any facts or circumstances concerning the subject  
23 matter of this case because, among other things:

24 (a) I do not supervise or work for, and I have never supervised or worked for, the  
25 Watchtower Legal Department or the U.S. Service Department.

26 (b) I did not move to live in the United States until July, 1990.

27 (c) Prior to July 1990, I resided in Austria.

28 (d) I do not know and have never met the Plaintiff, Jose Lopez.

1 (e) I do not know and have never met Leticia Lopez, the mother of Plaintiff Jose  
2 Lopez.

3 (f) I do not know and have never met the Defendant, Gonzalo Campos, who is  
4 sued as Doe 3.

5 11. I am a resident of the State of New York, as I live and work in Brooklyn where the  
6 world headquarters of Jehovah's Witnesses is located.

7 I declare under penalty of perjury under the laws of the State of California that the  
8 foregoing is true and correct, and that this Declaration is executed this 4<sup>th</sup> day of February 2014.

9  
10 Gerrit Lösch  
11 Gerrit Lösch



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

**AT SYDNEY**

**COMMONWEALTH OF AUSTRALIA**

*Royal Commissions Act 1902*

**NEW SOUTH WALES**

*Royal Commissions Act 1923*

**QUEENSLAND**

*Commissions of Inquiry Act 1950*

PUBLIC INQUIRY INTO

**THE JEHOVAH'S WITNESSES AND WATCHTOWER BIBLE & TRACT SOCIETY OF AUSTRALIA  
LTD**

**CASE STUDY 29**

**SUBMISSIONS OF SENIOR COUNSEL ASSISTING THE ROYAL COMMISSION**

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## Introduction

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### About the public hearing

- 1 The 29th public hearing of the Royal Commission was held in Sydney from 27 July to 5 August 2015 and on 14 August 2015.
- 2 The scope and purpose of this public hearing was to inquire into:
  - a) The experience of survivors of child sexual abuse within the church of the Jehovah's Witnesses (the **Jehovah's Witness Church**) in Australia.
  - b) The responses of the Jehovah's Witnesses Church and its corporation, the Watchtower Bible and Tract Society of Australia Ltd (**Watchtower Australia**), to allegations, reports or complaints of child sexual abuse within the Church.
  - c) The systems, policies and procedures in place within the Jehovah's Witnesses Church and Watchtower Australia for raising and responding to allegations of or concerns about child sexual abuse within the Church.
  - d) The systems, policies and procedures in place in the Jehovah's Witnesses Church and Watchtower Australia to prevent child sexual abuse within the Church.
  - e) Any related matters.
- 3 During the public hearing, the Royal Commission heard evidence from two survivors, BCB and BCG, who were abused by those in positions of authority within the Jehovah's Witness organisation in the period between approximately 1982 and 1988.
- 4 The Royal Commission also heard evidence from:
  - a) eight congregational elders who were involved in handling the allegations of child sexual abuse reported by the survivors
  - b) three senior members of the Australia Branch Office of the Jehovah's Witness organisation
  - c) a member of the Governing Body of the Jehovah's Witnesses organisation
  - d) a consultant in the field of prevention and response to child sexual abuse by religious organisations engaged by Watchtower Australia, and
  - e) a former solicitor of the Queensland Office of the Director of Public Prosecutions.

### What the case study considered

- 5 The case study explored in detail the experiences of two survivors of child sexual abuse and the Jehovah's Witness organisation's response to their complaints of sexual abuse whilst they were members of the organisation. Twelve institutional witnesses gave evidence about the organisation's response.
- 6 The case study also examined the systems, policies and procedures in place within the Jehovah's Witness organisation for responding to allegations of child sexual abuse, and

the mechanisms in place to prevent child sexual abuse within the Jehovah's Witness organisation.

- 7 The case study also considered the role of Watchtower Australia and the Governing Body in the organisation's response to allegations of abuse.

## Part 1 Overview of the Jehovah's Witnesses

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- 8 The Jehovah's Witness organisation was founded towards the end of the 19th century in Pennsylvania by a small group of Bible students led by Charles Taze Russell.<sup>1</sup> Russell had become disillusioned with mainstream Christianity, which he argued had strayed from the first century vision of Christianity described in the Bible.<sup>2</sup> In 1884, Taze's Zion's Watch Tower Tract Society was incorporated and carried on the business of publishing and disseminating millenarian literature – that is, literature based on the belief that the end of the world is imminent.<sup>3</sup>
- 9 Today, the religion has a worldwide presence of 8.2 million active members in 239 countries.<sup>4</sup> Over the last 25 years, the active membership of Jehovah's Witnesses worldwide has increased from four million members in 1990.<sup>5</sup>
- 10 The Jehovah's Witness organisation has been active in Australia since 1896, with a Branch Office first established in 1904 (the **Australia Branch Office**).<sup>6</sup> The Australia Branch Office is based in Sydney and coordinates the activities of all congregations in Australia, New Zealand and 'various other islands'.<sup>7</sup>

### 1.1 Organisational structure

- 11 The primary legal entity used by the Jehovah's Witness organisation today is the Watch Tower Bible and Tract Society of Pennsylvania (**Watchtower Pennsylvania**).<sup>8</sup> The headquarters of Watchtower Pennsylvania is in Brooklyn, New York and is also known as 'Bethel' meaning 'House of God'.<sup>9</sup>

#### The Governing Body

- 12 The activity of Jehovah's Witnesses worldwide is overseen by the Governing Body.<sup>10</sup> The Governing Body is a council of elders who consider themselves to be anointed by Jehovah God and who look to Jehovah and to Jesus Christ for direction in all matters.<sup>11</sup> It is based at the world headquarters of the Jehovah's Witness organisation in the United States and is at the apex of a highly centralised and hierarchical structure.<sup>12</sup>

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<sup>1</sup> Exhibit 29-0003, WEB.0053.002.0001 at 0004 (Tab 102).

<sup>2</sup> Exhibit 29-0003, WEB.0053.002.0001 at 0007 (Tab 102).

<sup>3</sup> Exhibit 29-0003, WEB.0053.002.0001 at 0005 (Tab 102).

<sup>4</sup> Exhibit 29-0003, WAT.0013.003.0001 at 0004 (Tab 132);  
Exhibit 29-0003, WAT.0001.001.0001 at 0004 (Tab 133).

<sup>5</sup> Exhibit 29-0029, WAT.9999.012.0001.

<sup>6</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [6].

<sup>7</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [8];

Exhibit 29-0025, Second statement of Terrence O'Brien at STAT.0592.002.0001 at [9].

<sup>8</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [12].

<sup>9</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0075 (Tab 109).

<sup>10</sup> Exhibit 29-0025, Second statement of Terrence O'Brien at STAT.0592.002.0001 at [8].

<sup>11</sup> Exhibit 29-0028, EXH.029.028.0001\_R at 0005\_R;  
Transcript of G W Jackson, T15938:10-18 (Day 155).

<sup>12</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0007-13 (Tab 109).

- 13 The Royal Commission heard evidence from one of seven current members<sup>13</sup> of the Governing Body, Geoffrey Jackson. Mr Jackson has been a member of the Governing Body since September 2005.<sup>14</sup> He was appointed to the Governing Body because of his spiritual qualifications.<sup>15</sup> The work of the Governing Body is undertaken by several committees on which serve a total of 30 ‘helpers’, and the work of each committee is overseen by the Governing Body itself.<sup>16</sup> Each member of the Governing Body is assigned to one or more of those committees.<sup>17</sup> Mr Jackson told the Royal Commission that he serves on three committees, namely the Teaching, Writing, and Personnel Committees.<sup>18</sup>
- 14 Mr Jackson told the Royal Commission that the Governing Body is ‘a spiritual group of men who are the guardians of our doctrine’ and is responsible for ‘giving direction and impetus to Kingdom Work’ in all matters.<sup>19</sup> When asked if the Governing Body members saw themselves as disciples of Jesus, Mr Jackson did not answer in the affirmative but told the Royal Commission that the members of the Governing Body ‘hope to be [Jesus’s] disciples’.<sup>20</sup>
- 15 Similarly, when asked if the Governing Body members saw themselves as ‘Jehovah God’s spokespeople on earth’, Mr Jackson did not answer, instead telling the Royal Commission that it ‘would seem to be quite presumptuous to say that we are the only spokesperson that God is using’.<sup>21</sup> Mr Jackson’s professed humility is not, however, supported by the Jehovah’s Witness organisation’s own publications. The organisation’s handbook for members, *Organised to Do Jehovah’s Will*, teaches with reference to the ‘faithful and discreet slave’ (and thus, the Governing Body)<sup>22</sup> for instance, that the congregation hopes to ‘draw ever closer to Jehovah by manifesting complete trust in the channel that He is using to direct His people today’.<sup>23</sup> A confidential manual produced by the Governing Body and entitled *Branch Organization January 2015* (the **2015 Branch Organization Manual**) records that the Governing Body ‘is organized to take the lead as Jehovah directs it by Holy Spirit’.<sup>24</sup> Thus the Governing Body is believed by Jehovah’s Witnesses to be the ‘channel’ by which Jehovah’s will is communicated to the ‘Christian’ congregation and the Governing Body is directed by Jehovah in all that it does. It was Mr O’Brien’s evidence that the Governing Body is Jehovah God’s representative on earth providing definitive Scriptural interpretation.<sup>25</sup>

<sup>13</sup> Transcript of G W Jackson, T15931:43-44 (Day 155).

<sup>14</sup> Transcript of G W Jackson, T15931:18-20 (Day 155).

<sup>15</sup> Transcript of G W Jackson, T15932:1-2 (Day 155).

<sup>16</sup> Transcript of G W Jackson, T15932:34-T15933:7, T15933:20-27, T15977:9-11 (Day 155).

<sup>17</sup> Transcript of T J O’Brien, T15842:18-21 (Day 153).

<sup>18</sup> Transcript of G W Jackson, T15931:37-39 (Day 155).

<sup>19</sup> Exhibit 29-0028, EXH.029.028.0001\_R at 0005\_R;  
Transcript of G W Jackson, T15933:32-45 (Day 155);  
Transcript of T J O’Brien, T15818:23-41 (Day 153).

<sup>20</sup> Transcript of G W Jackson, T15937:29-33 (Day 155).

<sup>21</sup> Transcript of G W Jackson, T15937:35-38 (Day 155).

<sup>22</sup> Transcript of T J O’Brien, T15822:15-18 (Day 153).

<sup>23</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0007 (Tab 109).

<sup>24</sup> Exhibit 29-0028, EXH.029.028.0001\_R at 0005\_R [1].

<sup>25</sup> Transcript of T J O’Brien, T15817:17-127 (Day 153).

- 16 Mr Jackson said that the members of the Governing Body regard themselves as having been appointed by the Holy Spirit and as among the 144,000 anointed Jehovah's Witnesses who will go to heaven when they die.<sup>26</sup>

### Branch Offices

- 17 The pattern of organisation and operation of the Jehovah's Witness organisation today is said to adhere to that of first century Christian congregations.<sup>27</sup> The Governing Body provides 'unified theocratic direction to Branch and Country committee members worldwide' in the *2015 Branch Organization Manual*.<sup>28</sup>
- 18 The Governing Body supervises more than 90 branches worldwide.<sup>29</sup> A Branch Office is the headquarters for the Jehovah's Witness organisation in a particular country or region and is also referred to as 'Bethel'.<sup>30</sup>
- 19 Each Branch Office is supervised by a Branch Committee which oversees districts within the branch.<sup>31</sup> The Australia Branch Office is represented around Australia by circuit overseers, who have pastoral responsibility for about 20 congregations (that is, a circuit).<sup>32</sup> A circuit overseer travels weekly to different congregations in his circuit and is responsible for, among other things, ensuring that each congregation is complying with all theocratic direction given by the Governing Body.<sup>33</sup> Branch Committee members and circuit overseers are appointed by the Governing Body.<sup>34</sup>
- 20 Congregations form the basic organisational unit of the Jehovah's Witness organisation.<sup>35</sup> Each congregation is overseen by a body of elders.<sup>36</sup> Each congregation in Australia is, in the legal sense, a voluntary association and a separately registered charity.<sup>37</sup>

### The Jehovah's Witness organisation in Australia

- 21 There are currently 821 congregations in Australia with over 68,000 active members.<sup>38</sup> Over the past 25 years, the active membership of the organisation in Australia has grown

<sup>26</sup> Transcript of G W Jackson, T15937:1-5, 11-27 (Day 155).

<sup>27</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0008 (Tab 109).

<sup>28</sup> Exhibit 29-0028, EXH.029.028.0001\_R at 0004\_R.

<sup>29</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [8].

<sup>30</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0012 (Tab 109).

<sup>31</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0012 (Tab 109).

<sup>32</sup> Exhibit 29-0003, WAT.0001.001.0001 at 0009 (Tab 133).

<sup>33</sup> Exhibit 29-0003, WAT.0001.001.0001 at 0009 (Tab 133);

Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [43].

<sup>34</sup> Transcript of T J O'Brien, T15816:12-14, T15820:2-29 (Day 153);

Exhibit 29-0028, EXH.029.028.0001\_R at 0005\_R and 0011\_R;

Exhibit 29-0003, WAT.0013.001.0001 at 0032 (Tab 109);

Transcript of V J Toole, T15756:21-35 (Day 153);

Transcript of G W Jackson, T15940:41-T15941:3 (Day 155).

<sup>35</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0010-0011 (Tab 109);

Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [6]-[8].

<sup>36</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [9].

<sup>37</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [23].

<sup>38</sup> Transcript of T J O'Brien, T15844:11-21;

29% from approximately 53,000 members in 1990.<sup>39</sup> In the same period Australia's population growth has been approximately 38%.<sup>40</sup>

- 22 The Australian Branch Office relevantly comprises the following structures:
- a) the Branch Committee, an ecclesiastical body of (currently) 12 full-time elders,<sup>41</sup> which oversees and manages the operation of the Australia Branch Office<sup>42</sup>
  - b) the Legal Department,<sup>43</sup> and
  - c) the Service Department and Desk, which care for all aspects of the spiritual activities of the Jehovah's Witness organisation.<sup>44</sup>
- 23 The function of each of the above structures is relevant to the Royal Commission's examination of the Jehovah's Witness organisation's response to child sexual abuse in its ranks. The Royal Commission heard evidence from three institutional witnesses who serve in each of these structures.
- 24 Terrence O'Brien is the Coordinator of the Branch Committee and a director and Secretary of Watchtower Australia.<sup>45</sup> He has actively served with the Jehovah's Witness organisation for 40 years.<sup>46</sup>
- 25 Rodney Spinks is the senior Service Desk elder who has served in the Service Department since January 2007.<sup>47</sup> He is specifically responsible for inquiries relating to child sexual abuse and for assisting congregation elders to implement the Australia Branch Office's guidelines for handling child abuse allegations and providing victim support.<sup>48</sup> The Service Desk currently comprises five Branch Office staff.<sup>49</sup>
- 26 Vincent Toole is a solicitor who has, since 2010, overseen the operation of the Legal Department within the organisation's Australia Branch Office.<sup>50</sup> Mr Toole told the Royal Commission that he has been involved with the Legal Department since 1989.<sup>51</sup>

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Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [6].

<sup>39</sup> Exhibit 29-0029, WAT.9999.012.0001.

<sup>40</sup> See Australian Bureau of Statistics, *Census of Population and Housing 6 August 1991: Australia in Profile* (1993) (population recorded as 17.28 million), and Australian Bureau of Statistics Population Clock at [http://www.abs.gov.au/ausstats/abs%40.nsf/94713ad445ff1425ca25682000192af2/1647509ef7e25faac\\_a2568a900154b63?OpenDocument](http://www.abs.gov.au/ausstats/abs%40.nsf/94713ad445ff1425ca25682000192af2/1647509ef7e25faac_a2568a900154b63?OpenDocument) accessed on 22 September 2015 at 9.37pm, recording current Australian population as 23,905,342.

<sup>41</sup> Transcript of T J O'Brien, T15815:10-12, 40-42 (Day 153).

<sup>42</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0012 and 0037-0038 (Tab 109);

Exhibit 29-0025, Second statement of Terrence O'Brien, STAT.0592.002.0001 at [9].

<sup>43</sup> Transcript of R P Spinks, T15656:37-40 (Day 152).

<sup>44</sup> Transcript of R P Spinks, T15657:25-27 (Day 153);

Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [52].

<sup>45</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [3] and [45];

Exhibit 29-0003, WAT.0009.001.0001 at 0006 (Tab 134).

<sup>46</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [41].

<sup>47</sup> Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [16] and [53].

<sup>48</sup> Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [20] and [53].

<sup>49</sup> Transcript of R P Spinks, T15656:8-9 (Day 152).

<sup>50</sup> Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R at [11].

<sup>51</sup> Transcript of V J Toole, T15751:27-33 (Day 153).

## The Watchtower Bible and Tract Society of Australia Ltd

27 Watchtower Australia is the legal entity which facilitates the production and distribution of Bible-based literature for the organisation throughout Australasia.<sup>52</sup> Watchtower Australia is a public company limited by guarantee and a registered charity.<sup>53</sup> For ease of reference and unless otherwise specified, a reference to the Branch Office or Australia Branch Office will include a reference to Watchtower Australia.

## 1.2 Congregational membership

### Elders and ministerial servants

28 Within each congregation, the members comprise elders, ministerial servants and publishers.<sup>54</sup> Publishers are the ordinary congregation members. Only a male publisher can make spiritual advancement by first becoming a ministerial servant and then an elder.<sup>55</sup> Mr Jackson and Mr O'Brien each gave evidence that a woman can never be an elder in the Jehovah's Witness organisation.<sup>56</sup>

29 Congregational responsibilities are split between elders and ministerial servants. Elders and ministerial servants are volunteer roles taken up by men who have been actively involved in the congregation for a period of time. The Jehovah's Witness organisation does not have a salaried clergy and therefore considers that it has no employees.<sup>57</sup> Appointments are based on Scriptural qualifications and there is prescriptive guidance as to how a ministerial servant and an elder should serve, act and behave at all times.<sup>58</sup> Mr Spinks and Mr O'Brien told the Royal Commission that elders must be experienced men who have displayed a pattern of integrity in their lives over a period of time as ministerial servants.<sup>59</sup>

30 Each congregation is overseen by a body of elders.<sup>60</sup> Elders are appointed to shepherd the congregation and oversee spiritual matters.<sup>61</sup> Their primary responsibilities include organising field work (or door-to-door preaching), running congregational disciplinary

<sup>52</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0011 (Tab 109);  
Exhibit 29-0003, WAT.0001.001.0001 at 0005 (Tab 133);  
Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [21].

<sup>53</sup> Exhibit 29-0003, WAT.0009.001.0001 (Tab 134);  
Exhibit 29-0003, WAT.0001.001.0001 at 0005 (Tab 133).

<sup>54</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0025 and 0028 (Tab 109).

<sup>55</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0069-0070 (Tab 109).

<sup>56</sup> Transcript of G W Jackson, T15951: 23-26 (Day 155).

Transcript of T J O'Brien, T15863:19-45 (Day 153).

<sup>57</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [9].

<sup>58</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0013-0022 (Tab 109);

Exhibit 29-0003, WAT.0003.001.0001 at 0033 [7] (Tab 120).

<sup>59</sup> Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [73];

Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [40].

<sup>60</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [9].

<sup>61</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0018 and 0023 (Tab 109);

Exhibit 29-0003, WAT.0003.001.0001 at 0007 [1] and 0008 [3] (Tab 120);

Transcript of T J O'Brien, T15847:13-18 (Day 153).

committees, leading the congregation services and Bible studies and attending to the pastoral care of the congregation.<sup>62</sup> Upon appointment, each elder is given a copy of the *Shepherd the Flock* handbook which is designed to ‘supply vital information that will help them care for congregation matters’.<sup>63</sup>

- 31 Ministerial servants predominantly provide administrative support and practical assistance to the elders and service to the congregation.<sup>64</sup> They care for organisational tasks such as acting as an attendant at congregation meetings, handling sound equipment, distributing literature, managing congregation accounts, and general maintenance at the Kingdom Hall (the place of worship for Jehovah’s Witnesses).<sup>65</sup>
- 32 Mr Jackson confirmed that it is the belief of Jehovah’s Witnesses that elders and ministerial servants are appointed by the Holy Spirit.<sup>66</sup>

### Publishers

- 33 Members of the congregation are called ‘publishers’ and call each other ‘brother’ and ‘sister’.<sup>67</sup> Publishers may be baptised or unbaptised. Baptism is a symbol of the publisher’s dedication to Jehovah.<sup>68</sup> Un-baptised publishers are those who have not been baptised but have been given approval to join the congregation’s formal ministry and to identify themselves publically with the Jehovah’s Witness organisation.<sup>69</sup>
- 34 When a publisher qualifies to share in the Jehovah’s Witnesses’ preaching work, just prior to baptism he or she is provided with a copy of the *Organized to do Jehovah’s Will* handbook.<sup>70</sup>
- 35 Publishers who wish to devote many hours to field service preaching may be appointed as pioneers.<sup>71</sup> Regular pioneers are exemplary congregation members who have volunteered to spend a certain amount of time in the public preaching activity each month.<sup>72</sup> Special pioneers serve full-time in preaching work and are selected from experienced long-serving regular pioneers.<sup>73</sup>

<sup>62</sup> Exhibit 29-0003, WAT.0001.001.0001 at 0005 (Tab 133);  
Exhibit 29-0016, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [1.3].

<sup>63</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0007 [2] (Tab 120).

<sup>64</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0042 (Tab 109);  
Exhibit 29-0019, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [71].

<sup>65</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0041-0045 (Tab 109);  
Exhibit 29-0003, WAT.0001.001.0001 at 0005 (Tab 133);  
Exhibit 29-0003, WAT.0013.001.0001 at 0077 (Tab 109).

<sup>66</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0014, 0015, 0023, 0024, 0044 (Tab 109);  
Transcript of D Ali, T15363:9-13 (Day 148);  
Transcript of G W Jackson, T15936:42-T15937:5 (Day 155).

<sup>67</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0069 (Tab 109);  
Transcript of T J O’Brien, T15844:23-31 (Day 153).

<sup>68</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0060 (Tab 109).

<sup>69</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0065 (Tab 109).

<sup>70</sup> Transcript of T J O’Brien, T15843:34-36 (Day 153).

<sup>71</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0071-72 (Tab 109).

<sup>72</sup> Exhibit 29-0019, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [66];  
Exhibit 29-0003, WAT.0013.001.0001 at 0072 (Tab 109).

<sup>73</sup> Exhibit 29-0019, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [69];

### 1.3 The practice of being a Jehovah's Witness

#### Publications

- 36 The Jehovah's Witnesses believe that the teachings promulgated by the Governing Body are 'based on God's Word. So, what is taught is not from men but from Jehovah God. – Isa. 54:13. Matt. 24:14, 45-47'.<sup>74</sup> The teachings and direction of the Governing Body take the form of *Awake!* and *Watchtower* magazines, letters containing directives to branch offices and elders, handbooks, and other publications.<sup>75</sup>
- 37 The Jehovah's Witness organisation told the Royal Commission that the *Awake!* and *Watchtower* magazines are the most widely distributed periodicals in the world.<sup>76</sup> The *Awake!* magazine is published by the Jehovah's Witness organisation for those with little knowledge of 'Christian teachings' to 'build faith in the Bible and ... understand that Jehovah's Witnesses are different from other religious groups'.<sup>77</sup> The *Watchtower* magazine is published as a public edition (for those who are unfamiliar with Jehovah's Witness concepts) and as a study edition (for Jehovah's Witnesses and those who attend meetings).<sup>78</sup>

#### Scriptural literalism

- 38 The key imperative belief of the Jehovah's Witness organisation is that the Bible is the inspired word of God.<sup>79</sup> Jehovah's Witnesses interpret much of the Bible literally and take living in accordance with Bible principles extremely seriously.<sup>80</sup> The Bible is used by the Jehovah's Witnesses to set policy and religious practice<sup>81</sup> and was described by Mr Jackson as the Jehovah's Witness organisation's 'constitution'.<sup>82</sup>

#### Way of life

- 39 Being a Jehovah's Witness is a way of life for all members.<sup>83</sup> Devotees are expected to adhere to all doctrines established by the Governing Body through its interpretation of the Bible, the implementation of which is overseen by the Branch Committees and congregational elders.<sup>84</sup> Members of the Jehovah's Witness organisation are taught to

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Exhibit 29-0003, WAT.0013.001.0001 at 0073 (Tab 109).

<sup>74</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [13].

<sup>75</sup> Transcript of T J O'Brien, T15816:34-42 (Day 153);  
Exhibit 29-0003, WAT.0001.001.0001 at 0004 (Tab 133);  
Exhibit 29-0003, WAT.0013.001.0001 (Tab 109);  
Exhibit 29-0003, WAT.0003.001.0001 (Tab 120).

<sup>76</sup> Exhibit 29-0003, WAT.0001.001.0001 at 0004 (Tab 133).

<sup>77</sup> Exhibit 29-0028, EXH.029.028.0001\_R at 0136\_R [8].

<sup>78</sup> Exhibit 29-0028, EXH.029.028.0001\_R at 0136\_R [8].

<sup>79</sup> Transcript of T J O'Brien, T15828:41-T15829:2 (Day 153);  
Exhibit 29-0003, WEB.0053.002.0001 at 0007 (Tab 102).

<sup>80</sup> Exhibit 29-0003, WEB.0053.002.0001 at 0007 and 0016 (Tab 102).

<sup>81</sup> Exhibit 29-0003, WAT.0001.001.0001 at 0006 (Tab 133).

<sup>82</sup> Transcript of G W Jackson, T15935:20-23 (Day 155).

<sup>83</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0097-0098 (Tab 109).

<sup>84</sup> Transcript of G W Jackson, T15933:32-45, T15939:20-26 (Day 155);  
Exhibit 29-0003, WAT.0013.001.0001 at 0075 and 0107 (Tab 109);  
Transcript of V J Toole, T15754:11-15 (Day 153).

be obedient and submissive to those in the organisation in positions of authority, including elders.<sup>85</sup> Members of the Jehovah's Witness organisation are expected to adhere to a strict code of moral conduct based on the Scriptures and enforced by a highly formalised disciplinary process for dealing with wrongdoing.<sup>86</sup>

### Separateness from the world

- 40 The Jehovah's Witness organisation teaches that 'it was of great importance to Jesus that his followers keep separate from the world' and offers guidance as to how its members might themselves go about keeping separate from the world.<sup>87</sup> The organisation encourages its members to exercise caution when associating with those who are not members.<sup>88</sup> Non-Jehovah's Witnesses are referred to within the organisation as 'worldly' people and those who are 'not in the Truth'.<sup>89</sup>
- 41 The Jehovah's Witness organisation acknowledges that its members can benefit from a basic secular primary and high school education.<sup>90</sup> However the organisation counsels against pursuit of further education, the involvement of children in extra-curricular activities and attendance in sex education classes.<sup>91</sup> Documents in evidence show that Jehovah's Witness parents are encouraged by the organisation to school their own children in matters of sex education, because the alternative of school-based sex education is considered likely to result in immorality.<sup>92</sup>
- 42 Mr Spinks and Mr Toole told the Royal Commission that members of the Jehovah's Witnesses organisation are instructed to subject themselves to secular laws and government to the extent that such subjection does not conflict with Biblical law.<sup>93</sup> The *Organized to do Jehovah's Will* handbook explains that this is because secular authorities have been 'placed in their relative positions by God'.<sup>94</sup> However, the same handbook considers 'circumstances under which a Christian would refuse to obey worldly rulers' and counsels that '[w]e must obey God as ruler rather than men. – Acts 5:29'.<sup>95</sup> Mr Spinks told the Royal Commission that 'Jehovah's Witnesses will always obey Scripture ... [specifically Acts 5:29] ... where there is a clear Bible principle that' conflicts with secular law.<sup>96</sup>

<sup>85</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0024 and 0039 (Tab 109).

<sup>86</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0084-0091 (Tab 109);  
Exhibit 29-0003, WAT.0003.001.0001 at 0059-0081 (Tab 120).

<sup>87</sup> Exhibit 29-0003, WEB.0053.001.0001 at 0007 (Tab 127).

<sup>88</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0082 (Tab 109).

<sup>89</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [19].

<sup>90</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0081 (Tab 109).

<sup>91</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0081 (Tab 109);  
Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [15];  
Transcript of BCB, T15171:4-6, 20-26 (Day 141).

<sup>92</sup> Exhibit 29-0003: WAT.0001.004.0225 (Tab 75);  
WAT.0001.004.0223 (Tab 76).

<sup>93</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0099 (Tab 109);  
Transcript of V J Toole, T15767:38-T15768:9 (Day 153);  
Transcript of R P Spinks, T15700:25-37 (Day 152).

<sup>94</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0099 (Tab 109).

<sup>95</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0105 (Tab 109).

<sup>96</sup> Transcript of R P Spinks, T15700:25-37 (Day 152).

- 43 Further, relatively recent publications such as *Keep Yourself in God's Love* counsel that, as Paul says in Ephesians 6:12, '[w]e have a struggle ... not against blood and flesh, but against the governments, against the authorities, against the world rulers of this darkness, against the wicked spirit forces in the heavenly places'.<sup>97</sup> Moreover, the same publication states that Paul's use of the words 'governments' and 'authorities' suggests that 'attacks from the spirit realm are highly organized and deliberate'.<sup>98</sup>
- 44 In the light of such doctrinal teachings, it is submitted that the message published to members of the Jehovah's Witness organisation about their relationship with secular authorities is not as simple as that described by Messrs Toole and Spinks. It is submitted that, in fact, the organisation presents its members with conflicting and ambiguous teachings regarding their relationship with secular authorities, thereby fostering a distrust of such authorities.

### Millenarianism

- 45 Mr O'Brien told the Royal Commission that the Jehovah's Witnesses have a doctrinal understanding of Bible prophecies regarding the 'conclusion of the system of things', which is also referred to as 'the last days'.<sup>99</sup> He said that 'the Bible foretells the end of the present system of things',<sup>100</sup> meaning the 'end of the world'.<sup>101</sup>
- 46 The Jehovah's Witnesses are taught that the end of the world is something to look forward to and that 'God will "cut off" the wicked so that good people can truly enjoy life on earth'.<sup>102</sup> A June 1982 edition of *Awake!* magazine, for instance, tells readers that the only way to finally end child abuse is to 'embrace God's Kingdom under Christ' and to 'love God with all your heart and your neighbour as yourself' so as to be saved when the end comes.<sup>103</sup>
- 47 The Jehovah's Witnesses recognise that they 'have had wrong expectations about when the end would come'<sup>104</sup> following 'failed prophecies of 1914, 1918, 1925 and, most significantly, 1975'.<sup>105</sup> However, the Jehovah's Witnesses are counselled that 'even more important than focusing on when the end will come, [they] must be confident that it will come, and ... act accordingly'.<sup>106</sup> Mr Geoffrey Jackson told the Royal Commission that the world's end is now imminent as the 'Jehovah's Witnesses believe these are the last days'.<sup>107</sup>

<sup>97</sup> Exhibit 29-0003, WEB.0053.001.0001 at 0016 (Tab 127).

<sup>98</sup> Exhibit 29-0003, WEB.0053.001.0001 at 0017 (Tab 127).

<sup>99</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [33] and [35].

<sup>100</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [34].

<sup>101</sup> Exhibit 29-0024, Annexure 2, STAT.0592.001.0024 at 0032.

<sup>102</sup> Exhibit 29-0024, Annexure 2, STAT.0592.001.0024 at 0032.

<sup>103</sup> Exhibit 29-0003, WAT.0001.004.0223 (Tab 76).

<sup>104</sup> Exhibit 29-0024, Annexure 2, STAT.0592.001.0024 at 0033.

<sup>105</sup> Exhibit 29-0003, WEB.0053.002.0001 at 0005-0006 and 0008.

<sup>106</sup> Exhibit 29-0024, Annexure 2, STAT.0592.001.0024 at 0034.

<sup>107</sup> Transcript of G W Jackson, T15937:41-44 (Day 155).

## Evangelism

- 48 Members of the Jehovah’s Witness organisation evangelize to glorify God and are instructed to go and make disciples of all people.<sup>108</sup> Jehovah's Witnesses view evangelizing as a personal responsibility and the extent to which they engage in this activity is a personal decision that they make as an expression of their love for God.<sup>109</sup> Documents in evidence show that the Jehovah’s Witness organisation expects that each member places his or her evangelising obligations above secular employment.<sup>110</sup>
- 49 Jehovah’s Witnesses worship and praise Jehovah by attending organised meetings, Bible study, Theocratic Ministry Schools and field service.<sup>111</sup> Jehovah’s Witness meetings are generally held in the Kingdom Hall.<sup>112</sup> A study edition of *The Watchtower* magazine containing four to five articles is published by the Governing Body each month for study by the congregations over the course of that month.<sup>113</sup>

## Male headship

- 50 Documents in evidence show that the Jehovah’s Witness organisation teaches that being in subjection to God is essential and that it is important to observe the headship principle.<sup>114</sup> Mr O’Brien explained that the headship principle accepted by Jehovah’s Witnesses is that ‘the head of every man is the Christ, in turn the head of a woman is the man’.<sup>115</sup> Mr O’Brien’s evidence revealed that this belief is reflected in the patriarchal structure of the organisation, where men hold positions of authority within congregations and headship in the family.<sup>116</sup> Women are expected to defer to the authority of their husbands and children are taught to obey their parents.<sup>117</sup>

### Available findings on the Jehovah’s Witnesses relationship with secular authorities

- F1 The Jehovah’s Witness organisation presents its members with conflicting and ambiguous teachings regarding their relationship with secular authorities, thereby fostering a distrust of such authorities.

<sup>108</sup> Exhibit 29-0024, Statement of Terrence O’Brien, STAT.0592.001.0001\_R at [30].

<sup>109</sup> Exhibit 29-0024, Statement of Terrence O’Brien, STAT.0592.001.0001\_R at [31].

<sup>110</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0082 (Tab 109).

<sup>111</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0045-0058 (Tab 109).

<sup>112</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0077 (Tab 109).

<sup>113</sup> Transcript of T J O’Brien, T15843:15-25 (Day 153);  
Exhibit 29-0003, WAT.0013.001.0001 at 0047-0048, 0051 (Tab 109).

<sup>114</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0096 (Tab 109).

<sup>115</sup> Exhibit 29-0024, Statement of Terrence O’Brien, STAT.0592.001.0001\_R at [38];  
Exhibit 29-0003, WAT.0013.001.0001 at 0096 (Tab 109).

<sup>116</sup> Exhibit 29-0024, Statement of Terrence O’Brien, STAT.0592.001.0001\_R at [37];  
Transcript of T J O’Brien, T15863:19-28 (Day 153).

<sup>117</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0099 (Tab 109).

## Part 2 Historical child sexual abuse data

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- 51 In investigating the response of the Jehovah's Witness organisation to child sexual abuse, the Royal Commission sought from Watchtower Australia all documents evidencing or relating to allegations or complaints of child sexual abuse involving members of the Jehovah's Witness organisation in Australia.<sup>118</sup>
- 52 In response to the Royal Commission's summons to produce, Watchtower Australia produced some 5,000 documents comprising, among other things, files relating to some 1,000 alleged perpetrators of child sexual abuse dating back to 1950. Royal Commission staff analysed those files and produced the following data which was for the most part uncontested by the organisation.<sup>119</sup>

### 2.1 Data extracted from Watchtower Australia files

- 53 Since 1950, Watchtower Australia has recorded allegations, reports or complaints of child sexual abuse against 1,006 members of the Jehovah's Witness organisation in Australia.<sup>120</sup>
- 54 Those recorded allegations, reports or complaints relate to at least 1,800 alleged victims of child sexual abuse.<sup>121</sup>
- 55 The files record that 579 of those against whom allegations were made confessed to having committed child sexual abuse.<sup>122</sup>
- 56 Of the 1,006 members against whom allegations of child sexual abuse were made, 108 were elders or ministerial servants at the time of the first instance of alleged abuse.<sup>123</sup> The files do not reveal how many of the alleged perpetrators were elders or ministerial servants at the time of any subsequent instances of alleged child sexual abuse. The files record that 28 alleged perpetrators were appointed as elders or ministerial servants after having been the subject of an allegation of child sexual abuse.<sup>124</sup>
- 57 Finally, the files record that 401 alleged perpetrators were disfellowshipped in relation to an allegation of child sexual abuse,<sup>125</sup> and that 230 of those alleged perpetrators were

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<sup>118</sup> Exhibit 29-0021, WAT.999.013.0001\_R.

<sup>119</sup> Exhibit 29-0031, WAT.0021.001.0001;  
Exhibit 29-0021, WAT.9999.013.0005\_R.

<sup>120</sup> Exhibit 29-0021, WAT.9999.013.0012 at [1].

<sup>121</sup> Exhibit 29-0031, WAT.0021.001.0001;  
Exhibit 29-0031, WAT.0021.001.0001 – the figure in the table at the bottom of the column entitled 'Total number of alleged victims' does not take into account cells where the number of victims was recorded as '10+'.

<sup>122</sup> Exhibit 29-0021, WAT.9999.013.0012 at [8].

<sup>123</sup> Exhibit 29-0021, WAT.9999.013.0012 at [6].

<sup>124</sup> Exhibit 29-0021, WAT.9999.013.0012 at [16].

<sup>125</sup> Exhibit 29-0021, WAT.9999.013.0012 at [12].

subsequently reinstated.<sup>126</sup> Of those disfellowshipped, 78 were disfellowshipped on more than one occasion in relation to an allegation of child sexual abuse.<sup>127</sup>

### **Oral evidence on the number of recorded alleged perpetrators**

- 58 Mr Spinks pointed out that while he did not wish to diminish the significance of the number of alleged perpetrators identified in the case files, 199 of the 1,006 alleged perpetrators were not Jehovah's Witnesses at the time of the first reported allegation.<sup>128</sup> He however accepted that it 'was probably true' that the 199 alleged perpetrators identified in the case files went on to become Jehovah's Witnesses, and that in many cases they were the subject of subsequent allegations of child sexual abuse while they were Jehovah's Witnesses.<sup>129</sup>
- 59 Mr Toole told the Royal Commission that for approximately the last two years he has been responsible for receiving telephone calls from congregational elders about allegations of child sexual abuse on behalf of the Legal Department.<sup>130</sup> He estimated that, over that period, he had received and continues to receive 'three, sometimes four' calls each month.<sup>131</sup>
- 60 Mr Toole's evidence as to frequency of calls regarding child sexual abuse is consistent with the number and frequency of allegations of child sexual abuse that is evidenced in the files produced to the Royal Commission.

## **2.2 Data on reporting to police**

- 61 The analysis conducted by Royal Commission staff showed that of the 1,006 alleged perpetrators of child sexual abuse identified by the Jehovah's Witness organisation in Australia, not one was reported to police or other secular authority by the Jehovah's Witness organisation (including by elders within the organisation).<sup>132</sup> With reference to the files, no instance was identified by the Jehovah's Witness organisation of an allegation having been reported by the organisation to the police or other authorities.<sup>133</sup>
- 62 It was put to Mr Toole that there is no record in the case files of an elder having ever reported an allegation of child sexual abuse to the police or secular authorities.<sup>134</sup> Mr Toole accepted that 'if that is the way the files read, I assume that must be correct'.<sup>135</sup>
- 63 The analysis demonstrated that 161 of the alleged perpetrators recorded in the files had nevertheless been convicted of a child sexual abuse offence,<sup>136</sup> indicating that in spite

<sup>126</sup> Exhibit 29-0021, WAT.9999.013.0012 at [14].

<sup>127</sup> Exhibit 29-0021, WAT.9999.013.0012 at [13].

<sup>128</sup> Transcript of R P Spinks, T15663:39-44 (Day 152).

<sup>129</sup> Transcript of R P Spinks, T15718:43-T15719:9 (Day 152).

<sup>130</sup> Transcript of V J Toole, T15760:18-30 (Day 153).

<sup>131</sup> Transcript of V J Toole, T15760:18-30 (Day 153).

<sup>132</sup> Exhibit 29-0021, WAT.9999.013.0012 at [20].

<sup>133</sup> Transcript of V J Toole, T15777:24-T15778:22 (Day 153).

<sup>134</sup> Transcript of V J Toole, T15777:42-44 (Day 153).

<sup>135</sup> Transcript of V J Toole, T15777:42-T15778:3 (Day 153).

<sup>136</sup> Exhibit 29-0021, WAT.9999.013.0012 at [19].

of it not having been reported by the organisation, the alleged perpetrator had still come to the attention of police.

- 64 In a letter dated 20 July 2015, Watchtower Australia advised the Royal Commission that it had conducted a search of key words in the case files (such as ‘police’, ‘child services’, ‘authorities’, ‘charge’, ‘court’, ‘welfare’).<sup>137</sup> According to the results of its search, Watchtower Australia contended that ‘383 alleged perpetrators had been dealt with by either police or secular authorities in the respective States or Territories in which they reside’.<sup>138</sup> This figure was reiterated by Mr Spinks in oral evidence.<sup>139</sup>
- 65 Mr Toole accepted in examination that the conclusion asserted in the letter of 20 July 2015 was questionable because the search methodology may have yielded results even in cases where there was, for example, an instruction not to involve secular authorities.<sup>140</sup>

#### **Available findings on historical child sexual abuse data**

- F2 Since 1950, the Jehovah’s Witness organisation in Australia has received allegations of child sexual abuse against 1,006 of its members relating to at least 1,800 victims, and has in that period not reported a single allegation to the police or other authorities, even though 579 of those against whom allegations were made confessed to having committed child sexual abuse.
- F3 The Jehovah’s Witness organisation in Australia receives approximately three to four reports of allegations of child sexual abuse each month.

<sup>137</sup> Exhibit 29-0021, WAT.0018.001.0001\_R at [10].

<sup>138</sup> Exhibit 29-0021, WAT.0018.001.0001\_R at [10].

<sup>139</sup> Transcript of R P Spinks, T15717:4-T15718:3 (Day 152).

<sup>140</sup> Transcript of V J Toole, T15777:6-22 (Day 153).

## Part 3 Historical policies and procedures

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- 66 The Royal Commission heard evidence from two survivors of child sexual abuse, BCB and BCG, whose complaints of abuse were first handled by the Jehovah’s Witness organisation in or around 1992 and 1989 respectively.
- 67 This Part of these submissions provides an overview of the systems, policies and procedures in place within the Jehovah’s Witness organisation for responding to complaints of child sexual abuse at the time that BCB and BCG first raised their abuse with the organisation, and in the years following. The policies and procedures governing the organisation’s ongoing response to the management of BCG’s abuser from 2010, and to BCB’s second disclosure to the organisation in 2012, are dealt with in Parts 7 and 8 of these submissions.
- 68 Broadly speaking, allegations of child sexual abuse were handled in the relevant periods in the same way as any sin was handled according to a system requiring reporting of serious wrongdoing to congregational elders. The elders would then investigate with a view to determining the veracity of an allegation. If an allegation was proved in accordance with Scriptural standards, then the elders would form a judicial committee to determine the degree of repentance of the accused and the appropriate sanction.

### 3.1 Key documents recording systems, policies and procedures in 1989 and 1992

- 69 In 1989 and 1992, the Jehovah’s Witness elders handling BCG’s and BCB’s complaints of child sexual abuse was required to be governed by the policies and procedures set out in the *Pay Attention to Yourselves and All the Flock* elders’ handbooks of 1981 and 1991 respectively (hereinafter, ***Pay Attention 1981*** and ***Pay Attention 1991***).<sup>141</sup> Those elders’ handbooks were from time to time supplemented by letters from the Branch Office containing direction on the application of Scriptural principles and procedures,<sup>142</sup> and by other Jehovah’s Witness organisation publications including the *Awake!* and *Watchtower* magazines.<sup>143</sup>

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<sup>141</sup> Exhibit 29-0033, WAT.0019.001.0001;  
Exhibit 29-0006, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [3.2];  
Exhibit 29-0003, WAT.0013.002.0001 (Tab 80);

Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [2.1].  
<sup>142</sup> Exhibit 29-0004, Statement of Doug Jackson, STAT.0600.001.0001\_R at [3.1];  
Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [3.1];  
Exhibit 29-0004, Statement of Doug Jackson, STAT.0600.001.0001\_R at [3.2];  
Exhibit 29-0005, Statement of Joseph Bello, STAT.0594.001.0001\_R at [3.2];  
Exhibit 29-0007, Statement of Dino Ali, STAT.0598.001.0001\_R at [3.2];  
Exhibit 29-0006, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [3.4];  
Exhibit 29-0010, Statement of Kevin Bowditch, STAT.0602.001.0001\_R at [3.3].

<sup>143</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0033 (Tab 80).

70 In 1989 and 1992, general information as to reporting and disciplinary procedures was available to ordinary publishers like BCG and BCB in the form of the *Organized to Accomplish Our Ministry* (published in 1983).<sup>144</sup>

## 3.2 Reporting child sexual abuse

### Reporting within the Jehovah's Witness organisation

71 In 1989 and 1992, ordinary publishers within the Jehovah's Witness organisation were encouraged to report serious sins such as fornication, adultery and homosexuality to the elders.<sup>145</sup> Once a sin was reported to elders, publishers were advised that they could 'leave the problem in the hands of the responsible members of the congregation and trust in Jehovah that it will be resolved'.<sup>146</sup>

72 From 1991, elders were instructed that a person with knowledge of 'wrongdoing' had an obligation to report that wrongdoing in order to keep the congregation clean.<sup>147</sup>

73 Elders themselves were obliged, from 1991, to report their own 'gross wrong[s]' to the body of elders as they would no longer be qualified to continue in their 'appointed' role.<sup>148</sup>

74 From at least 1991, the types of sin that a person might report to elders as child sexual abuse included one or a combination of the following:<sup>149</sup>

- a) 'Uncleanness includes an intentional momentary touching of sexual parts or caressing of breasts. (1 Thess. 4:7, 8; 1 Tim. 5:1,2)'
- b) 'Loose conduct is a shocking, flagrant disregard for Jehovah's moral standards. (Gal. 5:19; w83 3/15 p. 31; w739/15 pp. 574-6)', and
- c) 'Por-nei'a involves immoral use of the genitals of at least one human (whether in a natural or a perverted way) ...' and includes the 'sexual abuse of children'.

75 With respect to 'porneia', *Pay Attention 1991* instructed elders to 'do what they reasonably can to protect children from further abuse; follow the Society's directives on such matters'.<sup>150</sup>

76 On the evidence before the Royal Commission, it was not until at least 1992 that elders were given an explicit directive to immediately contact the Branch Office for advice if they received a report or allegation of child sexual abuse.<sup>151</sup>

<sup>144</sup> Transcript of T J O'Brien, T15843:27-39 (Day 153); Exhibit 29-0032, WAT.0020.001.0001 at 0004.

<sup>145</sup> Exhibit 29-0032, WAT.0020.001.0001 at 0100.

<sup>146</sup> Exhibit 29-0032, WAT.0020.001.0001 at 0101.

<sup>147</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0028-0029 (Tab 80).

<sup>148</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0029 (Tab 80).

<sup>149</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0024-0026, 0028 (Tab 80).

<sup>150</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0025 (Tab 80).

<sup>151</sup> Exhibit 29-0003, WAT.0001.004.0001 at 0003 (Tab 81).

## Reporting to authorities

- 77 In 1989 and 1992, elders were under no specific direction to either report child sexual abuse to authorities themselves or to encourage the survivor of the alleged abuse to report to authorities. Instead, *Pay Attention 1981* advised elders that ‘the law on ecclesiastical privilege in many countries does not require elders to report the offender or the offense to secular authorities’.<sup>152</sup> *Pay Attention 1991* suggested that the elders encourage the accused to report himself to authorities.<sup>153</sup>
- 78 *Pay Attention 1991* otherwise discouraged Jehovah’s Witnesses from taking fellow Christians to secular courts to settle personal disputes and counselled that such disputes should be settled with the help of the congregation elders.<sup>154</sup> Failure to observe this injunction could result in restriction of congregational privileges.<sup>155</sup>

## Investigation and establishment of a judicial committee

- 79 In both 1989 and 1992, reports or allegations of serious wrongdoing were to be investigated by elders in order to determine if there was substance to a given report or allegation and if there was therefore a need to form a judicial committee.<sup>156</sup>
- 80 Elders were instructed that an accusation had substance if it was an ‘offense serious enough to result in disfellowshipping’,<sup>157</sup> and if there are ‘either two witnesses or a confession of wrongdoing’.<sup>158</sup> *Pay Attention 1981* also specifically instructed that testimony from ‘another witness to the same type of sin on the part of the accused person ... would be basis to convoke a judicial committee’ (sic).<sup>159</sup>
- 81 If there was insufficient evidence to form a judicial committee but ‘serious questions’ were raised then, from 1991, two elders might have investigated the matter further in any event.<sup>160</sup> In the case of reports of ‘gross’ or ‘serious’ sins that might ‘contaminate’ the congregation or that have brought the congregation into disrepute, a body of elders was directed to investigate and, if necessary, establish a judicial committee to handle the matter.<sup>161</sup> *Pay Attention 1991* does not, however, specifically define what constitutes a ‘gross’ or ‘serious’ sin.
- 82 More minor transgressions such as ‘minor uncleanness’ could be handled ‘at the discretion of an elder or two’ and did not require the formation of a judicial

<sup>152</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0019.

<sup>153</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0062-0063 (Tab 80).

<sup>154</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0064 (Tab 80).

<sup>155</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0064 (Tab 80).

<sup>156</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0032;  
Exhibit 29-0003, WAT.0013.002.0001 at 0041 (Tab 80).

<sup>157</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0041 (Tab 80).

<sup>158</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0035;  
Exhibit 29-0003, WAT.0013.002.0001 at 0041 (Tab 80).

<sup>159</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0035.

<sup>160</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0029 and 0041 (Tab 80).

<sup>161</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0029 (Tab 80).

committee.<sup>162</sup> The *Pay Attention 1991* handbook did not offer specific guidance as to what might constitute ‘minor uncleanness’.

- 83 Ultimately though, if an accused person denied wrongdoing and there was only one witness to the alleged wrongdoing, then a judicial committee would not be formed and the matter would be left in Jehovah’s hands.<sup>163</sup>

### Investigating elders and judicial committee members

- 84 The role of an elder in handling an allegation of wrongdoing was described in *Pay Attention 1981* and *1991* as being to act as a judge and ‘readjust’, ‘reprove’ those who are repentant, or ‘remove unrepentant wrongdoers’ from the congregation.<sup>164</sup>

- 85 *Pay Attention 1991* directed elders to be impartial at all times.<sup>165</sup> Accordingly, ‘[a]n elder who ... has had a special friendship with [the accused] should not normally serve on the [judicial] committee ...’.<sup>166</sup>

### Judicial committee

- 86 *Pay Attention 1991* provided that evidence and testimony of witnesses were to be considered by a judicial committee prior to any decision about the action necessary in respect of the accused person.<sup>167</sup> That handbook further provided that no action should be taken by a ‘committee’ against an accused person ‘unless the evidence clearly proves this necessary’.<sup>168</sup>

- 87 *Pay Attention 1991* then set out the types of evidence that would be acceptable in clearly proving that action in respect of the accused was necessary:<sup>169</sup>

- a) ‘the testimony of two or three eyewitnesses ...; no action could be taken if there was only one witness (Deut.19-15; John 8:17)’ (the **two-witness rule**)
- b) a confession from the accused, ‘which may be accepted as conclusive proof without other corroborating evidence. (Josh. 7:19)’
- c) strong circumstantial evidence ‘such as pregnancy or evidence (testified to by at least two witnesses) that the accused stayed all night in the same house with a person of the opposite sex ... under improper circumstances’, and
- d) the testimony of two or three witnesses to the same kind of wrongdoing but each is a witness to a separate incident.

<sup>162</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0025 (Tab 80).

<sup>163</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0035;  
Exhibit 29-0003, WAT.0013.002.0001 at 0050 (Tab 80).

<sup>164</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0032;  
Exhibit 29-0003, WAT.0013.002.0001 at 0024 (Tab 80).

<sup>165</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0039 (Tab 80).

<sup>166</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0067-0068 (Tab 80).

<sup>167</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0042-0043 (Tab 80).

<sup>168</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0043 (Tab 80).

<sup>169</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0043 (Tab 80).

- 88 From 1981, elders were directed that the judicial committee was to probe in an effort to establish facts, ascertain the attitude of the accused, and determine if there was evidence to establish serious wrongdoing.<sup>170</sup> From 1991, however, elders were instructed to avoid ‘probing questions [that] go into needless details, especially in regard to sexual misconduct, unless this [was] absolutely necessary, such as in determining whether ‘por-neia’ had been committed’.<sup>171</sup>
- 89 From at least 1981, in the absence of a confession by the accused, the accuser was required, even in cases of sexual abuse, to make her allegation before her abuser during either or both of the investigation and judicial committee stages of the process.<sup>172</sup> Both *Pay Attention 1981* and *Pay Attention 1991* instructed elders that the rationale for this was that an accuser should be willing to assume responsibility ‘as was the case in Israel’.<sup>173</sup>
- 90 From at least 1981, elders were instructed to invite the accused person to make a statement at the commencement of a judicial committee hearing. From 1991, elders were also directed to treat the accused kindly, making sure that he was put at ease.<sup>174</sup> *Pay Attention 1991* directed all elders on a judicial committee to weigh carefully both the interests of the accused and those of the congregation as a whole.<sup>175</sup>
- 91 From 1991, provision was also made for the accused to bring witnesses who could speak in his defence.<sup>176</sup> No equivalent entitlement was prescribed in respect of the complainant.
- 92 Although not explicitly stated in either *Pay Attention 1981* or *1991*, it would appear that in 1989 and 1992 elders handling a complaint of child sexual abuse were required by the Jehovah’s Witness organisation to assess the evidence of the complaint before them according to the Scriptures at both investigative and judicial committee stages of the process.

### Assessment of repentance

- 93 When elders had determined that there was sufficient evidence to establish the truth of an allegation, *Pay Attention 1991* and *1981* directed them to assess whether the wrongdoer was repentant in order to determine the appropriate judicial sanction.<sup>177</sup>
- 94 *Pay Attention 1991* instructed elders that a judicial committee’s primary consideration in determining the appropriate sanction is the ‘the individual’s sincere repentance or

<sup>170</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0033-0034.

<sup>171</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0043-0044 (Tab 80).

<sup>172</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0035;  
Exhibit 29-0003, WAT.0013.002.0001 at 0050-0051 (Tab 80).

<sup>173</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0035;  
Exhibit 29-0003, WAT.0013.002.0001 at 0050-0051 (Tab 80).

<sup>174</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0044 (Tab 80).

<sup>175</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0048 (Tab 80).

<sup>176</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0042 (Tab 80).

<sup>177</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0033-34.

the lack of it'.<sup>178</sup> Among other things, whether the individual had apologised to the person offended by his conduct (in the case of child sexual abuse, the victim) was a relevant consideration in the assessment of repentance.<sup>179</sup> Elders were instructed that '[n]either the gravity of the wrong nor bad publicity finally determines whether the person should be disfellowshipped'.<sup>180</sup>

### 3.3 Outcomes and sanctions

#### Deletion of elders

95 *Pay Attention 1991* directed that a wrongdoer who was an elder, ministerial servant or a pioneer would not qualify to continue in his appointed position of service and should be removed.<sup>181</sup> This is because elders, ministerial servants and pioneers were required to be irreprehensible and serve with a clean conscience.<sup>182</sup> It also instructed that an elder or a ministerial servant who committed a 'gross wrong' was morally obligated to inform the body of elders of his being reprehensible.<sup>183</sup>

#### Disfellowshipping and reproof

96 Depending upon the degree of repentance of a person found by investigating elders to be guilty of child sexual abuse, that person would either be disfellowshipped or reproofed.

97 From at least 1981, elders were directed to expel unrepentant wrongdoers who were guilty of 'gross, serious' sins from the congregation, thus denying them fellowship with Jehovah's clean congregation.<sup>184</sup> Disfellowshipping action served to protect other members of the congregation from the bad influence of the wrongdoer, safeguard the purity of the congregation and uphold Jehovah's good name.<sup>185</sup>

98 From at least 1981, elders were directed that a truly repentant wrongdoer should be reproofed rather than disfellowshipped.<sup>186</sup> Administering reproof, either privately or before onlookers concerned in the case, served to discipline the wrongdoer and instil a wholesome fear in the onlookers.<sup>187</sup>

99 In 1983, *Organized to Accomplish Our Ministry* advised publishers that the judicial committee would inform the wrongdoer of the decision to disfellowship him from the

<sup>178</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0045 (Tab 80).

<sup>179</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0046-47 (Tab 80).

<sup>180</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0045 (Tab 80).

<sup>181</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0029-0030 and 0056 (Tab 80).

<sup>182</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0029-0030 (Tab 80).

<sup>183</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0029-0030 (Tab 80).

<sup>184</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0050;  
Exhibit 29-0032, WAT.0020.001.0001 at 0102-0104.

<sup>185</sup> Exhibit 29-0032, WAT.0020.001.0001 at 0103-0104;  
Exhibit 29-0033, WAT.0019.001.0001 at 0048-0050.

<sup>186</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0048;  
Exhibit 29-0003, WAT.0013.002.0001 at 0052 (Tab 80).

<sup>187</sup> Exhibit 29-0032, WAT.0020.001.0001 at 0103.

congregation and would clearly state the Scriptural reason(s) for the disfellowshipping action.<sup>188</sup> A direction to this effect was included in *Pay Attention 1991*.<sup>189</sup>

- 100 Following a decision to disfellowship or to publicly reprove, a brief announcement would be made to the congregation stating only that the person had been disfellowshipped<sup>190</sup> or reprovved,<sup>191</sup> but not the reason for the sanction. This announcement served to alert faithful members of the congregation to stop associating with the disfellowshipped person.<sup>192</sup>
- 101 Members of the congregation were counselled against having contact and spiritual association with disfellowshipped persons<sup>193</sup> and told that it was necessary to shun disfellowshipped persons in order to have a good relationship with Jehovah.<sup>194</sup>
- 102 Both *Pay Attention 1981* and *Pay Attention 1991* provided that if a disfellowshipped person believed that a serious error in judgment was made, he was allowed seven days to appeal the committee's decision by writing a letter to the body of elders of the congregation which took the disfellowshipping action clearly stating his reasons for the appeal.<sup>195</sup>
- 103 An appeal committee would hear the original evidence and any new evidence relevant to the case.<sup>196</sup>

### 3.4 Reinstatement as a Jehovah's Witness

- 104 *Pay Attention 1981* and *Pay Attention 1991* provided that a disfellowshipped person could be reinstated in the congregation when he gave clear evidence of repentance, demonstrating that he has abandoned his sinful course of conduct and was desirous of having a good relationship with Jehovah.<sup>197</sup>

<sup>188</sup> Exhibit 29-0032, WAT.0020.001.0001 at 0104.

<sup>189</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0053 (Tab 80).

<sup>190</sup> Exhibit 29-0032, WAT.0020.001.0001 at 0105.

<sup>191</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0055 (Tab 80);

Exhibit 29-0033, WAT.0019.001.0001 at 0050.

<sup>192</sup> Exhibit 29-0032, WAT.0020.001.0001 at 0105.

<sup>193</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0042-0043;

Exhibit 29-0003, WAT.0013.002.0001 at 0035 (Tab 80);

Exhibit 29-0007, Statement of Dino Ali, STAT.0598.001.0001\_R at [2.3];

Exhibit 29-0006, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [2.3];

Exhibit 29-0010, Statement of Kevin Bowditch, STAT.0602.001.0001\_R at [2.5].

<sup>194</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0035 (Tab 80).

<sup>195</sup> Exhibit 29-0032, WAT.0020.001.0001 at 0104;

Exhibit 29-0033, WAT.0019.001.0001 at 0051-0053.

<sup>196</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0051-0053.

<sup>197</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0037;

Exhibit 29-0003, WAT.0013.002.0001 at 0060 (Tab 80);

Exhibit 29-0032, WAT.0020.001.0001 at 0106.

- 105 Elders were directed not to be hasty in reinstating individuals, being careful to allow sufficient time, perhaps many months, a year or even longer, for the disfellowshipped person to prove genuine repentance.<sup>198</sup>
- 106 Generally, the decision to reinstate was made by a judicial committee of the congregation that took the disfellowshipping action.<sup>199</sup> If the disfellowshipped person moved congregations, the reinstatement plea could be heard by the new local judicial committee.<sup>200</sup> Thereafter, that local committee would give the body of elders of the original congregation that disfellowshipped the individual its recommendation.<sup>201</sup>

### 3.5 Support offered for survivors of child sexual abuse

- 107 *Pay Attention 1991* directed elders to treat victims of sexual abuse with extreme thoughtfulness and kindness and to do what they reasonably could to protect children from further abuse.<sup>202</sup>
- 108 In 1992, the Branch Office directed elders to '[h]elp [victims] see that their worth as individuals is not diminished by the shameful way they were treated. The important thing is how Jehovah views them'.<sup>203</sup>

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<sup>198</sup> Exhibit 29-0032, WAT.0020.001.0001 at 0106;  
Exhibit 29-0033, WAT.0019.001.0001 at 0037.

<sup>199</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0060 (Tab 80);  
Exhibit 29-0033, WAT.0019.001.0001 at 0053-0054;  
Exhibit 29-0032, WAT.0020.001.0001 at 0106.

<sup>200</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0060 (Tab 80);  
Exhibit 29-0032, WAT.0020.001.0001 at 0106.

<sup>201</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0060 (Tab 80);  
Exhibit 29-0032, WAT.0020.001.0001 at 0106.

<sup>202</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0025 (Tab 80);  
Exhibit 29-0003, WAT.0001.004.0205 at 0210 (Tab 78);  
Exhibit 29-0019, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [33];  
Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [51].

<sup>203</sup> Exhibit 29-0003, WAT.0001.004.0001 (Tab 81).

## Part 4 BCB

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- 109 BCB grew up on a farm in Western Australia.<sup>204</sup> She began associating with the Jehovah's Witness organisation when she was 10 years old and was formally baptised as a Jehovah's Witness at age 18.<sup>205</sup>
- 110 BCB is now 47 years old and is a mother of two children.<sup>206</sup> BCB is still a Jehovah's Witness<sup>207</sup> but since reporting to the Royal Commission in about September 2014, she has stopped attending congregational meetings.<sup>208</sup>

### 4.1 BCB's abuse by Bill Neill

- 111 Between 1980 and 1986 when BCB was aged between 12 and 18, she regularly stayed overnight at the home of her friend, her friend's father, Bill Neill, and their family.<sup>209</sup> Bill Neill was an elder in the Narrogin congregation of Jehovah's Witnesses in Western Australia.<sup>210</sup> BCB attended weekly Bible studies led by Bill Neill at the Narrogin Kingdom Hall and at the Neill family house.<sup>211</sup>
- 112 Bill Neill discouraged BCB from forming friendships with non-Jehovah's Witnesses.<sup>212</sup> BCB left high school at the end of Year 10,<sup>213</sup> encouraged by the Neill family who preferred marriage or full-time preaching over pursuit of a further education.<sup>214</sup>
- 113 The Royal Commission heard that from 15 years of age, BCB was groomed and sexually abused by Bill Neill.<sup>215</sup> Bill Neill remained a respected elder within the congregation whilst he continued to abuse BCB.<sup>216</sup> Notwithstanding his abuse of her, BCB continued to respect Bill Neill and felt unable to disclose the abuse because of his position of authority in the congregation.<sup>217</sup>
- 114 BCB told the Royal Commission that Bill Neill's position as an elder contributed to his power over her.<sup>218</sup>

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<sup>204</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [6].

<sup>205</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [5] and [7].

<sup>206</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [3]-[4].

<sup>207</sup> Transcript of BCB, T15175:15-16 (Day 147).

<sup>208</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [73]-[74].

<sup>209</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [16].

<sup>210</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [14]-[15].

<sup>211</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [16].

<sup>212</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [17].

<sup>213</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [30].

<sup>214</sup> Transcript of BCB, T15171:1-14 (Day 147).

<sup>215</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [20]-[46].

<sup>216</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [40].

<sup>217</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [25].

<sup>218</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [79].

## 4.2 BCB's disclosure to the Narrogin Congregation elders

- 115 BCB first disclosed her abuse by Bill Neill to a Jehovah's Witness acquaintance in about 1991.<sup>219</sup> BCB gave evidence that about a week after she disclosed to her acquaintance, another elder in the Narrogin congregation, Mr Horley, approached her about Bill Neill's conduct.<sup>220</sup> Implicit in that is that the acquaintance had passed on BCB's disclosure to Mr Horley.
- 116 Mr Horley told the Royal Commission that, on his recollection, he first came to hear of the allegations against Bill Neill when BCB and her husband, BCC, came to visit him at his home to disclose the abuse.<sup>221</sup>
- 117 This difference in these recollections of BCB and Mr Horley as to how Mr Horley came to learn of BCB's allegations against Bill Neill is unimportant for present purposes and is therefore not necessary to resolve.

## 4.3 The response of the Narrogin congregation elders to BCB's disclosure

- 118 At the time of BCB's disclosure, Mr Horley and Bill Neill were the only two elders serving in the Narrogin congregation.<sup>222</sup> At that time, Mr Horley had known Bill Neill for 16 years.<sup>223</sup>
- 119 Mr Horley told the Royal Commission that he did not remember speaking to Bill Neill about BCB's allegation on his own and that he and Mr Doug Jackson, the then circuit overseer, spoke to Bill Neill together during one of Mr Doug Jackson's visits to the congregation.<sup>224</sup>

### BCB's meeting with Mr Horley and Bill Neill

- 120 BCB gave evidence that shortly after she initially spoke with Mr Horley, he arranged a meeting at her house between himself, Bill Neill, BCB and BCC.<sup>225</sup>
- 121 Mr Horley told the Royal Commission that he was unable to recall this first meeting with BCB.<sup>226</sup>

<sup>219</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [48]; Transcript of BCB, T15173:3-35 (Day 147).

<sup>220</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [49]; Transcript of BCB, T15173:37 – T15174:32 (Day 147).

<sup>221</sup> Transcript of M Horley, 15184:17-20 (Day 147).

<sup>222</sup> Transcript of M Horley, T15181:3-10 (Day 147).

<sup>223</sup> Transcript of M Horley, T15220:3 (Day 147).

<sup>224</sup> Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [5.1].

<sup>225</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [51]; Transcript of BCB, T15174:34-38 (Day 147).

<sup>226</sup> Transcript of M Horley, T15189:10-43 and T15215:14-19 (Day 147).

- 122 BCB gave evidence that, during this first meeting, Bill Neill made inappropriate jokes about his alleged conduct.<sup>227</sup> BCB also gave evidence that she was pressed by Mr Horley for intimate details or her abuse.<sup>228</sup>
- 123 BCB told the Royal Commission that it was very distressing for her to have to discuss her abuse in front of a room full of men, including her abuser.<sup>229</sup> BCB said that she felt unable to report the full extent of Bill Neill's abuse at the meeting.<sup>230</sup>

#### **BCB's meeting with Mr Horley, Mr Doug Jackson, and Bill Neill**

- 124 BCB gave evidence that Mr Horley also arranged a second meeting, again at her house, between himself, BCB, BCC, Bill Neill, and Mr Doug Jackson.<sup>231</sup>
- 125 As noted above, Mr Horley told the Royal Commission that it was at this meeting that he recalls BCB first making her allegations against Bill Neill.<sup>232</sup>
- 126 BCB gave evidence that during the second meeting Bill Neill was defensive and said that she used to wear revealing clothing.<sup>233</sup> BCB also gave evidence that she did not feel supported and that her credibility was being tested by the elders.<sup>234</sup>
- 127 The Royal Commission heard that again BCB felt too uncomfortable to disclose to the elders the full extent of her abuse by Bill Neill.<sup>235</sup>
- 128 BCB told the Royal Commission that nobody explained to her the purpose of either meeting.<sup>236</sup> Mr Horley gave evidence that he could not recall what was explained to BCB.<sup>237</sup>
- 129 BCB said that after the second meeting, Mr Doug Jackson encouraged her to read an *Awake!* magazine about child sexual abuse, but that nobody explained to her what the outcome of the meetings was or if anything would happen to Bill Neill.<sup>238</sup>

#### **Mr Horley's evidence about the investigation of BCB's allegation**

- 130 Mr Horley told the Royal Commission that at the time, he understood that Biblical principles required the accuser to face the accused<sup>239</sup> and that the relevant procedure was that set out in *Pay Attention 1991*.<sup>240</sup>

<sup>227</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [51].

<sup>228</sup> Transcript of BCB, T15175:43-T15175:7 (Day 147).

<sup>229</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [80].

<sup>230</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [52]-[53].

<sup>231</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [53]-[54].

<sup>232</sup> Transcript of M Horley, T15189:10-43 and T15215:14-19 (Day 147).

<sup>233</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [55]-[56].

<sup>234</sup> Transcript of BCB, T15176:45-T15177:4 (Day 147).

<sup>235</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [55]-[56].

<sup>236</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [51],[54].

<sup>237</sup> Transcript of M Horley, T15196:11-18 (Day 147).

<sup>238</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [58]-[59].

<sup>239</sup> Transcript of M Horley, T15189:45-T15190:2 (Day 147).

<sup>240</sup> Transcript of M Horley, T15190:39-T15191:36 (Day 147).

- 131 Mr Horley accepted in evidence that it is inappropriate to require an accused and his accuser to meet together, but said that he did not reflect on it at the time because he was just following the then procedure.<sup>241</sup> He agreed that it would be very hard for an abused person to disclose the full detail of her abuse before the accused and at least two other men.<sup>242</sup>
- 132 It is submitted that Mr Horley's application of the procedure set out in *Pay Attention 1991*, which required BCB to face her abuser, caused significant distress to BCB and prevented her from disclosing the full extent of her abuse.
- 133 Mr Horley accepted, and it is submitted, that it was totally inappropriate of him to take a person accused of child sexual abuse into the victim's home.<sup>243</sup>

### **Mr Doug Jackson's evidence about the investigation**

- 134 Mr Doug Jackson agreed that the purpose of the meetings with BCB and Bill Neill was to establish the truth of BCB's allegation in accordance with the Jehovah's Witness organisation protocol.<sup>244</sup> He did not accept that BCB was unaware of the purpose of those meetings, because, he said, although he couldn't remember what he told BCB, he 'would have told her why we were meeting'.<sup>245</sup>

### **Sufficiency of evidence**

- 135 Mr Horley gave evidence that because Bill Neill denied any intentional misconduct or deliberate touching on his part, the rule requiring two or more witnesses meant that BCB's allegations could not be proven according to the Scriptures and so the matter could not progress to a judicial committee.<sup>246</sup> This was the case even in circumstances where he had no reason to disbelieve BCB's allegations.<sup>247</sup>

### **Further disclosure / reporting**

- 136 BCB gave evidence that following the committee meeting, Mr Horley discouraged her from discussing her abuse 'out of respect for the Neill family'.<sup>248</sup> Mr Horley told the Royal Commission that he had discouraged further disclosure because he believed 'that gossip and speculation about the matter would be hurtful to BCB and her family, and to Bill and his family'.<sup>249</sup> Mr Horley denied that he was trying to cover the matter up.<sup>250</sup>

<sup>241</sup> Transcript of M Horley, T15189:45-T15190:27 (Day 147).

<sup>242</sup> Transcript of M Horley, T15199:25-38 (Day 147).

<sup>243</sup> Transcript of M Horley, T15216:18-21 (Day 147).

<sup>244</sup> Transcript of D J Jackson, T15228:15-18, and T15228:20-24 (Day 147).

<sup>245</sup> Transcript of D J Jackson, T15227:23-27, and T15227:29-33 (Day 147).

<sup>246</sup> Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [5.1];

Transcript of M Horley, T15192:37-39 (Day 147);

Transcript of M Horley, T15202:19-24 (Day 147);

Transcript of M Horley, T15207:5-12 (Day 147).

<sup>247</sup> Transcript of M Horley, T15203:1-7 (Day 147).

<sup>248</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [62].

<sup>249</sup> Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [5.3].

<sup>250</sup> Transcript of M Horley, T15199:40-T15200:17 (Day 147).

- 137 However, Mr Horley accepted that BCB would have felt silenced and unsupported by his instruction not to speak with others about her abuse.<sup>251</sup>
- 138 BCB did not remember discussing reporting her complaint to the police with anybody before or after the meetings.<sup>252</sup>
- 139 Mr Horley told the Royal Commission that he never said anything to BCB about ‘whether she should or should not report Bill Neill’s behaviour to the authorities’.<sup>253</sup> Mr Horley said that he gave no consideration to whether he or BCB should report the matter to police.<sup>254</sup>
- 140 Mr Horley said that there were very few internal policies and procedures at the time about whether elders should go to police when faced with allegations like those brought by BCB.<sup>255</sup>

#### 4.4 Bill Neill’s removal as an elder

- 141 BCB told the Royal Commission that a few weeks after the meetings with Mr Horley and Mr Doug Jackson, Bill Neill stepped down as an elder.<sup>256</sup> The fact, but not the grounds, of Bill Neill’s deletion as an elder was announced to the congregation.<sup>257</sup>
- 142 Mr Horley said that BCB’s allegations had cast a cloud over Bill Neill’s qualifications as an elder<sup>258</sup> and that he, together with Mr Doug Jackson, recommended that Bill Neill step down.<sup>259</sup> Mr Doug Jackson also said that he considered that Bill Neill no longer met the Scriptural qualifications for serving as an elder since he was guilty of uncleanness and not free from accusation.<sup>260</sup>
- 143 BCB gave evidence that even after she had disclosed her abuse by Bill Neill, she was still expected to attend Bible study organised by Mr Horley<sup>261</sup> and held at Bill Neill’s house.<sup>262</sup> She said that she continued to see Bill Neill several times a week at congregational meetings.<sup>263</sup>

<sup>251</sup> Transcript of M Horley, T15200:19-T15201:41 (Day 147).

<sup>252</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [60].

<sup>253</sup> Transcript of BCB, T15175:29-38 (Day 147);  
Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [5.4].

<sup>254</sup> Transcript of M Horley, T15188:10-16 (Day 147).

<sup>255</sup> Transcript of M Horley, T15205:3-32 (Day 147).

<sup>256</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [63].

<sup>257</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [63];  
Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [6.1].

<sup>258</sup> Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [5.1].

<sup>259</sup> Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [6.1].

<sup>260</sup> Exhibit 29-0004, Statement of Doug Jackson, STAT.0600.001.0001\_R at [6.1].

<sup>261</sup> Transcript of BCB, T15169:37-T15170:23 (Day 147).

<sup>262</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [65].

<sup>263</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [65].

- 144 BCB gave evidence that she was left feeling unsupported by the congregation and was instead encouraged to respect her abuser.<sup>264</sup>
- 145 Mr Horley told the Royal Commission that he and Mr Doug Jackson did not consider it necessary to impose any specific restrictions on Bill Neill.<sup>265</sup>
- 146 Mr Horley agreed, and it is submitted, that restricting Bill Neill's privileges would have been appropriate in relation to some situations.<sup>266</sup>

### The report to the Branch Office

- 147 In a letter dated 1 February 1992, Mr Horley and Mr Doug Jackson reported to the Branch Office on the outcome of their investigation into BCB's allegations.<sup>267</sup> The letter reported the recommendation that Bill Neill step down as an elder because Mr Horley and Mr Doug Jackson had concluded that 'uncleanness' had been committed 'on several occasions (sic)'.<sup>268</sup>
- 148 The letter of 1 February 1992 further reported that both Mr Horley and Mr Doug Jackson were 'impressed by Brother Neill's acceptance of counsel and his humility throughout the ordeal' and recommended that he be appointed as an elder again 'once this has died down'.<sup>269</sup> Mr Horley told the Royal Commission that in this regard the letter used 'unfortunate wording' and he acknowledged that '[m]atters of this nature take many years, if ever, to die down completely'.<sup>270</sup>
- 149 The *Pay Attention 1991* handbook to which Messrs Horley and Jackson would have had regard directed that the privilege of serving as ministerial servant or elder could be recommended only after the individual had ample time to prove himself to be irreprehensible and again 'free from accusation' and had 'freeness of speech'.<sup>271</sup> It is submitted that to simply wait for the matter to 'die down' before reappointing Bill Neill would not have been in accordance with the direction of the Governing Body as recorded in *Pay Attention 1991*.
- 150 Mr Horley gave evidence that although he signed the letter to the Branch Office,<sup>272</sup> he did not believe that Bill Neill had only committed uncleanness 'on several occasions'. Mr Horley accepted that BCB had made other allegations against Bill Neill, but could not

<sup>264</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [62] and [64].

<sup>265</sup> Transcript of M Horley, T15209:11-15;  
Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [9.1];  
Exhibit 29-0004, Statement of Doug Jackson, STAT.0600.001.0001\_R at [9.2];  
Exhibit 29-0003, WAT.0001.002.0504\_R (Tab 70).

<sup>266</sup> Transcript of M Horley, T15209:4-25 (Day 147).

<sup>267</sup> Exhibit 29-0003, WAT.0001.002.0504\_R (Tab 70).

<sup>268</sup> Exhibit 29-0003, WAT.0001.002.0504\_R (Tab 70).

<sup>269</sup> Exhibit 29-0003, WAT.0001.002.0504\_R (Tab 70).

<sup>270</sup> Transcript of M Horley, T15209:39-43 (Day 147).

<sup>271</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0061-0062 (Tab 80);

Exhibit 29-0033, WAT.0019.001.0001 at 0037-0038.

<sup>272</sup> Transcript of M Horley, T15205:34-T15206:2 (Day 147).

explain to the Royal Commission why those allegations had not been detailed in the report to the Branch Office.<sup>273</sup>

- 151 The letter of 1 February 1992 also reported that ‘unfortunately there may be worldly people who also know’ about Bill Neill’s conduct.<sup>274</sup> Mr Horley told the Royal Commission that he had included an expression of concern about how widely known BCB’s allegations were because he had wanted to preserve the cleanness of the congregation and was concerned about the reputation of Jehovah’s name.<sup>275</sup>
- 152 Mr Horley ultimately accepted that he was concerned with Bill Neill’s efficacy as an elder, his qualification to teach, and the proper functioning of the organisation.<sup>276</sup> Mr Horley conceded that his concern was ‘probably not’ about protecting children in the congregation.<sup>277</sup>

#### **Available findings on BCB’s first disclosure**

- F4 The elders bringing the man whom BCB accused of abusing her to her home was unjustified and traumatising for BCB and should not have occurred.
- F5 Although the elders may have been following the documented procedure at the time and they may have believed that Scriptural principle required that the accuser face the accused with her allegations, it was distressing to and unsupportive of BCB to require that of her.
- F6 It was distressing for BCB to be required by the elders to tell of what had happened to her to a group of men, including the man whom she accused of abusing her, and it was not likely to, nor did it, result in BCB disclosing the full extent of her abuse.
- F7 It was inconsistent with the elders’ professed sympathy for BCB for them not to have offered her the opportunity of the support and involvement of women in the process of investigating her allegations of abuse.
- F8 The elders did not explain to BCB the purpose of their investigation and the meetings with her such as to ensure that she had an understanding of that purpose, which left her confused and disempowered.
- F9 The application of the two-witness rule meant that there was insufficient evidence for the elders to act against BCB’s abuser even though they believed her, which left her feeling disbelieved and unsupported, and it left the abuser in the congregation where he may have been a risk to other children.
- F10 Mr Horley telling BCB that she should not discuss her abuse with anyone left her feeling silenced and unsupported.
- F11 BCB was not told by the elders that she could, let alone should, report her abuse to the authorities.
- F12 In circumstances where both investigating elders agreed that there was substance to BCB’s allegations, they should have taken steps against Bill Neill, at least by imposing some

<sup>273</sup> Transcript of M Horley, T15207:36-T15208:38 (Day 147).

<sup>274</sup> Exhibit 29-0003, WAT.0001.002.0504\_R (Tab 70).

<sup>275</sup> Transcript of M Horley, T15206:26-34 (Day 147).

<sup>276</sup> Transcript of M Horley, T15210:13-31 (Day 147).

<sup>277</sup> Transcript of M Horley, T15209:45-T15210:31 (Day 147).

restrictions on his activities involving children and thereby addressing the potential risk that he posed to other children.

F13 It was traumatic for BCB and inappropriate of Mr Horley for him to have required BCB to attend Bible study at Bill Neill's home when he knew that BCB accused Bill Neill of abusing her.

F14 The recommendation of the elders to the Branch Office that Bill Neill be reinstated as an elder 'once this has died down' and their expressed concern 'that there may also be worldly people who also know' demonstrates that they were more concerned about the reputation of Bill Neill and the congregation than about the risk that he posed to children.

#### 4.5 BCB's disclosure in 2012

153 In 2012 in a written statement, BCB disclosed her abuse by Bill Neill to two elders in her local congregation, Joe Bello and David Wood.<sup>278</sup>

154 In a letter dated 18 December 2012, Messrs Bello and Wood forwarded BCB's written statement to the Branch Office.<sup>279</sup>

155 BCB told the Royal Commission that in July 2014, when Mr Bello was visiting her house on an unrelated matter she told him that she was considering reporting her abuse to the Royal Commission.<sup>280</sup> BCB gave evidence that at around the same time, Mr Bello telephoned her husband, BCC, and asked if BCB 'really wants to drag Jehovah's name through the mud'.<sup>281</sup>

156 Mr Bello accepted, and it is submitted, that he was wrong to have said what he said to BCC and that he should never want to 'discourage someone from going to the authorities'.<sup>282</sup> It is further submitted that Mr Bello's discouragement of BCB through what he said to BCC was in direct contravention of the Jehovah's Witness organisation's explicit directive to '[n]ever suggest to anyone that they should not report an allegation of child abuse to the police or other authorities'.<sup>283</sup>

157 Upset by Mr Bello's visit, BCB wrote a second letter recording her feelings about her abuse.<sup>284</sup> Under cover of a letter dated 17 December 2014, Mr Bello, Mr Wood, and Mr Robert Boardman of BCB's local congregation forwarded BCB's second letter to the Branch Office.<sup>285</sup>

<sup>278</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [69];  
Exhibit 29-0005, Statement of Joseph Bello, STAT.0594.001.0001\_R at [5.1].

<sup>279</sup> Exhibit 29-0003, WAT.0001.002.0501\_R (Tab 71);

<sup>280</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [70].

<sup>281</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [71];  
Exhibit 29-0005, Statement of Joseph Bello, STAT.0594.001.0001\_R at [5.12].

<sup>282</sup> Exhibit 29-0005, Statement of Joseph Bello, STAT.0594.001.0001\_R at [5.13].

<sup>283</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0132 [19] (Tab 120).

<sup>284</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [72].

<sup>285</sup> Exhibit 29-0003, WAT.0001.002.0495 (Tab 72).

## Mr Horley's correspondence with the Branch Office in 2015

- 158 In a letter dated 6 January 2015, Mr Horley provided, at the request of the Service Desk at the Branch Office,<sup>286</sup> a brief summary of events leading to the deletion of Bill Neill as an elder in 'in around 1993'.<sup>287</sup> In his letter, Mr Horley reported that '... it became a matter of her word against his as there were no witnesses to the alleged events. BCB was an attractive young sister and often got around the house in her nightwear ...'.<sup>288</sup> Mr Horley told the Royal Commission that this latter observation was in fact a comment that Bill Neill had made to him.<sup>289</sup> Mr Horley said that Bill Neill's comment 'should have raised stronger warning bells than it did at the time'.<sup>290</sup>
- 159 Mr Horley accepted, in evidence, that a child cannot validly consent to being sexually abused or be blamed for it.<sup>291</sup>

### Available findings on BCB's second disclosure

- F15 It was wrong of Joe Bello, and contrary to the Jehovah's Witness organisation's own direction in that regard, to discourage BCB from reporting to the Royal Commission by asking whether she 'really wants to drag Jehovah's name through the mud'.
- F16 The elders in BCB's present congregation should have supported BCB in her reporting to the Royal Commission if that is what she wanted to do.

## 4.6 The impact on BCB of the abuse and of the organisation's response

- 160 BCB told the Royal Commission about the long term effect that Bill Neill's abuse has had on her. She said that the abuse changed who she was, destroyed her confidence, and held her back from living a normal life.<sup>292</sup> BCB continued to feel as though she was Bill Neill's victim well into her adult life.<sup>293</sup>
- 161 BCB told the Royal Commission that she had a nervous breakdown 10 years ago<sup>294</sup> and has had a lot of therapy to address Bill Neill's abuse.<sup>295</sup> The Royal Commission heard that the abuse has impacted on BCB's health such that she has required ongoing medical and therapeutic treatment.<sup>296</sup> BCB gave evidence that her medical treatment has cost her

<sup>286</sup> Transcript of M Horley, T15210:46-T15211:25 (Day 147).

<sup>287</sup> Exhibit 29-0003, WAT.0001.002.0493\_R (Tab 74).

<sup>288</sup> Exhibit 29-0003, WAT.0001.002.0493\_R (Tab 74).

<sup>289</sup> Transcript of M Horley, T15212:42-9 (Day 147).

<sup>290</sup> Transcript of M Horley, T15213:11-16 (Day 147).

<sup>291</sup> Transcript of M Horley, T15213:18-28 (Day 147).

<sup>292</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [74]-[75].

<sup>293</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [76].

<sup>294</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [77].

<sup>295</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [78].

<sup>296</sup> Transcript of BCB, T15171:41-T15172:34 (Day 147);

Transcript of BCB, T15178:47-T15179:6 (Day 147).

money and that she would welcome compensation if it were to be offered to her by the Jehovah's Witness organisation.<sup>297</sup>

162 BCB said that she felt brainwashed into believing that speaking with 'worldly' people would bring reproach upon Jehovah's name.<sup>298</sup> BCB said that, as a result of reporting her story to the Royal Commission, she is riddled with guilt for betraying the Jehovah's Witness organisation<sup>299</sup> and for 'dragging Jehovah's name through the mud'.<sup>300</sup>

163 BCB told the Royal Commission that, in her view:

- a) the elders should have encouraged her to go to the police<sup>301</sup>
- b) she should not have been confronted by her abuser in her own home,<sup>302</sup> and
- c) there should have been women involved to support her through the process.<sup>303</sup>

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<sup>297</sup> Transcript of BCB, T15179:8-13 (Day 147).

<sup>298</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [77].

<sup>299</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [73].

<sup>300</sup> Transcript of BCB, T15171:28-39 (Day 147).

<sup>301</sup> Transcript of BCB, T15178:5-7 (Day 147).

<sup>302</sup> Transcript of BCB, T15178:19-22 (Day 147).

<sup>303</sup> Transcript of BCB, T15178:24-26 (Day 147).

## Part 5 BCG

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- 164 BCG was born in Queensland and grew up in a strict Jehovah's Witness family.<sup>304</sup> BCG's father, BCH, joined a congregation of Jehovah's Witnesses in Queensland when she was very young, and her mother joined the same congregation a short time thereafter.<sup>305</sup> BCG was formally baptised as a Jehovah's Witness when she was about 16 years old.<sup>306</sup>
- 165 BCG is 43 years old and the mother of four children.<sup>307</sup> She is currently in the final year of a law degree<sup>308</sup> and is no longer a Jehovah's Witness.<sup>309</sup>

### 5.1 BCG's abuse by her father, BCH

- 166 BCG's father, BCH, was appointed as a ministerial servant in the Mareeba Congregation in Far North Queensland when BCG was about 13.<sup>310</sup> BCH was well respected within the congregation and was given special privileges by the congregation elders, including conducting private Bible studies, managing door-to-door preaching and teaching and counselling the members of the congregation.<sup>311</sup>
- 167 As head of the household, BCH dictated and enforced compliance with household rules.<sup>312</sup> BCG said that her father would make her deliver Scriptural talks before the Congregation from the platform in the Kingdom Hall and take part in door-to-door preaching.<sup>313</sup> As a Jehovah's Witness, BCG was taught to love and fear Jehovah and to never question her parents or their decisions.<sup>314</sup>
- 168 BCG was not permitted to associate with people outside the Jehovah's Witness community.<sup>315</sup> She was taught from a young age that 'worldly' people, including the police, were bad and not to be trusted as they served Satan.<sup>316</sup> BCG's parents did not allow BCG to attend sex education classes at school or participate in extra-curricular activities, such as sport, because the organisation advised against it.<sup>317</sup> BCG said that she was not permitted to attend school after Year 10 because choosing higher education over Jehovah was frowned upon by the Jehovah's Witness organisation.<sup>318</sup>

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<sup>304</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [14].

<sup>305</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [7].

<sup>306</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [5].

<sup>307</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [3].

<sup>308</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [3].

<sup>309</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [66].

<sup>310</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [9].

<sup>311</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [9].

<sup>312</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [13]-[14].

<sup>313</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [11].

<sup>314</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [17].

<sup>315</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [14].

<sup>316</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [14] and [19].

<sup>317</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [14].

<sup>318</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [15].

169 The Royal Commission heard that when she was 17, BCG was sexually abused by BCH on a number of occasions over a two week period whilst her mother and siblings were away on holiday.<sup>319</sup>

## 5.2 BCG's attempted disclosure to the Mareeba Congregation elders

170 BCG told the Royal Commission that she initially tried to report her father's abuse to Mr Ali and Mr Bowditch, two elders in the Mareeba Congregation who were also friends of her father's.<sup>320</sup> BCG said that both elders refused to speak with her before she spoke to her father, or without her father being present.<sup>321</sup>

171 Mr Ali told the Royal Commission that he had no recollection of any such conversation with BCG.<sup>322</sup> Mr Ali agreed, however, that to require a person to speak to her father in the first instance was 'consistent with the teaching of the [organisation]'.<sup>323</sup>

172 Mr Bowditch recalled his wife raising with him that BCG needed to talk with him but could not recall his response.<sup>324</sup> He did not however accept that he would have required BCH to be present before speaking with BCB.<sup>325</sup>

## 5.3 Investigation and judicial committee

173 About eight months after BCG was sexually abused by her father while her mother and siblings were away, BCH left BCG's mother for another woman and moved out of the family home.<sup>326</sup> It was not until this time that BCG found the courage to tell her male friend, BCJ, about the abuse.<sup>327</sup> BCJ approached BCG's father to confront him about the abuse and subsequently arranged for BCG to meet with the elders of the Mareeba Congregation.<sup>328</sup>

174 At the time that they became aware of BCG's allegation, Messrs Ali, Bowditch and De Rooy, were already members of a judicial committee considering BCH's extra-marital relationship.<sup>329</sup> Mr Bowditch said that there was a lot of overlap between BCG's complaint and the matters already before the judicial committee and therefore some of BCG's complaint was investigated concurrently.<sup>330</sup> Mr Ali said that the same judicial

<sup>319</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [26]-[27].

<sup>320</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [37] and [38].

<sup>321</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [37] and [38].

<sup>322</sup> Transcript of D Ali, T15323:5-15, T15324:1-2 (Day 148).

<sup>323</sup> Transcript of D Ali, T15325:12-T15326:18 (Day 148).

<sup>324</sup> Transcript of K D Bowditch, T15393:46-T15396:3 (Day 149).

<sup>325</sup> Transcript of K D Bowditch, T15394:5-T15396:19 (Day 149).

<sup>326</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [39].

<sup>327</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [39].

<sup>328</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [39]-[40].

<sup>329</sup> Transcript of A R De Rooy, T15540:37-44 (Day 151).

Transcript of D Ali, T15327:42-45 (Day 148).

Transcript of K D Bowditch, T15396:23-37 (Day 149).

<sup>330</sup> Transcript of K D Bowditch, T15397:6-13 (Day 149).

committee members also dealt with BCG's allegations and that 'it was tied in pretty much together'.<sup>331</sup>

### Interviewing of BCG

- 175 BCG told the Royal Commission that she was interviewed by Mr De Rooy, Mr Ali and Mr Bowditch on a number of occasions.<sup>332</sup> BCG said that, on each occasion, she was alone and without any support.<sup>333</sup> On at least one occasion, BCH was also present at the meeting.<sup>334</sup>
- 176 BCG said that did not remember anyone explaining the purpose of the meetings to her, but that she understood that the elders were investigating her allegations.<sup>335</sup>
- 177 BCG told the Royal Commission that instead of being protected and supported as a victim of child sexual abuse, she felt that the elders sat in judgement of her credibility as a witness and made her feel to blame for what had happened.<sup>336</sup> She said that because the elders were all male and were friends of her father's she was reluctant to speak in any detail about BCH's abuse.<sup>337</sup>
- 178 BCG said that, at one of the meetings, the elders forced BCG to directly confront her father with her abuse allegations.<sup>338</sup> BCG told the Royal Commission that when her father was brought into the room she was extremely terrified.<sup>339</sup> In the meeting, BCH threatened BCG verbally and physically and blamed her for seducing him.<sup>340</sup>
- 179 Mr Bowditch and Mr Ali accepted that requiring BCG to make her allegations in front of BCH would have been a traumatising experience for BCG and that the process of requiring a victim of child sexual abuse to make her allegation in the presence of her offender was not conducive to arriving at the truth.<sup>341</sup>

### Allegations of sexual abuse of BCG's sisters

- 180 Not long after disclosing her abuse to the elders, BCG disclosed to her mother, BCI. BCI told BCG that her father had previously abused BCG's older sister.<sup>342</sup> At around the same time, BCG's two younger sisters each told BCG and her mother that they had also been sexually abused by BCH.<sup>343</sup>

<sup>331</sup> Transcript of D Ali, T15339:26-37 (Day 148).

<sup>332</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [42]-[43].

<sup>333</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [42].

<sup>334</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [42] and [49].

<sup>335</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [42].

<sup>336</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [43], [78] and [80].

<sup>337</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [44].

<sup>338</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [49].

<sup>339</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [49].

<sup>340</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [50];  
Transcript of K D Bowditch, T15399:14-22 (Day 149).

<sup>341</sup> Transcript of K D Bowditch, T15399:14-33 (Day 149);

Transcript of D Ali, T15376:17-33 (Day 149).

<sup>342</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [46].

<sup>343</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [47].

- 181 BCG said that although she told the elders about her sisters' sexual abuse allegations against BCH, the elders did not take those allegations into account in their consideration of BCG's allegation against BCH.<sup>344</sup> BCG said that Mr De Rooy told her that the elders could not consider the evidence of her sisters' abuse as they were too young to know what they were talking about and were not witnesses to the 'same event'.<sup>345</sup>
- 182 Mr De Rooy, Mr Ali and Mr Bowditch each told the Royal Commission that they did not recall being told about the abuse of BCG's sisters during the judicial committee meetings.<sup>346</sup>

### **The investigating/judicial committee's conclusion as to the sufficiency of evidence**

- 183 Mr De Rooy, Mr Ali and Mr Bowditch all believed that BCG had been abused by BCH.<sup>347</sup> Despite their belief as to the truth of BCG's allegations, they concluded that without a confession by BCH they were bound by the two-witness rule and had insufficient proof to take action.<sup>348</sup> Mr De Rooy accepted that this outcome was 'not fair' for BCG, but told the Royal Commission that the elders were bound by their Biblical principles.<sup>349</sup>

### **Mr Ali's notes of the judicial committee**

- 184 During the public hearing, Mr Ali was shown a document comprising some 23 pages of photocopied handwritten notes.<sup>350</sup> He told the Royal Commission that the document constituted notes that he had taken during the judicial committee process regarding BCH.<sup>351</sup> He agreed that the page numbers also appeared to be in his handwriting.<sup>352</sup>
- 185 Mr Ali did not dispute that the pages appeared to be ordered consecutively starting at '1', with each page following the numbered page being the reverse of its respective numbered page.<sup>353</sup> He acknowledged that where a page, such as the page between the pages numbered 14 and 15, was unnumbered, it stood to reason that the unnumbered page was the reverse of the preceding numbered page.<sup>354</sup>

<sup>344</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [48];  
Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [52].

<sup>345</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [52].

<sup>346</sup> Transcript of D Ali, T15334:45-47 (Day 148);  
Transcript of A R De Rooy, T15554:20-33 (Day 151);  
Transcript of K D Bowditch, T15405:40-43 (Day 149).

<sup>347</sup> Transcript of K D Bowditch, T15404:5-9 (Day 149);  
Transcript of D Ali, T15330:36-T15331:29, T15330:42-43 (Day 148), T15353:1-13, T15361:10-17 (Day 149);  
Transcript of A R De Rooy, T15547:1-5, T15548:26-42 (Day 151).

<sup>348</sup> Exhibit 29-007, Statement of Dino Ali, STAT.0598.001.0001\_R at [5.5] and [5.6];  
Transcript of D Ali, T15331:1-29 (Day 148);  
Exhibit 29-006, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [6.1].

<sup>349</sup> Transcript of A R De Rooy, T15547:1-40 (Day 151).

<sup>350</sup> Exhibit 29-0008, QLD.0068.001.1478\_R.

<sup>351</sup> Transcript of D Ali, T15342:20-22, T15348:3-5 (Day 149).

<sup>352</sup> Transcript of D Ali, T15342:37-38 (Day 149).

<sup>353</sup> Transcript of D Ali, T15342:33-35, T15343:29-T15344:32 (Day 149).

<sup>354</sup> Transcript of D Ali, T15343:8-T15344:32 (Day 149).

- 186 Mr Ali agreed that the first page of the notes was dated 1 June 1989, or possibly 1 May 1989.<sup>355</sup> It is submitted that it can be accepted that the date is 1 June 1989: the manuscript is clear enough and each of the dates appearing thereafter is either that date or a later date with there being no date recorded between 1 May and 1 June.
- 187 At the foot of the reverse of the page numbered 14 was written '19-7-89 [BCH] appeals, fax to Kevin'.<sup>356</sup> Mr Ali told the Royal Commission that the pages which precede the reverse of page 14 'possibly' record matters dealt with by the judicial committee prior to the date on which BCH lodged his appeal against the committee's decision to disfellowship.<sup>357</sup> It is submitted that the notes clearly record such matters, there being no other sensible reading of them.
- 188 Mr Ali accepted that his notes appeared to be structured in such a way as to first record the name of the person to whom the notes refer, then either by use of a colon or a dash, record what that person told the committee.<sup>358</sup>

#### **What Mr Ali's notes say about the abuse of BCG's sisters**

- 189 Mr Ali was taken to pages 4 and 5 of his notes, which relevantly record the following:<sup>359</sup>

Page 4

[BCG] and [BCI] – molesting! 4 – 5 times.

...

- Says [BCH] has abused 2 younger children, possibly [BCK] too at age 2.

Page 5

[BCK] (by herself)

...

On abuse to [BCK]

Yes, at age 3 (remembers vividly).

- 190 Mr Ali was taken to page 8 of his notes, which relevantly records the following:<sup>360</sup>

She does not like what her dad is doing with [redacted] and commendably, when pulled up before [redacted] by [BCH] to deny charge of molestation to [BCK] she insisted on the truth despite [BCH's] efforts to the contrary.

- 191 Mr Ali agreed that the 'she' referred to on page 8 of his notes as extracted above was BCG's older sister, BCK.<sup>361</sup> He agreed that the notes record that BCK herself told the

<sup>355</sup> Transcript of D Ali, T15342:40-47 (Day 149).

<sup>356</sup> Exhibit 29-0008, QLD.0068.001.1478\_R at 1495\_R.

<sup>357</sup> Transcript of D Ali, T15343:3-27 (Day 149).

<sup>358</sup> Transcript of D Ali, T15344:45-T15346:20 (Day 149).

<sup>359</sup> Exhibit 29-0008, QLD.0068.001.1478\_R at 1481\_R and 1482\_R.

<sup>360</sup> Exhibit 29-0008, QLD.0068.001.1478\_R at 1485\_R.

<sup>361</sup> Transcript of D Ali, T15348:45-T15349:10 (Day 149).

judicial committee of himself and Messrs De Rooy and Bowditch, about having been sexually abused by her father.<sup>362</sup>

- 192 Mr Ali was taken to the foot of page 11 of his notes which records the date '17.6.89' and below the date 'Met with [BCI] and [BCG]', and then to the reverse of page 11 of his notes, which relevantly records the following:<sup>363</sup>

...

Interesting that both mentioned [BCK] as admitting to another "attempt" of molesting by [BCH] when going to school at later age...

...

[BCH] took [BCK's] hand to place it on his private parts.

she pulled hand away and refused to speak with him for some time.

- 193 Mr Ali agreed that, on or around 17 June 1989, during the judicial committee process before himself and Messrs De Rooy and Bowditch, BCG and her mother reported to the committee an incident of abuse against BCK by BCH.<sup>364</sup>

#### **What Mr Ali's notes say about BCH's confession**

- 194 Page 12 of Mr Ali's notes records that the judicial committee met on 10 July 1989 to discuss disfellowshipping BCH on 'charges of "LOOSE CONDUCT" and "Lying"'.<sup>365</sup> On the same page, the notes record that an appointment was made over the telephone with BCH and someone else to meet at the Kingdom Hall at 7.30pm on 12 July 1989.<sup>366</sup>

- 195 Mr Ali was taken to page 14 of his notes, which relevantly recorded the following:<sup>367</sup>

[BCH] – told of charges "Loose conduct + lying"

...

[BCH] has admitted to all things and also said that whatever [BCG] had said on molesting was true.

- 196 Having previously agreed to the possibility that the pages prior to the reverse of the page numbered 14 record matters dealt with by the judicial committee prior to BCH's appeal on 19 July 1989,<sup>368</sup> Mr Ali agreed that the notes record BCH confessing to the judicial committee to abusing BCG.<sup>369</sup> Mr Ali agreed that in spite of having confessed to the sexual abuse of his daughter, BCG, BCH was subsequently disfellowshipped by the

<sup>362</sup> Transcript of D Ali, T15347:46-T15348:5 (Day 149).

<sup>363</sup> Exhibit 29-0008, QLD.0068.001.1478\_R at 1489\_R.

<sup>364</sup> Transcript of D Ali, T15350:32-43 (Day 149).

<sup>365</sup> Exhibit 29-0008, QLD.0068.001.1478\_R at 1490\_R.

<sup>366</sup> Exhibit 29-0008, QLD.0068.001.1478\_R at 1490\_R.

<sup>367</sup> Exhibit 29-0008, QLD.0068.001.1478\_R at 1494\_R.

<sup>368</sup> Transcript of D Ali, T15343:3-27 (Day 149).

<sup>369</sup> Transcript of D Ali, T15351:20-26 (Day 149).

committee on grounds relating only to his extra-marital relationship and not to the sexual abuse of BCG.<sup>370</sup>

### Submissions in relation to the evidence before the judicial committee

- 197 Each of Messrs Ali, Bowditch and De Rooy told the Royal Commission that owing to the passage of time, they were unable to recall specific details or the sequence of events in the case of BCG.<sup>371</sup>
- 198 Mr De Rooy denied in evidence that the judicial committee considering BCG's allegations was made aware of the allegations of abuse in respect of BCG's sisters.<sup>372</sup> He told the Royal Commission that had the judicial committee been made aware it would have acted.<sup>373</sup> Mr De Rooy's evidence was that, in spite of the allegations recorded in the notes, 'we did not know of that information'.<sup>374</sup> Mr De Rooy told the Royal Commission that his memory was vague and acknowledged that the notes were likely to be a more reliable record of what information was considered by the judicial committee at the time than his own memory, but insisted that the judicial committee was not aware of the additional allegations.<sup>375</sup>
- 199 Mr De Rooy also told the Royal Commission that it was his recollection that BCH did not confess to abusing BCG until the appeals committee meeting, however Mr De Rooy could not provide any explanation for the confession recorded in Mr Ali's notes.<sup>376</sup>
- 200 In the light of Mr De Rooy's concession as to the reliability of the notes, and Mr Ali's evidence as to their provenance and arrangement, it is submitted that where the notes are reasonably clear they should be accepted in preference to the recollection of the elders. In particular, it should be accepted that:
- a) on or about 1 June 1989, the elders were advised by BCG and her mother that BCG's older sister and her two younger sisters had each been sexually abused by BCH, and
  - b) between 12 and 19 July 1989, and before the judicial committee's decision to disfellowship BCH, BCH confessed to the judicial committee his sexual abuse of BCG.
- 201 It is submitted that contrary to evidence given before the Royal Commission by Messrs Ali, Bowditch, and De Rooy, the judicial committee had before it sufficient evidence in the form of the allegations of BCG's sisters to conclude, according to the evidentiary requirements set out in *Pay Attention 1981*,<sup>377</sup> that BCH had sexually abused BCG.

<sup>370</sup> Transcript of D Ali, T15351:20-26 (Day 149).

<sup>371</sup> Exhibit 29-0007, Statement of Dino Ali, STAT.0598.001.0001\_R at [5(1)];  
Exhibit 29-0010, Statement of Kevin Bowditch, STAT.0602.001.0001\_R at [4.1];  
Exhibit 29-0016, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [5.1].

<sup>372</sup> Transcript of A R De Rooy, T15553:13-22 (Day 151).

<sup>373</sup> Transcript of A R De Rooy, T15553:22, 34-36 (Day 151).

<sup>374</sup> Transcript of A R De Rooy, T15553: 13-22 (Day 151).

<sup>375</sup> Transcript of A R De Rooy, T15553:38-45 (Day 151).

<sup>376</sup> Transcript of A R De Rooy, T15557:15-T15558:28 (Day 151).

<sup>377</sup> Exhibit 29-0033, WAT.0019.001.0001 at 0035.

202 It is submitted that the judicial committee of Messrs Ali, Bowditch and De Rooy failed to take account of the evidence of BCG's sisters and of the confession of BCH in deciding the grounds upon which to disfellowship BCH.

#### **The decision to disfellowship BCH**

203 BCH was ultimately disfellowshipped, not for child sexual abuse, but for 'loose conduct' in relation to his extra-marital relationship and for 'lying' about it.<sup>378</sup>

#### **The report to the Branch Office about the decision to disfellowship BCH**

204 The report of the judicial committee to the Branch Office regarding the decision to disfellowship BCH referred only to the charges of 'loose conduct' and 'lying'.<sup>379</sup> The report did not mention BCG's allegation of child sexual abuse against BCH or the investigation undertaken by Messrs De Rooy, Ali, and Bowditch.<sup>380</sup>

205 Mr Bowditch was unable to explain why the report did not mention BCG's allegation of child sexual abuse.<sup>381</sup>

206 Mr De Rooy told the Royal Commission that the report did not refer to BCG's allegations because, in his view, the investigation into her allegations was still ongoing.<sup>382</sup> He agreed however that there can be no ongoing investigation of a disfellowshipped person.<sup>383</sup>

207 When asked what would have become of BCG's allegation had BCH not appealed the decision to disfellowship him, Mr De Rooy told the Royal Commission that he felt that BCG had the right to go to the police.<sup>384</sup>

208 Mr De Rooy was unable to recall if he supported or encouraged BCG to report her allegations to the authorities.<sup>385</sup>

## **5.4 BCH's appeal**

209 On 19 July 1989, BCH sent a fax to Messrs De Rooy, Bowditch and Ali appealing the judicial committee's decision to disfellowship him for 'loose conduct' and 'lying'.<sup>386</sup> An appeal committee was convened and was comprised of three new elders, Joe Mirariz,

<sup>378</sup> Exhibit 29-0007, Statement of Dino Ali, STAT.0598.001.0001\_R at [5.1], [5.6] and [6.1]; Exhibit 29-0006, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [6.1]; Exhibit 29-0010, Statement of Kevin Bowditch, STAT.0602.001.0001\_R at [5.1];

Exhibit 29-0003, WAT.0001.002.0134\_R (Tab 3);

Exhibit 29-0003, WAT.0001.002.0135\_R (Tab 5);

Exhibit 29-0003, WAT.0001.002.0136\_R (Tab 26).

<sup>379</sup> Exhibit 29-0003, WAT.0001.002.0134\_R (Tab 3).

<sup>380</sup> Exhibit 29-0003, WAT.0001.002.0134\_R (Tab 3).

<sup>381</sup> Transcript of K D Bowditch, T15405:26-28 (Day 149).

<sup>382</sup> Transcript of A R De Rooy, T15559:3-31 (Day 151).

<sup>383</sup> Transcript of A R De Rooy, T15560:33-41 (Day 151).

<sup>384</sup> Transcript of A R De Rooy, T15561:23-26 (Day 151).

<sup>385</sup> Transcript of A R De Rooy, T15562:11-16 (Day 151).

<sup>386</sup> Exhibit 29-0003, QLD.0068.001.1474\_R (Tab 4).

Don Wilson and Jim Bennett.<sup>387</sup> The appeal committee elders were from other congregations in the area.<sup>388</sup> Mr De Rooy, Mr Ali and Mr Bowditch also attended the appeal committee meeting as observers.<sup>389</sup>

- 210 Mr Ali told the Royal Commission that BCG's allegations of sexual abuse resurfaced during the appeal committee meeting.<sup>390</sup> As a result, BCG was brought, alone, before BCH and the six male elders to be interviewed again.<sup>391</sup>
- 211 Messrs Bowditch and De Rooy told the Royal Commission that during the appeal committee meeting BCH confessed to abusing BCG.<sup>392</sup>
- 212 The appeal committee upheld the decision to disfellowship BCH for 'loose conduct' and 'lying', and added, relevantly, the ground of 'porneia' to reflect BCH's confession to 'gross sexual acts against' BCG on five or six occasions.<sup>393</sup>
- 213 In spite of the decision of the appeal committee to add the ground of 'porneia', the form recording BCH's disfellowshipping only recorded the charges of 'loose conduct' and 'lying'.<sup>394</sup> In oral evidence, Mr De Rooy accepted that this was an oversight.<sup>395</sup>
- 214 Mr Bowditch told the Royal Commission that the Mareeba Congregation was not informed of the reason for BCH's disfellowshipping.<sup>396</sup>
- 215 Mr De Rooy and Mr Ali told the Royal Commission that, despite BCH's admission to the appeal committee, they did not consider reporting the matter to police.<sup>397</sup> Mr Ali and Mr Bowditch accepted that the result of this was that BCH, a man they knew to have confessed to child sexual abuse, was left at large in the community.<sup>398</sup>

### **BCG's reaction after BCH's disfellowshipping**

- 216 BCG told the Royal Commission that she was devastated by the decision of the original judicial committee to disfellowship BCH on grounds unrelated to his sexual abuse of

<sup>387</sup> Exhibit 29-0003, WAT.0001.002.0135\_R (Tab 5).

<sup>388</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [54].

<sup>389</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [54].

<sup>390</sup> Transcript of D Ali, T15357:10-12 (Day 149).

<sup>391</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [53];

Exhibit 29-0006, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [6.2].

<sup>392</sup> Exhibit 29-0010, Statement of Kevin Bowditch, STAT.0602.001.0001\_R at [4.12];

Exhibit 29-0006, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [6.2].

<sup>393</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [57] and [58];

Exhibit 29-0003, WAT.0001.002.0135\_R (Tab 5).

<sup>394</sup> Exhibit 29-0003, WAT.0001.002.0136\_R (Tab 26).

<sup>395</sup> Transcript of A R De Rooy, T15581:27-45 (Day 151).

<sup>396</sup> Transcript of K D Bowditch, T15408:39-41 (Day 149).

<sup>397</sup> Transcript of D Ali, T15358:10-15 (Day 149) and T15358:39-T15359:2 (Day 149);

Transcript of A R De Rooy, T15564:25-28 (Day 151).

<sup>398</sup> Transcript of K D Bowditch, T15409:10-11 (Day 149);

Transcript of D Ali, T15358:45-T15359:2 (Day 149).

her.<sup>399</sup> It appeared to her that BCH's abuse of her did not qualify as wrongdoing in the eyes of the Jehovah's Witness organisation.<sup>400</sup>

- 217 Mr Ali's handwritten notes of the original investigation and judicial committee record that BCG was counselled by the elders against speaking to others, including her soon to be fiancé, about her case.<sup>401</sup> Mr De Rooy told the Royal Commission that the counsel was aimed at protecting the confidentiality of the matter and that this was intended to be for BCG's benefit.<sup>402</sup> Mr De Rooy accepted that such counsel may have had the effect of making BCG feel silenced.<sup>403</sup>
- 218 BCG told the Royal Commission that, following BCH's disfellowshipping, many people in the congregation accused her of lying about BCH's abuse and that, as a result, she felt worthless, helpless and embarrassed.<sup>404</sup>
- 219 BCG told the Royal Commission that after and as a result of her experience of the committee meetings with the elders, she attempted suicide.<sup>405</sup> BCG said that she reported her suicide attempt to the elders as it was considered a sin by the Jehovah's Witness organisation.<sup>406</sup> BCG gave evidence that she was chastised by Mr De Rooy for attempting suicide because it was viewed as a serious wrongdoing.<sup>407</sup> Mr De Rooy was unable to recall speaking to BCG about her attempted suicide.<sup>408</sup>

#### **Available findings on the investigation and judicial committee processes following BCG's disclosure**

F17 The elders did not explain to BCG the purpose of their investigation and their meetings with BCG such as to ensure that she had an understanding of that purpose, which left her confused and disempowered.

F18 It was traumatising for BCG to be required by the elders to tell what had happened to her to a group of men, including the man whom she accused of sexually abusing her, and it was not likely to, nor did it, result in BCG disclosing the full extent her abuse.

F19 It would have been supportive of the elders to offer BCG the opportunity of the support and involvement of other women in the process of investigating her allegations of abuse.

F20 During their judicial committee investigation or proceedings the elders received evidence that BCH had abused BCG's elder sister and her two younger sisters, but they took no action in relation to that evidence.

F21 The evidence presented to the judicial committee of BCH having abused his other daughters satisfied the Jehovah's Witness organisation's own rules with regard to sufficiency of evidence

<sup>399</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [53].

<sup>400</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [53].

<sup>401</sup> Exhibit 29-0008, QLD.0068.001.1478\_R at 1482\_R and 1499\_R.

<sup>402</sup> Transcript of A R De Rooy, T15598:9-17 (Day 151).

<sup>403</sup> Transcript of A R De Rooy, T15598:19-22 (Day 151).

<sup>404</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [59].

<sup>405</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [72].

<sup>406</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [60].

<sup>407</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [60].

<sup>408</sup> Transcript of A R De Rooy, T15565:43-45 (Day 151).

to establish that BCH had abused BCG, but the elders wrongly ignored that evidence and accordingly failed to uphold BCG's complaint against BCH.

F22 In the course of the judicial committee process, and before the elders reached a conclusion on BCH's guilt in relation to his extra-marital conduct, BCH confessed to having abused BCG.

F23 The elders inexplicably and wrongly ignored BCH's confession to having abused BCG and thereby, within the precepts of the Jehovah's Witness organisation's own rules and procedures, failed to uphold BCG's complaint against BCH.

F24 BCG was not told by the elders that she could, let alone should, report her abuse to the authorities.

F25 The appeal committee's requirement that BCG give evidence of her sexual abuse by her father to a group of seven men including her named abuser was unjustified and traumatising to BCG and should never have happened.

F26 The failure by the elders to report BCH's sexual abuse of BCG to the police had the result that BCH remained at large in the community and a risk to children, and reflects that the elders were not concerned with child safety but rather with keeping their organisation 'clean'.

F27 The judicial committee's failure to uphold BCG's complaint of abuse by BCH conveyed to BCG that the organisation tolerated child sexual abuse within its ranks.

F28 The advice given by the elders to BCG that she not speak about her abuse to anyone had the effect of silencing her.

F29 The elders' treatment of BCG was unsympathetic and unsupportive and left her feeling worthless and helpless.

## 5.5 The reinstatement of BCH

220 In February 1990, less than eight months after the appeal committee's decision to disfellowship him, BCH applied to the Beenleigh East Congregation for reinstatement as a Jehovah's Witness.<sup>409</sup>

221 Mr Spinks and Mr Monty Baker were both elders in the Beenleigh East Congregation at the time that BCH applied for reinstatement.<sup>410</sup>

222 In a letter dated 19 March 1990, the elders of Beenleigh East Congregation wrote to the Mareeba elders seeking further information about the circumstances of BCH's disfellowshipping.<sup>411</sup> That letter did not refer to or seek further information in relation to BCH's sexual abuse of BCG.<sup>412</sup>

223 Mr Baker said that he and his fellow elders at the Beenleigh East Congregation must have been told about the sexual abuse because it was discussed at the first meeting of the Beenleigh East judicial committee.<sup>413</sup> Mr Baker said that the primary concern of the

<sup>409</sup> Exhibit 29-0003, QLD.0068.001.1466\_R (Tab 10).

<sup>410</sup> Exhibit 29-0019, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [82]-[83].

<sup>411</sup> Exhibit 20-0003, WAT.0006.001.0036\_R (Tab 7).

<sup>412</sup> Exhibit 20-0003, WAT.0006.001.0036\_R (Tab 7);  
Transcript of M J Baker, T15619:19-22 (Day 151).

<sup>413</sup> Transcript of M J Baker, T15619:24-30 (Day 151).

Beenleigh East judicial committee was nevertheless BCH's conduct in relation to the charges of 'loose conduct' and 'lying'.<sup>414</sup>

- 224 In a letter dated 23 April 1990, the elders at the Mareeba Congregation replied to the Beenleigh East elders recommending that BCH's application for reinstatement be rejected on the basis that BCH was not repentant for his wrongdoing.<sup>415</sup>
- 225 Mr De Rooy accepted that although the letter of 23 April 1990 referred to BCH 'sexually molesting his two eldest daughters', the reasons given by the Mareeba elders for rejection of BCH's reinstatement application were concerned only with the continuing relationship between BCH and another woman.<sup>416</sup> Mr De Rooy did not accept that the absence of a reference to child sexual abuse in their reasons suggests that the Mareeba judicial committee did not take the child sexual abuse allegations seriously.<sup>417</sup>
- 226 In around June of 1990, the Beenleigh East judicial committee rejected BCH's first application for reinstatement on the basis, Mr Spinks said, that BCH had not displayed 'godly sadness' or have a record of 'works that befit repentance'.<sup>418</sup> In its report of 15 June 1990, the committee noted that BCH 'denied any incest' and claimed that his confession before the appeal committee at Mareeba had been made 'under pressure'.<sup>419</sup>
- 227 Between September 1990 and April 1992, BCH sent a series of letters to elders from the Mareeba, Beenleigh East and St George Congregations, as well as to the Australia Branch Office. In each letter BCH made a plea for reinstatement.<sup>420</sup>
- 228 In April 1992, both the Branch Office and elders from the Mareeba Congregation sent letters to the St George Congregation, where BCH was at the time attending, advising that the elders at St George should display caution in believing any display of repentance by BCH.<sup>421</sup>
- 229 On 19 October 1992, elders from the St George Congregation wrote to the Mareeba Congregation recommending that there were now 'ample reasons' to support BCH's reinstatement, including that he had expressed 'sincere remorse over his past conduct'.<sup>422</sup>

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<sup>414</sup> Transcript of M J Baker, T15621:44-47 (Day 151).

<sup>415</sup> Exhibit 29-0003, WAT.0006.001.0026\_R (Tab 8).

<sup>416</sup> Transcript of A R De Rooy, T15572:13-16 (Day 151).

<sup>417</sup> Transcript of A R De Rooy, T15573:12-18 (Day 151).

<sup>418</sup> Exhibit 29-0018, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [85].

<sup>419</sup> Exhibit 29-0003, WAT.0006.001.0034\_R (Tab 9).

<sup>420</sup> Exhibit 29-0003, QLD.0068.001.1465\_R (Tab 10);

Exhibit 29-0003, WAT.0006.001.0017\_R (Tab 14);

Exhibit 29-0003, QLD.0068.001.1457\_R (Tab 17).

<sup>421</sup> Exhibit 29-0003, QLD.0068.001.1450\_R (Tab 22);

Exhibit 29-0003, QLD.0068.001.1449\_R (Tab 23).

<sup>422</sup> Exhibit 29-0003 QLD.0068.001.1448\_R (Tab 24).

- 230 By 4 November 1992, elders from the Mareeba Congregation had agreed to ‘go along with [the St George Congregation’s] recommendation for reinstatement’.<sup>423</sup>
- 231 BCH was reinstated on 13 November 1992.<sup>424</sup> Mr De Rooy said that despite agreeing to BCH’s reinstatement, he was ‘very hesitant’ about BCH being reinstated at the time.<sup>425</sup>
- 232 Mr De Rooy accepted that an important component to consider in any decision to reinstate a perpetrator of child sexual abuse is whether or not the perpetrator apologised to the victim.<sup>426</sup> Mr De Rooy said that, as far as he could recall, BCH never issued such an apology to either BCG or her older sister.<sup>427</sup>
- 233 It is submitted that in circumstances where Mr De Rooy remained hesitant about agreeing to reinstate BCH and where BCH had not showed repentance by apologising to BCG,<sup>428</sup> the elders from Mareeba Congregation should not have agreed to reinstate BCH in 1992.

### **BCG’s reaction to BCH’s reinstatement**

- 234 BCG said that when she learned that her father had been reinstated, she told Mr De Rooy that she was concerned for the safety of the congregation and that she intended to report the matter to the police.<sup>429</sup> BCG said that Mr De Rooy responded that if she reported to police, she would be disfellowshipped.<sup>430</sup> Mr De Rooy could not recall this conversation with BCG and did not accept that he might have said that to BCG.<sup>431</sup>

## **5.6 BCG’s correspondence with the Branch Office**

- 235 On 19 December 1995, BCG wrote to the Branch Office expressing concern about her father’s premature reinstatement.<sup>432</sup> In her letter, BCG informed the Branch Office that she was concerned that BCH would sexually abuse other children within the Jehovah’s Witness organisation.<sup>433</sup>
- 236 On 26 February 1996, the Service Desk at the Branch Office responded to BCG, telling her that they would investigate the matter and counselled her to have faith in Jehovah and the elders in her congregation.<sup>434</sup>

<sup>423</sup> Exhibit 29-0003, QLD.0068.001.1447\_R (Tab 25).

<sup>424</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [61]; Exhibit 29-0003, WAT.0001.002.0136\_R (Tab 26).

<sup>425</sup> Transcript of A R De Rooy, T15580:47-T15581:1 (Day 151).

<sup>426</sup> Transcript of A R De Rooy, T15580:7-29 and T15584:1-4 (Day 151); Exhibit 29-0003, WAT.0013.002.0001 at 0046.

<sup>427</sup> Transcript of A R De Rooy, T15580:7-29 (Day 151).

<sup>428</sup> See Exhibit 29-0003, WAT.0013.002.0001 at 0046-47 (Tab 80).

<sup>429</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [62].

<sup>430</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [62].

<sup>431</sup> Transcript of A R De Rooy, T15584:23-29 (Day 151).

<sup>432</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [64]; Exhibit 29-0003, QLD.0068.001.1410\_R (Tab 29).

<sup>433</sup> Exhibit 29-0003, QLD.0068.001.1410\_R at 1417\_R (Tab 29).

<sup>434</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [64];

- 237 BCG told the Royal Commission that upon receiving the Branch Office's letter, she felt angry, upset and let down.<sup>435</sup> BCG told the Royal Commission that she had already put her faith in the elders when she reported the abuse to them but felt that they didn't protect or support her.<sup>436</sup> Mr Geoffrey Jackson told the Royal Commission that he expected any letter from a Branch Office to be written with a spirit of love and concern, and that the Australia Branch's letter did not, on its face, reflect that love and concern.<sup>437</sup>
- 238 On 25 July 1996, the Service Desk at the Branch Office wrote to the body of elders at the Mareeba Congregation asking whether the fact that BCH had not apologised to BCG was a factor taken into consideration in the decision to reinstate BCH.<sup>438</sup> In its letter the Service Desk noted that it undertook to BCG to follow up on this matter, and asked the body of elders to reassure BCG that this was the case.<sup>439</sup>
- 239 There is no evidence that the Jehovah's Witness organisation took any action subsequent to its letter of 25 July 1996 to address the concerns expressed by BCG in her letter, to respond to her letter, or to offer her support.

#### **Available findings on the reinstatement of BCH**

- F30 BCH was reinstated as a Jehovah's Witness little more than three years after he had been disfellowshipped for, amongst other things, five or six counts of sexual abuse of his daughter.
- F31 The decision to reinstate BCH took no account of the risk that BCH posed to children, paid little regard to the fact that he had been disfellowshipped because of child sexual abuse, and was focussed principally on his extra-marital relationship.
- F32 The decision to reinstate BCH took no account of BCH's failure to apologise to BCG, a factor relevant to consideration of sincere repentance, or of what BCG might have had to say about BCH being reinstated.
- F33 The decision to reinstate BCH was disrespectful and unsupportive of BCG.
- F34 The Branch Office's response to BCG on 26 February 1996 caused BCG to feel angry, upset and let down, and did not convey support and concern to BCG on the part of the Jehovah's Witness organisation.

## **5.7 BCG's report to police**

- 240 In or around 1998 or 1999, BCG decided to leave the Jehovah's Witness organisation.<sup>440</sup> BCG said that, as a result of this decision, she was shunned, ostracised and actively avoided by members of her local congregation.<sup>441</sup>

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Exhibit 29-0003, QLD.0068.001.1409\_R (Tab 30).

<sup>435</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [65].

<sup>436</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [65].

<sup>437</sup> Transcript of G W Jackson, T15993:42-T15994:5 (Day 155).

<sup>438</sup> Exhibit 29-0003, QLD.0068.001.1408\_R (Tab 31).

<sup>439</sup> Exhibit 29-0003, QLD.0068.001.1408\_R (Tab 31).

<sup>440</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [66].

<sup>441</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [66].

- 241 After leaving the Jehovah's Witness organisation, BCG reported the abuse by her father to the police.<sup>442</sup> In around 2001, criminal proceedings commenced against BCH in relation to his sexual abuse of BCG.
- 242 The Royal Commission heard evidence from Mr Jason Davies, who was then a case lawyer with the Queensland Office of the Director of Public Prosecutions (**DPP**) assigned to the case of BCH. Mr Davies told the Royal Commission that in preparing the case for prosecution he became concerned that the inculpatory admissions made by BCH during the committee meetings would be rendered inadmissible at trial.<sup>443</sup> Mr Davies said that his concern arose in relation to BCH's admission because of the circumstances in which it was made and that an incentive to early confession was the prospect of reduced punishment.<sup>444</sup> Mr Davies said that after preparing the indictment he had no further involvement in the case, but that it was reported to him that ultimately BCH's inculpatory statements had been excluded on voir dire at the first trial.<sup>445</sup>
- 243 BCH's first trial resulted in a hung jury while his second trial was declared a mistrial.<sup>446</sup> After a third trial which concluded in December of 2004, BCH was convicted for the unlawful and indecent assault and attempted rape of BCG and was sentenced to three years' imprisonment.<sup>447</sup>
- 244 The Royal Commission heard that the elders from the Mareeba Congregation who had presided over the committee meetings and appeal committee meetings gave evidence at the first trial of BCH.<sup>448</sup>
- 245 BCG told the Royal Commission that her experience of the three criminal trials was significantly less traumatic than her experience sitting through the committee meetings.<sup>449</sup>

### **Available findings on the impact of the judicial committee process on criminal proceedings against BCH**

F35 The judicial committee and appeal committee processes that preceded BCG reporting her abuse by her father to the police complicated the criminal proceedings because of the numbers of people involved in those processes and the telling and retelling of the experience.

<sup>442</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [67].  
<sup>443</sup> Exhibit 29-0011, Statement of Jason Davies, STAT.0595.001.0001\_R at [16].  
<sup>444</sup> Transcript of J P Davies, T15423:17-32 (Day 149).  
<sup>445</sup> Transcript of J P Davies, T15421:25-29 (Day 149).  
<sup>446</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [69];  
<sup>447</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [69];  
 Exhibit 29-0003, QLD.0068.003.0104 (Tab 45).  
<sup>448</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [69].  
<sup>449</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [70].

## 5.8 The second disfellowshipping of BCH

- 246 The Royal Commission heard evidence from Mr Allan Pencheff who was an elder in the Loganholme Congregation between 1991 and 2005.<sup>450</sup>
- 247 Mr Pencheff told the Royal Commission that following BCH's reinstatement in 1992, BCH started attending the Loganholme Congregation in Queensland.<sup>451</sup>
- 248 In a letter dated 17 December 1992, the Mareeba Congregation recommended certain restrictions be placed on BCH due to the 'gravity of the wrongs committed' but did not refer to BCH's charge of child sexual abuse, nor recommend any restrictions regarding BCH's exposure to children.<sup>452</sup>
- 249 Mr Pencheff gave evidence that at the time BCH joined the Loganholme Congregation he was restricted from answering at meetings and giving talks from the platform.<sup>453</sup> Mr Pencheff said that he was not aware of any reason to restrict BCH's contact with children.<sup>454</sup> He said that he only became aware of BCH's history of child sexual abuse when criminal proceedings were commenced against BCH in 2001.<sup>455</sup>
- 250 In circumstances where *Pay Attention 1991* provided that privileges could be 'restored progressively when it is determined that the individual has progressed spiritually ...',<sup>456</sup> it is submitted that by omitting reference to the nature of the 'sin' for which BCH had been disfellowshipped the elders at the Mareeba Congregation made it impossible for the elders at the Loganholme to apply restrictions commensurate with the gravity of the 'sin' and to properly assess if BCH had made spiritual progression in accordance with the direction in *Pay Attention 1991*.
- 251 On 1 November 2002, the Service Desk at the Branch Office wrote to the Loganholme Congregation advising that BCH had 'recently been prosecuted for sexually interfering with' BCG and her younger sister.<sup>457</sup> In its letter, the Service Desk noted that until 'his recent guilty plea' BCH had consistently denied that he had sexually abused his daughters.<sup>458</sup> It is not clear why the Service Desk was under the impression that BCH had pleaded guilty, as there is no evidence to suggest that he did so at any time other than before the Mareeba judicial and appeal committees.
- 252 The Service Desk instructed two elders of the Loganholme Congregation to meet with BCH to investigate his lying to elders about the abuse of his daughters.<sup>459</sup> The Loganholme elders were instructed that if BCH refused to confess to his wrongdoing, he

<sup>450</sup> Transcript of A C Pencheff, T15642:39-42 (Day 152).

<sup>451</sup> Transcript of A C Pencheff, T15643:38-45 (Day 152).

<sup>452</sup> Exhibit 29-0003, QLD.0068.001.1446\_R (Tab 27).

<sup>453</sup> Exhibit 29-0018, Statement of Allan Pencheff, STAT.0604.001.0001\_R at [6.3].

<sup>454</sup> Exhibit 29-0018, Statement of Allan Pencheff, STAT.0604.001.0001\_R at [6.4].

<sup>455</sup> Exhibit 29-0018, Statement of Allan Pencheff, STAT.0604.001.0001\_R at [5.1].

<sup>456</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0061 (Tab 80).

<sup>457</sup> Exhibit 29-0003, WAT.0001.002.0112\_R (Tab 40).

<sup>458</sup> Exhibit 29-0003, WAT.0001.002.0112\_R (Tab 40).

<sup>459</sup> Exhibit 29-0003, WAT.0001.002.0112\_R at 0113\_R (Tab 40).

should be informed that he would likely be disfellowshipped for sexually abusing BCG's younger sister as well as for dishonesty.<sup>460</sup>

- 253 In a memorandum to the Service Desk dated 23 January 2003,<sup>461</sup> Mr Toole (writing from the Legal Department) observed that the primary issue before the Loganholme judicial committee in 2003 was BCH's lying, as opposed to his sexual abuse of BCG.<sup>462</sup> Mr Toole did not accept that it was reasonable to conclude from his memorandum that he considered BCH's dishonesty as being more serious than the child sexual abuse.<sup>463</sup>

### **The decision to disfellowship BCH for lying**

- 254 Mr Pencheff gave evidence that he was one of the two elders that met with BCH and later chaired the Loganholme judicial committee that was established to consider whether to disfellowship BCH for lying.<sup>464</sup>
- 255 Mr Pencheff told the Royal Commission that the Loganholme judicial committee accepted the allegations of BCH's three daughters as sufficient evidence to establish that in addition to abusing BCG, BCH had also abused BCG's three sisters.<sup>465</sup>
- 256 In March 2003, despite accepting the truth of the allegations of BCH's three daughters, and the instruction from the Service Desk that upon conviction BCH 'will likely be disfellowshipped for sexually abusing' BCG's younger sister, the elders at Loganholme Congregation disfellowshipped BCH for 'deliberate, malicious lying and bearing false witness' and not for child sexual abuse.<sup>466</sup>
- 257 Mr Pencheff did not accept that the reasons for BCH's disfellowshipping recorded in the judicial committee's report suggest that, at the time, the judicial committee considered the charge of lying to be more serious and pressing than a charge of 'porneia' or child sexual abuse.<sup>467</sup> Mr Pencheff said that the charge of child sexual abuse and the charge of dishonesty went 'hand in hand' and that the judicial committee took the charge of child sexual abuse very seriously.<sup>468</sup>
- 258 It is submitted that the reasons recorded in Mr Toole's memorandum to the Service Desk,<sup>469</sup> the notification of disfellowshipping form,<sup>470</sup> and the judicial committee's

<sup>460</sup> Exhibit 29-0003, WAT.0001.002.0112\_R at 0113\_R (Tab 40).

<sup>461</sup> Exhibit 29-0003, WAT.0001.002.0109 (Tab 41).

<sup>462</sup> Exhibit 29-0003, WAT.0001.002.0109 (Tab 41);  
Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R at [25].

<sup>463</sup> Transcript of V J Toole, T15786:39-41 (Day 152).

<sup>464</sup> Exhibit 29-0018, Statement of Allan Pencheff, STAT.0604.001.0001\_R at [1.4], [5.5], and [7.1];  
Exhibit 29-0003, WAT.0001.002.0107\_R (Tab 42).

Transcript of A C Pencheff, T15645:16-24 (Day 152).

<sup>465</sup> Transcript of A C Pencheff, T15646:43-47 (Day 152).

<sup>466</sup> Exhibit 29-0003, WAT.0001.002.0107\_R (Tab 42);

Exhibit 29-0003, WAT.0001.002.0108\_R (Tab 43).

<sup>467</sup> Exhibit 29-0003, WAT.0001.002.0108\_R (Tab 43);  
Transcript of A C Pencheff, T15650:30-47 (Day 152).

<sup>468</sup> Transcript of A C Pencheff, T15650:30-47 (Day 152).

<sup>469</sup> Exhibit 29-0003, WAT.0001.002.0109\_R (Tab 41).

<sup>470</sup> Exhibit 29-0003, WAT.0001.002.0107\_R (Tab 42).

report regarding their decision to disfellowship BCH,<sup>471</sup> do not support Mr Pencheff's evidence that the Loganholme judicial committee did not consider a charge of lying to be more serious than one of child sexual abuse.

- 259 It is submitted that despite having evidence that BCH had sexually abused BCG's three sisters, the judicial committee disfellowshipped BCH for dishonesty in relation to child sexual abuse, not for the child sexual abuse itself, and that this decision prioritised the charge of dishonesty over the charge of child sexual abuse.

#### **Available findings on the risk management and second disfellowshipping of BCH**

F36 When BCH was reinstated no restrictions were placed on him which were relevant to his risk to children despite his established history of child sexual abuse.

F37 BCH was disfellowshipped a second time for lying in relation to child sexual abuse rather than for child sexual abuse itself.

F38 The reasons canvassed and then given for the second disfellowshipping of BCH show that those from the Jehovah's Witness organisation who were involved were more concerned about a charge of lying than they were about BCH's sexual abuse of his daughters.

### **5.9 BCH's repeated requests for reinstatement**

- 260 Since at least May 2006 BCH has continued to make repeated applications for reinstatement, firstly to the Loganholme Congregation in Queensland, and later to the Kalamunda Congregation in Western Australia.<sup>472</sup>

- 261 Mr Spinks told the Royal Commission that the Service Desk has been closely involved in providing guidance to the elders on the respective judicial committees that have been responsible for considering BCH's applications for reinstatement in the Loganholme and Kalamunda Congregations.<sup>473</sup> Mr Spinks said that '[c]lear direction had been given to the elders that, until [BCH] fully acknowledges his sins of child abuse and lying in connection with these offences, it would be difficult for the committees or the victims to consider that he was repentant'.<sup>474</sup>

<sup>471</sup> Exhibit 29-0003, WAT.0001.002.0108\_R (Tab 43).

<sup>472</sup> Exhibit 29-0003, WAT.0001.002.0104\_R (Tab 46);  
Exhibit 29-0003, WAT.0012.001.0004\_R (Tab 51);  
Exhibit 29-0003, WAT.0012.001.0005\_R (Tab 53);  
Exhibit 29-0003, LOCO.0001.001.0018\_R (Tab 56);  
Exhibit 29-0003, LOCO.0001.001.0025\_R (Tab 57);  
Exhibit 29-0003, WAT.0012.001.0007\_R (Tab 59);  
Exhibit 29-0003, WAT.0001.002.0101\_R (Tab 61);  
Exhibit 29-0003, WAT.0001.002.0098\_R (Tab 64);  
Exhibit 29-0003, WAT.0001.002.0096\_R (Tab 65);  
Exhibit 29-0003, WAT.0001.002.0094\_R (Tab 67).

<sup>473</sup> Exhibit 29-0019, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [88]-[89].

<sup>474</sup> Exhibit 29-0019, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [89];  
Exhibit 29-0003, WAT.0001.002.0091\_R (Tab 69).

262 As at the date of the public hearing, BCH remained disfellowshipped as a Jehovah's Witness.<sup>475</sup>

### 5.10 Impact of abuse

263 BCG told the Royal Commission that she experienced depression during her teens and that after she was sexually abused by her father her depression became worse. BCG attempted suicide as a result of her experience of the committee meetings with the elders in the Mareeba Congregation.<sup>476</sup> BCG stated that, at the time, she couldn't bear the judgement and public vilification by those around her.<sup>477</sup>

264 BCG told the Royal Commission that she has at times feared being ostracised, shunned and vilified by those around her. She said that she has always lived in fear of her father, and that she had lived in fear of Jehovah.<sup>478</sup>

265 BCG told the Royal Commission that during the criminal proceedings against her father, she was terrified that Jehovah would kill her for having reported to the police and for bringing reproach upon his name.<sup>479</sup>

### 5.11 Redress

266 In her written statement, BCG told the Royal Commission that the current beliefs and practices of the Jehovah's Witness organisation – specifically the two-witness rule, the practice of not reporting to authorities outside the organisation, and the factors taken into account when reinstating an alleged perpetrator of child sexual abuse – appear to favour and even protect paedophiles.<sup>480</sup>

267 BCG told the Royal Commission that in her view it was essential that uniform mandatory reporting laws are introduced across Australia to apply to organisations like the Jehovah's Witnesses in order to protect children.<sup>481</sup>

268 BCG also gave evidence that the Jehovah's Witness organisation needed to be made financially accountable in order to redress the suffering of past, present and future victims of child sexual abuse within the Jehovah's Witnesses organisation.<sup>482</sup>

<sup>475</sup> Exhibit 29-0019, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [88]-[89].

<sup>476</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [72].

<sup>477</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [72].

<sup>478</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [74].

<sup>479</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [75].

<sup>480</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [82].

<sup>481</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [82].

<sup>482</sup> Exhibit 29-006, Statement of BCG, STAT.0590.001.0001\_R at [82].

## Part 6 A Scriptural approach to child sexual abuse policy

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### 6.1 Policies based on the Scriptures

269 The Jehovah's Witnesses organisation relies primarily on Bible passages to set policies and practices.<sup>483</sup> The Jehovah's Witnesses organisation says that it has had Bible-based policies on child sexual abuse for over 30 years and that it is only authorised to address child sexual abuse in accordance with Scriptural direction.<sup>484</sup> These policies have been refined and periodically addressed in various publications over the past several decades.<sup>485</sup>

### 6.2 Governing Body responsible for Scriptural interpretation and policy formulation

#### Interpreting the Scriptures

270 Mr Jackson gave evidence that the primary role of the Governing Body is to interpret the Scriptures.<sup>486</sup> He confirmed in evidence that the Governing Body's interpretation of the Scriptures in relation to particular issues might change or develop from time to time and confirmed that one example of such development was in relation to the relaxation of the prohibition on blood transfusions to allow for blood fractions.<sup>487</sup>

271 Mr O'Brien told the Royal Commission that the Branch Committee is not involved in Scriptural interpretation because it is the Governing Body which provides the definitive Scriptural interpretation.<sup>488</sup> Mr O'Brien said that he was not aware of there being any scope for the Australia Branch to adopt a different Scriptural interpretation to that provided by the Governing Body.<sup>489</sup>

#### Formulation and promulgation of policy

272 Mr Jackson agreed that all policies of the Jehovah's Witness organisation are subject to Scriptural principles and that the Governing Body approves all policies to ensure that they are in keeping with the Scriptures.<sup>490</sup>

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<sup>483</sup> Exhibit 29-0024, First statement of Terrence O'Brien, STAT.0592.001.0001\_R at [75]; Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [23]-[24]; Transcript of R P Spinks, T15682:22-29 (Day 152).

<sup>484</sup> Exhibit 28-0003, WAT.0001.001.0001 at 0006 and 0012 (Tab 133).

<sup>485</sup> Exhibit 29-0024, First statement of Terrence O'Brien, STAT.0592.001.0001\_R at [66].

<sup>486</sup> Transcript of G W Jackson, T15945:17-19 (Day 155).

<sup>487</sup> Transcript of G W Jackson, T15945:25-36 (Day 155).

<sup>488</sup> Transcript of T J O'Brien, T15817:6-22 (Day 153).

<sup>489</sup> Transcript of T J O'Brien, T15817:29-31 (Day 153).

<sup>490</sup> Transcript of G W Jackson, T15977:20-28 (Day 155).

- 273 The Governing Body gives final approval for new publications and audio and video programmes.<sup>491</sup> Mr Jackson agreed that the Governing Body gives final approval for such publications as the:<sup>492</sup>
- a) *Awake!* and *Watchtower* magazines
  - b) *Shepherd the Flock* elders' handbook
  - c) *Organized to do Jehovah's Will* handbook
  - d) *2015 Branch Organization Manual*
  - e) letters signed on behalf of the Governing Body, and
  - f) templates for letters to bodies of elders.
- 274 Branch offices around the world, including the Australia Branch Office,<sup>493</sup> may write articles for the *Awake!* and *Watchtower* publications, but the articles must be submitted to the Governing Body's Writing Committee for approval.<sup>494</sup>
- 275 Mr Jackson and Mr Toole told the Royal Commission that policy letters issued by the Governing Body may be adjusted locally by branch offices to reflect the requirements of local laws.<sup>495</sup> Mr Jackson said that it would be unusual for a branch office to publish its own manual or guidelines in relation to responding to allegations of child sexual abuse.<sup>496</sup>
- 276 From at the least the 1990s, the Australia Branch Office has, under the direction of the Governing Body,<sup>497</sup> periodically issued directives in the form of letters addressed to all bodies of elders providing instruction on how to respond to allegations of child sexual abuse.<sup>498</sup>

### 6.3 Australia Branch Committee authority to produce or revise policy

- 277 Mr Jackson said that it is the Governing Body's expectation that the branch offices around the world will act in accordance with the procedures and guidelines set out in

<sup>491</sup> Exhibit 29-0028, EXH.029.028.0001\_R at 0005\_R;  
Transcript of G W Jackson, T15940:30-39 (Day 155);  
Transcript of T J O'Brien, T15819:13-20, 30-47 (Day 153).

<sup>492</sup> Transcript of G W Jackson, T15941:23-T15942:4 (Day 155);  
see also transcript of T J O'Brien, T15840:25-30 (Day 153).

<sup>493</sup> Transcript of T J O'Brien, T15819:22-28 (Day 153).

<sup>494</sup> Exhibit 29-0028, EXH.029.028.0001\_R at 0138\_R [12], [15]-[16].

<sup>495</sup> Transcript of G W Jackson, T15942:30-46 (Day 155);  
Transcript of V J Toole, T15752:34-41, T15753:10-17 (Day 153);  
Exhibit 29-0028, EXH.029.028.0001\_R at 0067\_R [29]-[30].

<sup>496</sup> Transcript of G W Jackson, T15952:42-T15953:3 (Day 155).

<sup>497</sup> Exhibit 29-0003: WAT.0001.004.0007 (Tab 87); WAT.0012.001.0025 (Tab 90); WAT.0004.001.0021 (Tab 98); WAT.0001.004.0020 (Tab 99); WAT.0001.004.0023 (Tab 110); WAT.0001.004.0075 (Tab 126).

<sup>498</sup> Namely, but not limited to:

Exhibit 29-0003: WAT.0001.004.0004 (Tab 81); WAT.0001.004.0005 (Tab 83); WAT.0001.004.0011 (Tab 89); WAT.0002.001.0001 (Tab 97); WAT.0002.001.0015 (Tab 119); WAT.0001.004.0066 (Tab 124);  
Exhibit 29-0002, Statement of Max Horley, STAT.0601.001.0001\_R at [3.1];  
Exhibit 29-0007, Statement of Dino Ali, STAT.0598.001.0001\_R at [3.2].

the *2015 Branch Organization Manual*.<sup>499</sup> Mr O'Brien told the Royal Commission that 'the theocratic or Scriptural direction that the Governing Body provides, is the same in every branch and for all Jehovah's Witnesses, worldwide'.<sup>500</sup>

- 278 Mr O'Brien explained that the Branch Committee faithfully implements and follows the direction of the Governing Body.<sup>501</sup> Mr Toole said that Jehovah's Witness congregations in Australia take their direction and instructions from the Branch Office.<sup>502</sup>
- 279 Mr Jackson explained that although there is an expectation that branch committee members will follow the direction of the Governing Body, 'there are provisions for those branch committees to get back to us if they see that there is something that doesn't work, and we can adjust it accordingly'.<sup>503</sup>
- 280 In contrast to what is set out above, Mr Spinks' evidence was that as long as the Australia Branch Office doesn't stray from the Scriptures, it has the 'full authority to produce documents, to clearly set out for seminars, letters to elders, letters to publishers, what needs to be made clear locally'.<sup>504</sup> Mr Spinks said that the Australia Branch has the authority to 'determine something different from what is set out in the [current documents] that have come down from New York'.<sup>505</sup>
- 281 There is no evidence to support Mr Spinks' version on the authority of the Australia Branch Office to publish things differently from, or without the approval of, the Governing Body. To the contrary, documents in evidence include an exchange of correspondence between the Australia Branch Office and the Governing Body's Service Committee where the former seeks from the latter agreement to the inclusion of an article on a particular subject in a newsletter.<sup>506</sup> There is also correspondence demonstrating that the Governing Body's committees set policies and procedures and guidelines for dealing with issues arising in relation to child sexual abuse for the Australia Branch.<sup>507</sup>
- 282 In the circumstances, it is submitted that the Royal Commission should prefer the documentary evidence and the oral evidence of Messrs Jackson, Toole and O'Brien to

<sup>499</sup> Transcript of G W Jackson, T15931:39, T15932:32 (Day 155);

Exhibit 29-0028, EXH.029.028.0001 at 0005\_R;

Transcript of T J O'Brien, T15822:15-23 (Day 153).

<sup>500</sup> Transcript of T J O'Brien, T15816:26-32 (Day 153).

<sup>501</sup> Transcript of T J O'Brien, T15822:15-23 (Day 153).

<sup>502</sup> Exhibit 29-0003, WAT.0013.001.0001\_R at 0075 [2] (Tab 109).

Transcript of V Toole, T15754:11-15 (Day 153).

<sup>503</sup> Transcript of G W Jackson, T15939:39-45 (Day 155).

<sup>504</sup> Transcript of R P Spinks, T15688:12-21 (Day 152).

<sup>505</sup> Transcript of R P Spinks, T15692:27-35 (Day 152).

<sup>506</sup> Exhibit 29-0003: WAT.0001.004.0014 (Tab 93), WAT.0012.001.0009 (Tab 94), WAT.0004.001.0026 (Tab 96), and WAT.0004.001.0027 (Tab 100).

<sup>507</sup> Exhibit 29-0003: WAT.0004.001.0010 (Tab 86), WAT.0001.004.0007 (Tab 87), WAT.0012.001.0025 (Tab 90), WAT.0004.001.0014 (Tab 91), WAT.0012.001.0013 (Tab 91), WAT.0012.001.0014 (Tab 91), WAT.0012.001.0011 (Tab 92), WAT.0004.001.0021 (Tab 98), WAT.0001.004.0020 (Tab 99), WAT.0012.001.0023 (Tab 101), WAT.0012.001.0016 (Tab 103), WAT.0012.001.0022 (Tab 104), WAT.0001.004.0023 (Tab 110), WAT.0001.004.0025 (Tab 110), WAT.0004.001.0058 (Tab 113), WAT.0004.001.0060 (Tab 113), WAT.0012.001.0027 (Tab 113), WAT.0002.001.0011 (Tab 114), WAT.0002.001.0013 (Tab 115), and WAT.0001.004.0046 (Tab 116).

that of Mr Spinks regarding the extent of a branch office's authority to determine policies and procedures.

#### **Available findings on the authority of the Governing Body**

F39 Mr Spinks' evidence that the Australia Branch has full authority to produce documents, seminars, letters to elders and letters to publishers without the approval or agreement of the Governing Body is rejected.

F40 The Governing Body retains authority in respect of all publications in the name of the Jehovah's Witness organisation and any view or perspective contrary to that of the Governing Body is not tolerated.

### **6.4 Flexibility of Scriptural interpretation**

283 Mr O'Brien gave evidence that although the Jehovah's Witness organisation is governed by first century Biblical principles, Jehovah's Witnesses believe that many of those principles 'are timeless, in any place, any time'.<sup>508</sup>

284 Mr Spinks told the Royal Commission that if the learnings of science in relation to sexual abuse were in conflict with the Jehovah's Witnesses' understanding of the Bible, then '[a]bsolutely the Bible will prevail'.<sup>509</sup> He also gave evidence that where there is 'clear Scriptural arrangement' or 'clear instructions in the Scriptures', the Jehovah's Witness organisation's approach to the application of the Bible will not change as society changes.<sup>510</sup>

285 While Mr Jackson<sup>511</sup> and Mr Spinks<sup>512</sup> both accepted that the Governing Body may change its interpretation of the Scriptures from time to time, several witnesses, including Mr Jackson, told the Royal Commission that there was no scope for flexibility in the interpretation of the Scriptures in relation to:

- a) the two-witness rule<sup>513</sup>
- b) the practice of shunning<sup>514</sup>
- c) the practice of disfellowshipping unrepentant individuals and reproofing repentant individuals<sup>515</sup>
- d) the reinstatement of repentant individuals,<sup>516</sup> and

<sup>508</sup> Transcript of T J O'Brien, T15826:18-34 (Day 153).

<sup>509</sup> Transcript of R P Spinks, T15700:13-19 (Day 152).

<sup>510</sup> Transcript of R P Spinks, T15699:19-22 (Day 152).

<sup>511</sup> Transcript of G W Jackson, T15945:25-28, T15946:12-15 (Day 155).

<sup>512</sup> Transcript of R P Spinks, T15689:25-29; 31-38 (Day 152).

<sup>513</sup> Transcript of R P Spinks, T15705:38-40 (Day 152);

Transcript of T J O'Brien, T15833:21-28 (Day 153).

<sup>514</sup> Transcript of G W Jackson, T15984:4 (Day 155);

Transcript of T J O'Brien, T15851:44-T15852:3 (Day 153).

<sup>515</sup> Transcript of R P Spinks, T15707:5-12 (Day 152).

<sup>516</sup> Transcript of R P Spinks, T15707:5-12 (Day 152).

- e) there being no role for women as decision-makers in the judicial committee process.<sup>517</sup>

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<sup>517</sup> Transcript of G W Jackson, T15954:46-T15955:3 (Day 155);  
Transcript of T J O'Brien, T15831:40-T15832:6 (Day 153) (contra).

## Part 7 Current systems, policies and procedures for responding to allegations of child sexual abuse

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### 7.1 Documents said to record current policy and procedure

286 Mr Spinks told the Royal Commission that the current policies of the Jehovah's Witnesses organisation for dealing with an accusation of child sexual abuse are outlined in:<sup>518</sup>

- a) the Bible (the English edition published by the Jehovah's Witness organisation is the *New World Translation of the Holy Scriptures*)
- b) the current elders' Handbook entitled *Shepherd the Flock of God*<sup>519</sup>
- c) Jehovah's Witness organisation publications available to all congregants approaching baptism,<sup>520</sup> such as *Organized to Do Jehovah's Will*<sup>521</sup>
- d) updated guidelines issued by the Governing Body to all branch offices in August 2013 regarding how service desks should field questions from elders regarding child abuse matters (the **2013 Service Desk Guidelines**),<sup>522</sup> and
- e) letters sent to all bodies of elders, in particular the letter of 1 October 2012,<sup>523</sup> which consolidated into one letter the spiritual advice and guidance provided in various letters from preceding years as to how Jehovah's Witnesses handle allegations of child abuse.<sup>524</sup>

287 Mr Spinks and Mr O'Brien also told the Royal Commission that a pivotal *Watchtower* article entitled 'Let Us Abhor What is Wicked' published in January 1997 clarifies in Biblical terms the principles to which a congregation should have regard in considering how a 'child molester' should be viewed and treated.<sup>525</sup>

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<sup>518</sup> Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [23]-[24].

<sup>519</sup> Exhibit 29-0003, WAT.0003.001.0001 (Tab 120).

<sup>520</sup> Transcript of D J Jackson, T15263:30-32 (Day 148);  
Transcript of R P Spinks, T15672:12-14 (Day 152);  
Transcript of T J O'Brien, T15843:32-36 (Day 153).

<sup>521</sup> Exhibit 29-0003, WAT.0013.001.0001 (Tab 109).

<sup>522</sup> Exhibit 29-0003, WAT.0001.004.0076 (Tab 126).

<sup>523</sup> Exhibit 29-0003, WAT.0001.004.0066 (Tab 124).

<sup>524</sup> Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [18];  
Exhibit 29-0003, WAT.0001.004.0066 at [1] (Tab 124).

<sup>525</sup> Exhibit 29-0003, WAT.0001.004.0306 (Tab 85);  
Exhibit 29-0024, First statement of Terrence O'Brien, STAT.0592.001.0001\_R at [57];  
Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [19].

## 7.2 Training

- 288 Elders within the Jehovah's Witness organisation are given periodic training on the implementation of its policies and procedures.<sup>526</sup> The training takes the form of one-day programmes or seminars called *Kingdom Ministry Schools*.<sup>527</sup>
- 289 Messrs De Rooy, Ali, Bowditch and Doug Jackson each told the Royal Commission that from the 1990s they had received specific instruction in the form of discussions at elders' schools and training courses on responding to child sexual abuse.<sup>528</sup>
- 290 Mr O'Brien told the Royal Commission that aside from what is published in the Jehovah's Witness organisation's literature, congregational elders are not given specific training on identifying child sexual abuse.<sup>529</sup>

## 7.3 Initial response to an allegation of child sexual abuse

### Congregation should report wrongdoing

- 291 *Organized to do Jehovah's Will* instructs members of the Jehovah's Witness organisation that 'gross sins' should be reported to the elders because they threaten the moral cleanness of the congregation.<sup>530</sup> A person may approach the congregational elders 'either to confess their own sin or to report what they know regarding the wrongdoing of others'.<sup>531</sup>
- 292 *Organized to do Jehovah's Will* also instructs members that once a matter has been reported to the elders, 'you will have taken the matter as far as you can', that the matter should be left in the hands of the elders, and that one should 'trust in Jehovah that it will be resolved'.<sup>532</sup>

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<sup>526</sup> Exhibit 29-0003, WAT.0001.001.0001 at 0009 (Tab 133);  
 Exhibit 29-0004, Statement of Doug Jackson, STAT.0600.001.0001\_R at [3.1];  
 Exhibit 29-0007, Statement of Dino Ali, STAT.0598.001.0001\_R at [3.1];  
 Exhibit 29-0016, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [3.1];  
 Exhibit 29-0010, Statement of Kevin Bowditch, STAT.0602.001.0001\_R at [3.1];  
 Exhibit 29-0018, Statement of Allan Pencheff, STAT.0604.001.0001\_R at [3.1];  
 Exhibit 29-0005, Statement of Joseph Bello, STAT.0594.001.0001\_R at [3.1].

<sup>527</sup> Exhibit 29-0024, First statement of Terrence O'Brien, STAT.0592.001.0001\_R at [72]-[73];  
 Exhibit 29-0003, WAT.0013.001.0001 at 0053 - 0055 (Tab 109).

<sup>528</sup> Exhibit 29-0004, Statement of Doug Jackson, STAT.0600.001.0001\_R at [3.2];  
 Exhibit 29-0007, Statement of Dino Ali, STAT.0598.001.0001\_R at [3.3];  
 Exhibit 29-0016, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [3.4];  
 Exhibit 29-0010, Statement of Kevin Bowditch, STAT.0602.001.0001\_R at [3.3].

<sup>529</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [64].

<sup>530</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0085 (Tab 109).

<sup>531</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0088 (Tab 109).

<sup>532</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0086 (Tab 109).

## Types of Scriptural wrongdoing that include child sexual abuse

293 The official position of the Jehovah's Witness organisation is that it abhors child sexual abuse and that it will not protect any perpetrator of such repugnant acts.<sup>533</sup>

294 Elders are instructed that child sexual abuse includes:

... sexual intercourse with a minor; oral or anal sex with a minor; fondling the genitals, breasts, or buttocks of a minor; voyeurism of a minor; indecent exposure to a minor; soliciting a minor for sexual conduct; or any kind of involvement with child pornography. Depending on the circumstances of the case, it may also include "sexting" with a minor. "Sexting" describes the sending of nude photos, seminude (sic) photos, or sexually explicit text messages electronically, such as by phone.<sup>534</sup>

295 The Jehovah's Witness organisation also instructs elders that child sexual abuse is captured by one or more of the following Scriptural offences:

- a) *porneia*, which includes sexual intercourse, oral or anal sex, 'immoral use of the genitals, whether in a natural or perverted way, with lewd intent'<sup>535</sup>
- b) *brazen or loose conduct*, which is conduct which reflects 'an attitude that betrays disrespect, disregard, or even contempt for divine standards, laws, and authority' and includes child sexual abuse,<sup>536</sup> and
- c) *gross uncleanness*, which can include, to the extent that an adult involves a child in the viewing, 'an entrenched practice of viewing, perhaps over a considerable period of time, abhorrent forms of pornography that is sexually degrading', including child pornography.<sup>537</sup>

## Elders to report immediately to the Branch Office / Legal Department

296 Upon receipt of an allegation or complaint of child sexual abuse, two elders from the congregation should immediately contact the Branch Office Legal Department for legal advice.<sup>538</sup> Mr Toole said that this is a direction issued by the Governing Body to elders serving throughout the world.<sup>539</sup> The direction to call the Legal Department applies

<sup>533</sup> Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [21(a)] and [22]; Exhibit 29-0003, WAT.0001.004.0066 at 0068 [9] (Tab 124); Exhibit 29-0003, WAT.0001.001.0001 at 0015 (Tab 133).

<sup>534</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0066 [3] (Tab 124).

<sup>535</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0060 [5] (Tab 120); Exhibit 29-0003, WAT.0001.004.0076 at 0078 [16] (Tab 126).

<sup>536</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0061-0062 [9]-[10] (Tab 120); Exhibit 29-0003, WAT.0001.004.0076 at 0078 [16] (Tab 126).

<sup>537</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0064-0065 [13]-[14] (Tab 120); Exhibit 29-0003, WAT.0001.004.0076 at 0079 [19] (Tab 126).

<sup>538</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0066 [4] (Tab 124); Exhibit 29-0003, WAT.0003.001.0001 at 0132 [18] (Tab 120); Exhibit 29-0003, WAT.0014.001.0009 at 0012 [14] (Tab 131A).

<sup>539</sup> Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R at [13]; Transcript of V J Toole, T15752:19-32 (Day 153).

‘even’ in circumstances where the abuse alleged is historical, and where the allegation is based on the testimony of only one witness.<sup>540</sup>

### **Branch Office Legal Department to advise on legal obligations**

297 The Branch Office Legal Department will provide to the congregational elders ‘legal advice based on the facts and the applicable law’, including in relation to any mandatory reporting obligations applicable to the congregational elders.<sup>541</sup>

### **Guidance provided by the Service Department / Desk**

298 After calling the Legal Department, the elders may be directed to contact the Service Department for assistance with any questions regarding theocratic or judicial aspects of the case, how to protect children, and how to spiritually comfort and support the victim.<sup>542</sup> The Service Department also provides guidance on when and how elders should interview a young victim of child abuse.<sup>543</sup>

299 The *2013 Service Desk Guidelines* provide for the guidance that should be offered when an elder is calling in relation to reports from publishers of an awareness that a person in an appointed role has ‘molested a child in the past’.<sup>544</sup> Those Guidelines say that the elders should be informed of any legal obligation to report to authorities that may apply, and that ‘individuals should not be discouraged from reporting matters to the authorities but should be reminded of the need for confidentiality when speaking with others, thus avoiding a charge of slander’.<sup>545</sup>

300 Mr Spinks gave evidence that in the first instance the advice given to congregational elders reporting an incident of child sexual abuse is generic advice ‘from the published material’, followed by a request that the elders provide the Service Desk with details in writing to enable the Service Desk to assist them.<sup>546</sup> Mr Spinks said that the generic advice offered is set out on page 131 of the elders’ handbook, *Shepherd the Flock*, which reads as follows:<sup>547</sup>

Child abuse is a crime. Never suggest to anyone that they should not report an allegation of child abuse to the police or other authorities. If you are asked, make it clear that whether to report the matter to authorities or not is a personal decision for each individual to make and that there are no congregation sanctions for either decision. Elders will not criticize anyone who reports such an allegation to the authorities. If the victim wishes to make a report, it is his or her absolute right to do so. – Gal. 6:5.<sup>548</sup>

<sup>540</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0067 [4] (Tab 124).

<sup>541</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0067 [4]-[5] (Tab 124).

<sup>542</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0067 [5] (Tab 124);  
Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [25]-[26] and [28]-[33].

<sup>543</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0084 [46]-[47] (Tab 126).

<sup>544</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0081 [31]-[33] (Tab 126).

<sup>545</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0081 [33] (Tab 126).

<sup>546</sup> Transcript of R P Spinks, T15661:2-18 (Day 152).

<sup>547</sup> Transcript of R P Spinks, T15661:20-31, T15661:44-T15662:1-4 (Day 152).

<sup>548</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0132-133 [19] (Tab 120).

- 301 Mr Spinks told the Royal Commission that it was not the practice of the Service Desk to put or confirm in writing the advice given in the first instance to elders.<sup>549</sup>
- 302 Although the *Shepherd the Flock* handbook advises that '[t]he branch office will ... give direction based on the circumstances involved in each situation',<sup>550</sup> Mr Spinks accepted that the position is that following provision of generic advice to elders by the Service Desk, 'then it is over to the elders as to what they do' and that the Service Desk does not offer 'specific advice in a particular situation'.<sup>551</sup>
- 303 However, it was the evidence of Mr Horley in particular, but also of Messrs De Rooy, Bello and Doug Jackson, that they as congregational elders specifically rely upon the advice of the Branch Office in handling complaints of child sexual abuse.<sup>552</sup> Mr Horley told the Royal Commission that he would need to seek advice and take direction from the Branch Office on how to proceed in relation to matters involving reporting to police,<sup>553</sup> application of the two-witness rule,<sup>554</sup> interviewing of survivors,<sup>555</sup> flexibility of Scriptural interpretation,<sup>556</sup> fairness of the process,<sup>557</sup> and how he might proceed if faced with BCB's situation again today.<sup>558</sup>
- 304 Mr Horley also said that there may have been changes to the process, but that those changes are not recorded in the elders' handbook, and that is where the Branch Office may offer further advice when elders contact it as directed.<sup>559</sup>
- 305 It is submitted that the present practice of the Service Desk of offering generic advice about how to handle a complaint of child sexual abuse is unlikely to provide sufficient guidance to congregational elders who are directed to contact the Branch Office for, and expect, specific guidance<sup>560</sup> in handling such a complaint. It is further submitted that there is therefore a risk that congregational elders with little or no experience of handling complaints of child sexual abuse are left without proper guidance to deal with such complaints, thereby exposing victims of abuse to the risk of further trauma as a result of inexperienced handling of their complaints.

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<sup>549</sup> Transcript of R P Spinks, T15661:2-6 (Day 152).

<sup>550</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0132 [18] (Tab 120).

<sup>551</sup> Transcript of R P Spinks, T15662:45-T15663:8 (Day 152).

<sup>552</sup> Transcript of M Horley, T15186:6-8, T15193:2-3, T15193:13-15, T15193:46-T15194:3, T15196:3-9, T15198:7-12, T15198:31-36, T15218:18-23, T15219:23-26, and T15220:39-42 (Day 147);

Transcript of D J Jackson, T15233:12-16, T15255:19-26 (Day 147);

Transcript of J Bello, T15268:47-T15269:2 (Day 148);

Transcript of A R De Rooy, T15579:29-34 (Day 151).

<sup>553</sup> Transcript of M Horley, T15186:6-8 (Day 147).

<sup>554</sup> Transcript of M Horley, T15193:2-3, T15193:13-15, T15193:46-T15194:3 (Day 147).

<sup>555</sup> Transcript of M Horley, T15198:7-12, T15198:31-36, T15219:23-26 (Day 147).

<sup>556</sup> Transcript of M Horley, T15196:3-9 (Day 147).

<sup>557</sup> Transcript of M Horley, T15220:39-42 (Day 147).

<sup>558</sup> Transcript of M Horley, T15218:18-23 (Day 147).

<sup>559</sup> Transcript of M Horley, T15220:39-42 (Day 147).

<sup>560</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0132 [18] (Tab 120).

## 7.4 Investigation of allegations of child sexual abuse

### Two elders to investigate every allegation

306 Elders are instructed that, having carefully reviewed the letter to all bodies of elders of 1 October 2012<sup>561</sup> and paragraphs 18-21 of Chapter 12 of the *Shepherd the Flock* handbook,<sup>562</sup> two congregational elders should investigate every allegation of child sexual abuse.<sup>563</sup>

### Victim to give testimony before the elders and the accused

307 As a part of their investigation, the elders are instructed that they should speak to the accused about the allegation.<sup>564</sup> If the accused denies the allegation, then the elders 'should try to arrange a meeting with him and the accuser together'.<sup>565</sup> In the case of an allegation of child sexual abuse, the elders are directed to contact the Branch Office before arranging a meeting with the child and the accused.<sup>566</sup>

308 Mr Spinks gave evidence that since the mid-1990s the Jehovah's Witness organisation has 'recognised that a victim or a survivor should not have to confront their abuser'.<sup>567</sup> The only document which Mr Spinks was able to identify in which this policy was stated was a 'S-337' form dated 1998<sup>568</sup> which had recently been located by an older member of the Service Department stuck inside his copy of the superseded *Pay Attention 1991* elders' handbook.<sup>569</sup>

309 Mr Spinks told the Royal Commission that the S-337 form was an outline of what circuit overseers would go through in their meetings with bodies of elders in the applicable six month period and that the policy would not have been restated in subsequent S-337 forms.<sup>570</sup>

310 In the circumstances, the document cannot be said to be a current record of policy and is of very limited relevance. Be that as it may, it provides as follows:<sup>571</sup>

#### BEFORE FORMING A JUDICIAL COMMITTEE (4 min.)

1. How can the person who is a witness to a serious sin aid both the wrongdoer and the congregation? (The witness should make sure the responsible elders become aware of it. Usually best to approach the person involved first, though it is not wrong to go directly to elders. He should

<sup>561</sup> Exhibit 29-0003, WAT.0001.004.0066 (Tab 124).

<sup>562</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0132 [18]-[19] (Tab 120).

<sup>563</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124);

Exhibit 29-0003, WAT.0013.001.0001 at 0088 (Tab 109);

Exhibit 29-0003, WAT. 0003.001.0001 at 0073 [38] (Tab 120).

<sup>564</sup> Exhibit 20-0003, WAT. 0003.001.0001 at 0073 at [38] (Tab 120).

<sup>565</sup> Exhibit 20-0003, WAT. 0003.001.0001 at 0073 at [39] (Tab 120).

<sup>566</sup> Exhibit 20-0003, WAT. 0003.001.0001 at 0073 at [39] (Tab 120).

<sup>567</sup> Transcript of R P Spinks, T15686:36-39 (Day 152).

<sup>568</sup> Exhibit 29-0020, EXH.029.020.0001.

<sup>569</sup> Transcript of R P Spinks, T15687:15-21 (Day 152).

<sup>570</sup> Transcript of R P Spinks, T15702:5-38 (Day 152).

<sup>571</sup> Exhibit 29-0020, EXH.029.020.0001 at 0003.

encourage the wrongdoer to approach the elders, then after a reasonable period of time check with the elders to be sure they know)...

2. When is it not advisable for the witness to confront the accused alone? What should elders do? (When he is a party to the wrongdoing, is a victim, or is extremely timid. Children who are victims of molestation should not be required to confront the accused. In some cases two elders or an elder and the witness can confront the accused)

#### JUDICIAL COMMITTEE HEARING PROCEDURE (24 min.)

...

2. Explain what is to be done if the accused person does not admit guilt. (The alleged wrongdoer has right to face his accusers. In most cases, he will have opportunity to hear their testimony and reply. After presenting accusation and its source, the committee will give the accused opportunity to respond. However, if, perhaps due to distance, it is impractical for the witness to be present, this should not prevent the committee from proceeding.

- 311 The paragraphs extracted from the S-377 form above appear to mirror very closely the instruction offered to elders in *Pay Attention 1991*.<sup>572</sup> The paragraphs, however, expand upon *Pay Attention 1991* in two respects. First, in the context of the requirement that a witness should confront the accused before approaching elders, the S-377 form specifies that child victims of molestation should not be required to confront the accused. It is submitted that on its face the S-377 form exemption for children who are victims of sexual abuse applies only to children (i.e. not when child victims are adults) and it does not apply beyond the requirement that a person in the first instance confront the person who has wronged them, let alone to the stage at which elders are investigating a complaint. Secondly, the form provides for an exemption from presentation of an allegation before the accused and the committee if such presentation is impractical. This latter provision was later incorporated into the *Shepherd the Flock* elders' handbook,<sup>573</sup> and as with the provision in *Shepherd the Flock*, it is submitted, appears only to provide for exemption in circumstances of practical difficulty (such as distance) rather than when the witness is a victim of child sexual abuse.
- 312 Mr Spinks gave further evidence that a statement written by the victim and given to the investigating elders would be sufficient at the investigative stage of a matter.<sup>574</sup> He agreed that insofar as the S-337 form supported that policy, it only did so in respect of the investigative stage as opposed to the judicial hearing stage of a matter.<sup>575</sup>
- 313 Mr Spinks told the Royal Commission that an accuser facing their abuser via written statement 'conforms perfectly with the Scriptural requirement'.<sup>576</sup> The Scriptural requirement referred to is presumably that recorded in *Pay Attention 1991* as

<sup>572</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0050-51 (Tab 80).

<sup>573</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0090-91 [2] (Tab 120).

<sup>574</sup> Transcript of R P Spinks, T15704:11-14 (Day 152)

<sup>575</sup> Transcript of R P Spinks, T15704:47-T15705:20 (Day 152)

<sup>576</sup> Transcript of R P Spinks, T15706:39-45 (Day 152).

'[a]ccusers should be willing to assume their responsibility, as was required in Israel (Deut. 17:6, 7; 19: 16-21)'.<sup>577</sup> The first of those references provides that 'the hand of the witnesses should be the first to come against him to put him to death' and the second provides that those who make false allegations must be 'removed' from the congregation.

### **If the accuser or accused refuses to meet with the elders**

314 The *Shepherd the Flock* handbook provides that if the accused denies an allegation of wrongdoing and he or his accuser refuses to speak to the elders, 'the elders will leave matters in Jehovah's hands (Deut.19:15-17; 1 Tim. 5:19, 24, 25 ...)'.<sup>578</sup>

315 Mr Spinks told the Royal Commission that if someone accused of a crime refused to answer an allegation, he would be disfellowshipped on a charge of brazen loose conduct, which is 'an absolute disregard for the authority and standards'.<sup>579</sup>

### **Interviewing children**

316 The 2013 Service Desk Guidelines address when elders should interview a young child victim of sexual abuse. Specifically, the Guidelines set out the advice that should be offered to elders who call the Service Desk for advice about interviewing a child.<sup>580</sup> The Guidelines provide, for instance, that if there is 'more than one accuser and thereby already sufficient evidence to handle the matter judicially ... there is likely no need to interview the young child'.<sup>581</sup>

317 Mr Spinks accepted that on the evidence before the Royal Commission, in circumstances where elders are unable to interview a child because it would be too traumatizing or the child's parents do not consent, and there was no confession or other evidence,<sup>582</sup> then the elders are unable to take judicial action.<sup>583</sup>

318 Mr Spinks also agreed that it was quite probable that elders involved in interviewing a child victim of sexual abuse would not have any specialised training in dealing with child victims of trauma.<sup>584</sup>

### **Establishing the veracity of an allegation**

319 As was the position in 1991, elders are not authorized to form a judicial committee in order to take congregational action unless the child sexual abuse is proven according to Biblical standards which are satisfied by evidence of:<sup>585</sup>

<sup>577</sup> Exhibit 29-0003, WAT.0013.002.0001 at 0051 (Tab 80).

<sup>578</sup> Exhibit 20-0003, WAT. 0003.001.0001 at 0073-74 at [39] (Tab 120).

<sup>579</sup> Transcript of R P Spinks, T15740:26-32 (Day 152).

<sup>580</sup> Exhibit 29-0003, WAT.0001.004.0075 at 0084 [46]-[51] (Tab 126).

<sup>581</sup> Exhibit 29-0003, WAT.0001.004.0075 at 0084 [46] (Tab 126).

<sup>582</sup> Exhibit 29-0003, WAT.0001.004.0075 at 0084 [46] (Tab 126).

<sup>583</sup> Transcript of R P Spinks, T15708:32-39 (Day 152).

<sup>584</sup> Transcript of R P Spinks, T15710:2-5 (Day 152).

<sup>585</sup> Exhibit 29-0019, Annexure 2, STAT.0591.001.0018 at [2.2];  
Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124).

- a) a confession from the accused, which ‘may be accepted as conclusive proof without other corroborating evidence. (Josh 7:19)’<sup>586</sup>
- b) the two-witness rule, which appears to have been modified slightly by the 1 October 2012 letter to require that the witnesses are ‘credible’<sup>587</sup>
- c) the testimony of two or three witnesses to separate incidents of the same kind of wrongdoing,<sup>588</sup> or
- d) strong circumstantial evidence testified to by at least two witnesses.<sup>589</sup>

320 Mr Spinks told the Royal Commission that in some cases a combination of the four Scriptural criteria for establishing the truth of an allegation ‘may be used as a basis for taking congregational action’.<sup>590</sup> Mr Spinks did not specify the type of circumstances in which such an approach might be taken.

321 Elders are instructed that the testimony of youths may be considered by the investigating elders, who must ‘determine whether the testimony has the ring of truth’.<sup>591</sup> The 2013 Service Desk Guidelines advise elders to have regard to certain criteria as set out in the *Shepherd the Flock* handbook in assessing the veracity of a child’s allegation.<sup>592</sup> Those criteria include the level of maturity of the child or youth, the consistency of the child’s memory, and the reputation of the child’s parents.<sup>593</sup>

322 The testimony of ‘unbelievers and disfellowshipped or disassociated ones’ may also be considered, but the elders are advised to weigh any such testimony carefully.<sup>594</sup> Mr Jackson told the Royal Commission that the reason for this direction to elders is because ‘someone who is not a [Jehovah’s] Witness may have no difficulties at all about telling a lie’.<sup>595</sup>

### Oral and further evidence about the flexibility of the two-witness rule

323 It was Mr O’Brien’s evidence that simply because the two-witness rule applies does not mean that a victim is not believed or that the elders don’t take precautions.<sup>596</sup>

<sup>586</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0072 [37] (Tab 120);  
Exhibit 29-0003, WAT.0001.004.0066 at 0068 (Tab 124).

<sup>587</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0072 [37] (Tab 120);  
Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124);  
Exhibit 29-0003, WAT.0013.001.0001 at 0084 (Tab 109).

<sup>588</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0072-0073 [37] (Tab 120);  
Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124).

<sup>589</sup> Exhibit 29-0019, Annexure 2, STAT.0591.001.0018 at [2.2];  
Exhibit 29-0003, WAT.0003.001.0001 at 0062 [11] (Tab 120).

<sup>590</sup> Exhibit 29-0019, Annexure 2, STAT.0591.001.0023 at [2.2].

<sup>591</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0073 [37] (Tab 120).

<sup>592</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0084 [47] (Tab 126).

<sup>593</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0134 [21] (Tab 120).

<sup>594</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0073 [37] (Tab 120).

<sup>595</sup> Transcript of G W Jackson, T15997:4-20 (Day 155).

<sup>596</sup> Transcript of T J O’Brien, T15833:21-33 (Day 153).

- 324 Messrs Horley, De Rooy, Ali and Bowditch each said that notwithstanding that they believed BCB's and BCG's allegations of abuse, they were bound by the two-witness rule in handling the respective complaints.<sup>597</sup>
- 325 Mr Spinks and Mr O'Brien both said that the two-witness rule is a Scriptural direction that the Jehovah's Witnesses do not have the authority to change.<sup>598</sup>
- 326 Mr Spinks accepted that more often than not, there will only be one witness to an incident of sexual abuse.<sup>599</sup> Mr Spinks also told the Royal Commission that he had no reason to question the proposition as published in the Jehovah's Witness organisation's own publications that allegations of sexual abuse are almost always justified.<sup>600</sup>
- 327 Mr Jackson's evidence was that there is a Scriptural basis to the two-witness rule. He referred specifically to Matthew 18:16, Deuteronomy 19:15, 2 Corinthians 13:1 and 1 Timothy 5:19.<sup>601</sup>
- 328 Mr Jackson was asked about the extent to which Deuteronomy 22:23-27 should inform the Scriptural foundation of the two-witness rule.<sup>602</sup> Deuteronomy 22:23-27 offers the example of a man raping a woman in a field in circumstances where there are no witnesses to the rape and where in spite of the absence of a second witness, the man is to be put to death. It was put to Mr Jackson, and he accepted, that that Scripture contemplates a case where there are no witnesses to the rape other than the woman herself.<sup>603</sup> It was also put to Mr Jackson, and he agreed, that only one witness was sufficient, in those circumstances, for the man to be put to death.<sup>604</sup> Mr Jackson told the Royal Commission that added to the single witness in the situation contemplated by Deuteronomy 22:23-27 was the 'circumstance' of the rape.<sup>605</sup> Mr Jackson said that the Jehovah's Witnesses had 'already acknowledged that circumstances can also be one of the witnesses'.<sup>606</sup> The principal 'circumstance' of the rape was that there was no third-person witness, as is usually the case with instances of child sexual abuse.
- 329 It was suggested to Mr Jackson that this Scripture provided the basis for the Governing Body not to apply the two-witness rule in the case of sexual abuse, or that it called into

<sup>597</sup> Transcript of M Horley, T15202:19-24 and T15203:1-4 (Day 147);  
 Transcript of K D Bowditch, T15404:5-9 and T15405:45-T15406:1 (Day 149);  
 Transcript of D Ali, T15331:1-29 (Day 148), T15353:6-13 and T15361:10-17 (Day 149);  
 Transcript of A R De Rooy, T15547:1-40 (Day 151);  
 Exhibit 29-0007, Statement of Dino Ali, STAT.0598.001.0001\_R at [5.6];  
 Exhibit 29-0016, Statement of Albert Ronald De Rooy, STAT.0597.001.0001\_R at [6.1].

<sup>598</sup> Transcript of R P Spinks, T15705:31-40 (Day 152);

Transcript of T J O'Brien, T15833:21-28 (Day 153).

<sup>599</sup> Transcript of R P Spinks, T15710:40-43 (Day 152).

<sup>600</sup> Transcript of R P Spinks, T15710:45-T15711:7 and T15716:25-39 (Day 152);

Exhibit 29-0003, WAT.0001.004.0205 at 0210 (Tab 78);

Exhibit 29-0003, WAT.0001.004.0238 at 0241 (Tab 82).

<sup>601</sup> Transcript of G W Jackson, T15967:33-T15969:46 (Day 155).

<sup>602</sup> Transcript of G W Jackson, T15970:-T15971:47 (Day 155).

<sup>603</sup> Transcript of G W Jackson, T15971:16-20 (Day 155).

<sup>604</sup> Transcript of G W Jackson, T15971:26-29 (Day 155).

<sup>605</sup> Transcript of G W Jackson, T15971:19-24 (Day 155).

<sup>606</sup> Transcript of G W Jackson, T15972:1-3 (Day 155).

question the proper foundation to the two-witness rule in the case of sexual abuse. Mr Jackson's answer was to say that the Jehovah's Witnesses believe that there is a proper foundation to the rule because of the number of times that it is emphasised in the Scriptures.<sup>607</sup> Mr Jackson did not say that there is no prospect of modifying the application of the two-witness rule within Scriptural requirements so as to make it inapplicable to cases of sexual abuse.

- 330 In a statement provided to the Royal Commission after the close of the public hearing, Mr Jackson offered an alternative explanation of Deuteronomy 22:23-27 to that which he had accepted in oral evidence.<sup>608</sup> In his statement Mr Jackson explained that the man's guilt had been judged at an earlier stage in Deuteronomy, and that the referenced verses dealt only with establishing guilt (or absence thereof) on the part of the woman.<sup>609</sup> In his statement, Mr Jackson did not seek to explain the reason for the difference between his oral and written evidence as to context of Deuteronomy 22:23-27.
- 331 It is submitted that there is little utility in attempting to resolve the conflict between Mr Jackson's oral and his subsequent written evidence on the subject of the relevance of Deuteronomy 22:23-27 to the flexibility of the two-witness rule. However, it is open to the Royal Commission to note the difficulty experienced by even a member of the Governing Body in arriving at an interpretation of Deuteronomy 22:23-27 which renders it irrelevant to the application of the two-witness rule.
- 332 Mr Jackson was asked to what extent the Jehovah's Witness organisation was bound by the Scriptures to maintain and apply the two-witness rule.<sup>610</sup> He did not respond to the question, instead telling the Royal Commission that he 'thought that that had already been established in the hearings, but, if not, certainly that is something that we need to follow up'.<sup>611</sup>
- 333 Following his oral evidence on the subject of Deuteronomy 22:23-27, Mr Jackson was taken to the *Shepherd the Flock* handbook and to the example regarding witnesses to adultery.<sup>612</sup> It was put to Mr Jackson, and he agreed, that the example in the handbook that two witnesses observing the opportunity for adultery, as opposed to two witnesses directly observing the adultery itself, demonstrates circumstances where the two witnesses to the opportunity will be sufficient to establish the case of adultery.<sup>613</sup>
- 334 It was then put to Mr Jackson that the same principles should apply in the case of child sexual abuse.<sup>614</sup> Mr Jackson did not respond directly to the proposition and instead told

<sup>607</sup> Transcript of G W Jackson, T15971:43-T15972:10 (Day 155).

<sup>608</sup> Exhibit 29-0035, Statement of Geoffrey William Jackson, STAT.0670.001.0001 at [15]-[20].

<sup>609</sup> Exhibit 29-0035, Statement of Geoffrey William Jackson, STAT.0670.001.0001 at [18]-[19].

<sup>610</sup> Transcript of G W Jackson, T15974:4-7 (Day 155).

<sup>611</sup> Transcript of G W Jackson, T15974:14-16 (Day 155).

<sup>612</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0062 [11] (Tab 120).

<sup>613</sup> Transcript of G W Jackson, T15972:23-T15973:20 (Day 155).

<sup>614</sup> Transcript of G W Jackson, T15973:22-25 (Day 155).

the Royal Commission that it was ‘a very large question and ... something that we would need to consider carefully’.<sup>615</sup>

- 335 Mr Jackson nevertheless agreed that circumstantial or corroborating evidence such as the evident trauma of a victim of child sexual abuse ‘would need to be taken into account’ as corroborating evidence in the determination of the veracity of an allegation.<sup>616</sup> It was not clear however if it was Mr Jackson’s evidence that the witness of the evident trauma experienced by a victim of child sexual abuse could therefore constitute the required second witness.<sup>617</sup> Mr Jackson said that the Jehovah’s Witness organisation is interested in following up such matters after the Royal Commission.<sup>618</sup>
- 336 It is submitted that Mr Jackson was evasive and unhelpful in assisting the Royal Commission to understand whether there is scope for interpretation of the two-witness rule such that would allow for action to be taken in circumstances where there is only one direct witness to an incident of child sexual abuse.
- 337 It is further submitted that the current position is that where the victim is the only witness to an incident of child sexual abuse and the abuser does not confess, the Jehovah’s Witness organisation will not take action until such time as a second child is abused in similar circumstances by the same accused person. It is submitted that this position is untenable and is completely at odds with the organisation’s expression of abhorrence of child sexual abuse.
- 338 Accordingly, the Jehovah’s Witness organisation should be encouraged to explore the possibility adverted to by Mr Jackson of considering a more flexible interpretation of the two-witness rule such that would allow for the acceptance of circumstantial and corroborating evidence, such as the evident trauma of a victim of child sexual abuse.

#### **Oral evidence that wrongdoing must ultimately be established by elders**

- 339 Mr Jackson gave evidence that the ultimate decision to establish the nature and the occurrence of wrongdoing in the investigation of an allegation of child sexual abuse, must be made by the investigating elders.<sup>619</sup> Mr Jackson told the Royal Commission that the scriptural basis for this requirement is the headship principle in 1 Corinthians 11:3.<sup>620</sup>
- 340 Mr Jackson told the Royal Commission that there is ‘no leeway whatsoever’ in the Jehovah’s Witnesses system of beliefs for allowing women to be elders.<sup>621</sup> Mr O’Brien’s evidence was to like effect,<sup>622</sup> as was that of Mr Spinks.<sup>623</sup> Mr Jackson went on to tell the

<sup>615</sup> Transcript of G W Jackson, T15973:22-35 (Day 155).

<sup>616</sup> Transcript of G W Jackson, T15973:37-47 (Day 155).

<sup>617</sup> Transcript of G W Jackson, T15973:37-44 (Day 155).

<sup>618</sup> Transcript of G W Jackson, T15973:45-47 (Day 155).

<sup>619</sup> Transcript of G W Jackson, T15961:16-45 (Day 155).

<sup>620</sup> Transcript of G W Jackson, T15962:3-7 (Day 155).

<sup>621</sup> Transcript of G W Jackson, T15951:1826 (Day 155).

<sup>622</sup> Transcript of T J O’Brien, T15831:40-T15832:6; T15863:23-38; T15866:21-26 (Day 153).

<sup>623</sup> Transcript of R P Spinks, T15706:20-27 (Day 152).

Royal Commission that the Bible teaches that a judge must be a man but was, at the time, unable to provide a specific scriptural reference in support of his understanding.<sup>624</sup>

- 341 In his written statement provided to the Royal Commission following the close of the public hearing, Mr Jackson offered the relevant scriptural references to which he adverted but was unable to provide during the hearing. Specifically, he referred to various books of the Old Testament which, he said, describe judges and priests as being all male.<sup>625</sup> Mr Jackson said that although the Mosaic Law of the Old Testament ended '[o]n Pentecost 33 C.E.', its principles 'guided the first century Christian congregation and served as the context for future practices'.<sup>626</sup> Mr Jackson explained that it is on this basis that the apostle Paul 'identifies only male members of the congregation as potential elders' in 1 Timothy 3:1.<sup>627</sup>
- 342 It should be noted by the Royal Commission that, in his statement, Mr Jackson referred only to those books of the Old Testament in which men are described as judges, and did not refer to Judges 4:4-5 which tells of the female judge, Deborah. Specifically, the verses report that Deborah, 'a prophetess, the wife of Lappidoth, was judging Israel at that time' and that the 'Israelites would go up to her for judgment'. Since a woman judge was apparently accepted in the Old Testament, it is not apparent why women should not be judges of 'Christian' guilt or innocence in the Jehovah's Witness organisation.
- 343 Mr Jackson accepted that it would be possible for the Jehovah's Witness organisation to consider, through research and checking the Scriptures, whether the process could be modified to allow women to be involved in the decision as to whether an allegation was true or false.<sup>628</sup>
- 344 It is submitted that the current position is that the ultimate decision to establish the veracity of an allegation of child sexual abuse must be made by investigating elders and that an elder must be a man. The Jehovah's Witness organisation should however be encouraged to explore the possibility adverted to by Mr Jackson of developing the process to allow women to be involved in deciding the truth or otherwise of a sexual abuse allegation, and that there is real and identified scope for the organisation to do so in accordance with the Scriptures.

### **The role of women in the investigation of an allegation of child sexual abuse**

- 345 Mr O'Brien accepted that women bring a different perspective and understanding to that of men to an issue such as whether or not a young girl or woman was sexually assaulted.<sup>629</sup>
- 346 Mr O'Brien said that at the investigative stage of a matter there is no Biblical requirement that a victim of child sexual abuse present his or her allegation in person

<sup>624</sup> Transcript of G W Jackson, T15955:8-36 (Day 155).

<sup>625</sup> Exhibit 29-0035, Statement of Geoffrey William Jackson, STAT.0670.001.0001 at [4]-[5].

<sup>626</sup> Exhibit 29-0035, Statement of Geoffrey William Jackson, STAT.0670.001.0001 at [6].

<sup>627</sup> Exhibit 29-0035, Statement of Geoffrey William Jackson, STAT.0670.001.0001 at [6].

<sup>628</sup> Transcript of G W Jackson, T15959:46-T15960:11 (Day 155).

<sup>629</sup> Transcript of T J O'Brien, T15830:28-33 (Day 153).

to three elders.<sup>630</sup> He told the Royal Commission that the question of whether women could be involved in the investigation process requires further consideration. Specifically, he advised that ‘if it’s based upon the Bible standards, then [the Branch Committee] would present that as one of the recommendations from the Commission’ and that he didn’t ‘see why a woman couldn’t be involved in the process, particularly in establishing the victim’s statement, so she doesn’t have to face three men’.<sup>631</sup>

- 347 Mr Jackson agreed that an elder may find it difficult to appreciate exactly how a young woman making an allegation of child sexual abuse might feel in making that allegation.<sup>632</sup>
- 348 Mr Jackson said that there is no Biblical impediment to women being involved in the investigation of alleged sexual abuse.<sup>633</sup> He told the Royal Commission that in circumstances where elders cannot talk to a victim because perhaps to do so would traumatise the victim too much, two women close to the victim may take the victim’s testimony and convey it to the investigating elders.<sup>634</sup> Mr Jackson agreed, however, that one of the tasks of elders who hear allegations of child sexual abuse is to measure the credibility of the person alleging the abuse.<sup>635</sup>
- 349 It is submitted that Mr Jackson’s evidence is not entirely consistent with the position clearly set out in *Shepherd the Flock* (and referred to above) that should an accuser refuse to meet with elders, then the matter can proceed no further and is ‘left in Jehovah’s hands’.<sup>636</sup>
- 350 It is submitted that the current process of investigation doesn’t provide for, or even allow, the involvement of women as investigators or even to receive a complainant’s statement and pass it on to the investigating elders. Further, in the light of Mr Jackson’s evidence that an elder, and therefore not a woman in the congregation, must determine the credibility of a witness, there is limited scope for the involvement of women in the investigation.
- 351 It is nevertheless submitted that the Jehovah’s Witness organisation should be encouraged to explore ways in which women can be involved in the investigation of allegations of child sexual abuse, in particular to avoid the need for a complainant to have to make a statement directly to or in the presence of elders. Mr Jackson’s evidence that there is no Biblical impediment to women being involved in the investigation and that two women close to the victim may take the victim’s testimony and convey it to the investigating elders, is a positive indication that the Jehovah’s Witness organisation may be able to improve this aspect of the existing procedure even within what they perceive to be their Scriptural strictures.

<sup>630</sup> Transcript of T J O’Brien, T15827:35-47 (Day 153).

<sup>631</sup> Transcript of T J O’Brien, T15828:10-20, T15831:20-28 (Day 153).

<sup>632</sup> Transcript of G W Jackson, T15957:41-T15958:2 (Day 155).

<sup>633</sup> Transcript of G W Jackson, T15954:11-27 (Day 155).

<sup>634</sup> Transcript of G W Jackson, T15961:26-35 (Day 155).

<sup>635</sup> Transcript of G W Jackson, T15957:25-29 (Day 155).

<sup>636</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0073 [39] (Tab 120).

### Where there is insufficient evidence to substantiate the allegation

352 Where according to the Scriptural rules there is insufficient evidence to substantiate an allegation of child sexual abuse, the matter is held in abeyance and elders are directed to 'remain vigilant with regard to the conduct and activity of the accused'.<sup>637</sup> In this event, no further action is taken in relation to the complaint and the matter is 'left in Jehovah's hands'.<sup>638</sup>

### Where there is sufficient evidence to substantiate the allegation

353 If sufficient evidence is discovered, the body of elders will assign a judicial committee to administer Scriptural discipline to the wrongdoer.<sup>639</sup> Child sexual abuse is recognised as an offence for which a judicial committee should be formed.<sup>640</sup>

#### Available findings on the investigation process

F41 There are no circumstances in which the survivor of a sexual assault should have to make her allegation in the presence of the person whom she accuses of having assaulted her, and, contrary to the present position, the documents, manuals and instructions produced by the Jehovah's Witness organisation should make this clear.

F42 The requirement that two or more eyewitnesses to the same incident are required in the absence of a confession from the accused, the testimony of two or three witnesses to separate incidents of the same kind of wrongdoing, or strong circumstantial evidence testified to by at least two witnesses (i.e. the two witness rule):

- a) means that in respect of child sexual abuse which almost invariably occurs in private, very often no finding of guilt will be made in respect of a guilty accused
- b) causes victims of child sexual abuse to feel unheard and unsupported when it results in allegations of child sexual abuse not being upheld
- c) is a danger to children in the Jehovah's Witness organisation because its consequence is that very often nothing is done about an abuser in the organisation
- d) does not seem to be applied by the Jehovah's Witness organisation in the case of an accusation of adultery, which suggests that adultery is taken more seriously by the organisation than child sexual abuse, and
- e) needs to be revisited by the Jehovah's Witness organisation with a view to abandoning it or at least reformulating it to ensure that safe decisions as to someone being guilty of child sexual abuse can be made more easily.

F43 The requirement that only elders (i.e. men) can participate in the making of decisions in the investigation process on whether or not someone has committed child sexual abuse:

- a) is a fundamental flaw in that process which weakens the decisions by excluding women, and

<sup>637</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124); Exhibit 29-0019, Annexure 2, STAT.0591.001.0018 at [3.1].

<sup>638</sup> Exhibit 29-0003, WAT. 0003.001.0001 at 0073 at [39] (Tab 120); Exhibit 29-0003, WAT.0001.004.0310 at 0314 (Tab 84).

<sup>639</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0088 (Tab 109); Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [38].

<sup>640</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0062 [10] (Tab 120).

- b) needs to be revisited by the Jehovah’s Witness organisation to ensure a meaningful role for women.

## 7.5 Establishment of a judicial committee

### Formation of a judicial committee

- 354 If wrongdoing is serious enough and it has been established by investigating elders that there is sufficient evidence of the wrongdoing having been committed, at least three elders will form a judicial committee to determine if the accused is genuinely repentant.<sup>641</sup>
- 355 Mr O’Brien told the Royal Commission that ultimately the adjudication process will require three men because the elders must be men and it is the elders who are shepherds and who make the judicial decisions.<sup>642</sup>
- 356 When deciding if a judicial committee is necessary in the case of historical wrongdoing, the elders are to consider, among other things, whether the person confessed voluntarily, whether the matter is widely known, and if the lives of others are affected.<sup>643</sup> In relation to the latter consideration, a life might be affected if, for example, child sexual abuse or adultery is involved.<sup>644</sup>
- 357 In cases involving allegations of child sexual abuse, elders are directed to contact their circuit overseer who will designate an experienced elder from a congregation in the circuit to sit on the judicial committee.<sup>645</sup>

### Purpose of a judicial committee

- 358 The purpose of a judicial committee is for the elders to establish if the accused person is genuinely repentant and to determine the appropriate penalty having regard to that person’s degree of repentance. Elders on a judicial committee are charged with safeguarding the congregation and provide assistance to the wrongdoer.<sup>646</sup>

### Confidentiality of a judicial committee

- 359 Elders are instructed that the fact of a judicial committee should not be disclosed to persons not entitled to know and ‘[s]trict confidentiality must be maintained to avoid

<sup>641</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0088 (Tab 109);  
Exhibit 29-0003, WAT.0003.001.0001 at 0059 [1] (Tab 120);  
Exhibit 29-0003, WAT.0003.001.0001 at 0082 [1] (Tab 120).

<sup>642</sup> Transcript of T J O’Brien, T15828:2-4; T15830:1-4 (Day 153).

<sup>643</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0075 [44] (Tab 120).

<sup>644</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0075 [44] (Tab 120).

<sup>645</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124);  
Exhibit 29-0003, WAT.0001.004.0072 (Tab 125).

<sup>646</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0059 [1] (Tab 120).

unnecessary entanglement with secular authorities who may be conducting a criminal investigation of the matter'.<sup>647</sup>

- 360 Mr Toole agreed that passing information or making a report to secular authorities would not produce an entanglement with those authorities.<sup>648</sup>

## 7.6 Judicial committee hearing procedure

### Process explained to the accused

- 361 An accused person is invited to attend a meeting with the judicial committee and the elders are instructed to make clear to the accused that the meeting is a judicial hearing.<sup>649</sup> Elders are directed to try and put the accused at ease and invite him to make a personal statement.<sup>650</sup>

- 362 There is no specific provision in the Jehovah's Witness organisation's documents that directs the elders to ensure that the accuser, when appearing before the judicial committee, is also at ease.

### Accuser to present allegation in presence of the accused

- 363 If the accused maintains that he or she is innocent, then 'the witnesses to the wrongdoing should be presented and their testimony should be given in the presence of the accused'.<sup>651</sup> The *Shepherd the Flock* handbook provides that:

It is best that the witnesses give their testimony in person. However, it may be that the witnesses live a great distance away or for some reason are not able to be physically present. If so, their testimony may be presented in the hearing of the accused by a secure phone call or perhaps submitted in writing and read to the accused. The accused should be given the opportunity to respond to the testimony.<sup>652</sup>

- 364 On its face, the reference to 'witnesses' in this provision includes the person who complains of having been abused (save perhaps in the rare case where there are sufficient other witnesses to not require the victim to be a witness). The result is that as the provision stands, it is only in the case of the victim living a great distance away or there being some other reason of practicality that prevents a witness from being physically present that her evidence can be taken by telephone or submitted in writing. This raises the question of requiring the victim to give evidence in the presence of the three (male) members of the judicial committee and her abuser.

<sup>647</sup> Exhibit 29-0003, WAT.0014.001.0009 at 0011 (Tab 131A).

<sup>648</sup> Transcript of V J Toole, T15766:14-19 (Day 153).

<sup>649</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0084 [6] (Tab 120).

<sup>650</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0089 [1]-[2] (Tab 120).

<sup>651</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0090-91 [2] (Tab 120); Exhibit 29-0020, EXH.029.020.0001 at 0003.

<sup>652</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0091 [2] (Tab 120).

- 365 Mr Toole accepted that the judicial committee process does not lend itself to a young abused person being full and frank about the details of her abuse.<sup>653</sup> That stands to reason given the obvious difficulty that a young woman, for example, would have in recounting to three elders intimate details of a sexual nature.
- 366 Despite what is stated in *Shepherd the Flock* as quoted above, each of Messrs Spinks, Toole and O'Brien gave evidence that a victim of child sexual abuse does not these days need to face her abuser in a judicial committee unless she wants to.<sup>654</sup> Mr O'Brien told the Royal Commission that a victim need not be involved after she has provided a statement to the elders detailing her abuse.<sup>655</sup> Mr Jackson agreed that there are no circumstances in which the survivor of a sexual assault should have to make her allegation in the presence of the person whom she accuses of having assaulted her.<sup>656</sup>
- 367 It is submitted that the evidence of Messrs, Spinks, Toole and O'Brien is not supported by the available documentary evidence. That is to say, there is nothing in the documents which sets out the judicial committee process that provides for a complainant to give evidence only by way of statement other than what is recorded above. The Jehovah's Witness organisation is meticulous in setting out its processes in writing in various manuals and letters, and in ensuring that uniform processes are used throughout the world. Accordingly, to the extent that it suggests deviation from what is provided for or allowed under the documented processes, the evidence of the witnesses cannot be accepted.

### Presence of support person

- 368 The *Shepherd the Flock* handbook instructs that those wishing to attend to provide moral support should not be allowed to do so. It relevantly provides that the judicial committee will:
- [H]ear only those witnesses who have relevant testimony regarding the alleged wrongdoing. Those who intend to testify only about the character of the accused should not be allowed to do so. The witnesses should not hear details and testimony of other witnesses. Observers should not be present for moral support.<sup>657</sup>
- 369 Mr Spinks told the Royal Commission that the Jehovah's Witness organisation does allow a person complaining of child sexual abuse to have a support person present.<sup>658</sup>
- 370 Mr Spinks said that the passage in the *Shepherd the Flock* handbook disallowing support persons applied to the accused and did not apply to child sexual abuse matters.<sup>659</sup> He

<sup>653</sup> Transcript of V J Toole, T15802:16-22 (Day 153).

<sup>654</sup> Transcript of T J O'Brien, T15833:43-T15834:26 (Day 153);  
Transcript of V J Toole, T15802:16-22 (Day 153);  
Transcript of R P Spinks, T15704:21-29 (Day 152).

<sup>655</sup> Transcript of T J O'Brien, T15828:4-8 (Day 153).

<sup>656</sup> Transcript of G W Jackson, T15952:16-20 (Day 155).

<sup>657</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0091 [3] (Tab 120).

<sup>658</sup> Transcript of R P Spinks, T15693:29-33 (Day 152).

<sup>659</sup> Transcript of R P Spinks, T15693:42-44 and T15694:4-6 (Day 152).

agreed in evidence that the passage was confusing and told the Royal Commission that it could be better written to make clear that the prohibition on moral support applied only to the accused.<sup>660</sup>

- 371 It is submitted that the present documented position is that a victim is not allowed to be accompanied by a support person when appearing before a judicial committee. To the extent that this is not the case, the documents should be revised to reflect the true procedure and allowances in respect of support for a victim of child sexual abuse.

#### **Available findings on the judicial committee process**

F44 Under the current documented judicial committee process, if the evidence of the complainant is to be taken into account then she must give evidence in person unless she lives a great distance away or for some other reason is not able to be physically present.

F45 The stated willingness of the Jehovah's Witness organisation in Australia to have the evidence of a complainant of child sexual abuse give evidence remotely or by way of a written statement should be formalised and documented so that those running judicial committee processes and those affected by them are properly advised of the position.

F46 Under the current documented judicial committee process, a complainant of child sexual abuse is prohibited from having someone present with her in the judicial committee process to offer support.

F47 The stated willingness of the Jehovah's Witness organisation in Australia to allow a complainant of child sexual abuse to be accompanied by a support person of her choosing should be formalised and documented so that those running judicial committee processes and those affected by them are properly advised of the position.

F48 The current documented process for responding to allegations of child sexual abuse within the Jehovah's Witness organisation is focussed largely on the rights and comfort of the accused, with little regard to the requirements of a victim of abuse.

## **7.7 Assessment of repentance**

- 372 Having heard the testimony of the witnesses to the wrongdoing and/or the confession and personal statement of the accused, the judicial committee elders are instructed to convene alone to consider the degree of repentance of the accused.<sup>661</sup>
- 373 The primary task of the elders on a judicial committee in circumstances where guilt has been established and where the wrongdoer is genuinely repentant, is to rehabilitate and restore the wrongdoer irrespective of the gravity of the wrongdoing or sin.<sup>662</sup>
- 374 The Jehovah's Witnesses consider that 'repentance involves a deep regret over a damaged relationship with Jehovah, remorse over the reproach brought upon Jehovah's

<sup>660</sup> Transcript of R P Spinks, T15695:2-18 (Day 152).

<sup>661</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0091-92 [5] (Tab 120).

<sup>662</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0089 (Tab 109);  
Exhibit 29-0003, WAT.0004.001.0027 (Tab 100).

name and people, and a sincere longing to come back into God's favour'.<sup>663</sup> The *Shepherd the Flock* handbook provides that the judicial committee's decision as to degree of repentance of a wrongdoer should not 'be determined by the notoriety of the wrong'.<sup>664</sup> The judicial committee should look for clear works of repentance commensurate with his wrongdoing. (2 Cor.7:10, 11)'.<sup>665</sup>

- 375 The *Shepherd the Flock* handbook provides elders with a non-exhaustive list of indicators of genuine repentance to which they might have regard when assessing the repentance of a wrongdoer.<sup>666</sup>
- 376 Mr Spinks gave evidence that the risk of re-offending is not part of any assessment of repentance and acknowledged that in a court-setting there would likely be expert evidence before the decision-makers as to that risk.<sup>667</sup>

#### Available findings on the management of risk

F49 The failure of the Jehovah's Witness organisation to take into account the risk of re-offending when considering whether an offender is repentant, and consequently in deciding whether to merely reprove rather than to disfellowship, or whether to re-admit someone who has previously been disfellowshipped, does not adequately take account of considerations of child safety and should be revisited.

## 7.8 Sanctions for wrongdoing – deletion

- 377 The *Shepherd the Flock* handbook provides that if it comes to light that a serving elder or ministerial servant has committed a disfellowshipping offence such as child sexual abuse, he would likely be disqualified from serving 'for many years'.<sup>668</sup> Deletion of an elder is announced to the congregation and the circuit overseer is required to report deletion to the Branch Office.<sup>669</sup>
- 378 In his first written statement, Mr Spinks told the Royal Commission that an elder or ministerial servant is immediately removed if he is found to have engaged in child sexual abuse.<sup>670</sup>

<sup>663</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0092 [6] (Tab 120).

<sup>664</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0092 [7] (Tab 120).

<sup>665</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0092 [7] (Tab 120).

<sup>666</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0093-94[10] (Tab 120).

<sup>667</sup> Transcript of R P Spinks, T15713:44-T15714:10 (Day 152).

<sup>668</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0039 [20] (Tab 120).

<sup>669</sup> Exhibit 29-0003, WAT.0002.001.0034 at 0035 (Tab 128);

Exhibit 29-0003, WAT.0002.001.0039 at 0043 (Tab 129);

Transcript of D J Jackson, T15247:10-17 (Day 148).

<sup>670</sup> Exhibit 29-0019, Statement of Rodney Spinks, STAT.0591.001.0001\_R at [72] and [74];

Exhibit 29-0003, WAT.0002.001.0034 at [10]-[12] (Tab 128).

## 7.9 Sanctions for wrongdoing - reproof

379 If a judicial committee determines that a wrongdoer is genuinely repentant, including in cases of child sexual abuse, then it reproves the wrongdoer.<sup>671</sup>

### Announcement of reproof - public or private

380 Reproof is a form of discipline that allows the wrongdoer to remain a member of the congregation<sup>672</sup> and which involves telling the accused that he is reproofed either entirely in private or before those aware of the wrongdoing.<sup>673</sup> It is a sanction intended to discipline the wrongdoer and warn the onlookers that wrongdoing has been committed.<sup>674</sup>

381 The judicial committee determines whether to make the announcement of reproof publicly or privately.<sup>675</sup> If the wrongdoing is widely known or is likely to become widely known in the congregation, the elders are instructed that a public announcement will 'safeguard the reputation of the congregation'.<sup>676</sup> Alternatively, if the elders consider that the 'congregation needs to be on guard concerning the repentant wrongdoer', for example, in cases involving child sexual abuse, then announcing the reproof publicly will 'serve as a protection for the congregation'.<sup>677</sup>

382 While the fact of reproof may be announced, the grounds of the reproof are not.<sup>678</sup>

### Application of restrictions

383 A person who is judicially reproofed is disqualified from special privileges, such as serving in a position of authority.<sup>679</sup> Judicial restrictions are also imposed on those who are reproofed, which restrictions might include being counselled by the elders about appropriate behaviour with children.<sup>680</sup>

<sup>671</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068 (Tab 124);  
Exhibit 29-0003, WAT.0003.001.0001 at 0097-0098 [18], (Tab 120);  
Exhibit 29-0003, WAT.0013.001.0001 at 0089 (Tab 109);  
Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [43];  
Exhibit 29-0019, Annexure 2, STAT.0591.001.0023 at [4.9];  
Exhibit 29-0003, WAT.0001.001.0001 at 0007 and 0016 (Tab 133).

<sup>672</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068 (Tab 124);  
Exhibit 29-0003, WAT.0003.001.0001 at 0097-0098, (Tab 120);  
Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [43];  
Exhibit 29-0019, Annexure 2, STAT.0591.001.0023 at [4.9];  
Exhibit 29-0003, WAT.0001.001.0001 at 0007 and 0016 (Tab 133).

<sup>673</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0097-0101 (Tab 120).

<sup>674</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0089 (Tab 109);  
Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124);  
Exhibit 29-0003, WAT.0003.001.0001 at 0097-0098 [20] (Tab 120).

<sup>675</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0098 [20] (Tab 120).

<sup>676</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0098-99 [20] (Tab 120).

<sup>677</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0099 [20] (Tab 120).

<sup>678</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0099 [21] (Tab 120);  
Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [62].

<sup>679</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0098 [19] (Tab 120).

<sup>680</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0098 [19] (Tab 120);

384 The *Organized to do Jehovah's Will* handbook provides that restrictions are removed in time 'as the individual's spiritual recovery becomes manifest'.<sup>681</sup> However, more recent directives advise elders not to extend privileges 'hastily' and that a person who has been found to have committed child sexual abuse may never be recommended to receive privileges.<sup>682</sup>

### Practical effect of reproof as a sanction

385 Mr O'Brien agreed with the proposition that the practical effect of reproof is that a known offender is left 'in the congregation and in the family, if the offender is in a family'.<sup>683</sup>

#### Available findings on sanctions - reproof

F50 Since it is the policy or practice of the Jehovah's Witness organisation not to report allegations of child sexual abuse to the police (other than if required by law to do so), if a known abuser is found to be repentant and for that reason merely reproofed rather than disfellowshipped he remains in the congregation and a risk to children in the congregation.

F51 The system of not announcing the reasons for reproof means that members of the congregation are not warned about the risk that such a wrongdoer poses to children in the congregation.

F52 The sanction of reproof therefore does nothing to protect children in the congregation and in the broader community.

## 7.10 Sanctions for wrongdoing - disfellowshipping

386 If the wrongdoer is unrepentant for committing a 'gross sin', he is to be disfellowshipped from the congregation.<sup>684</sup> To be disfellowshipped means to be excommunicated from, or cast out of, the Jehovah's Witness organisation.<sup>685</sup> Congregation members are directed not to associate with disfellowshipped persons.<sup>686</sup>

Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [45]-[46];

Exhibit 29-0019, Annexure 2, STAT.0591.001.0023 at [4.16];

Exhibit 29-0003, WAT.0013.001.0001 at 0089 (Tab 109);

Exhibit 29-0003, WAT.0001.004.0066 at 0068 [12] (Tab 124).

<sup>681</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0089 (Tab 109).

<sup>682</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0069-71 [15],[23] (Tab 124);

Exhibit 29-0003, WAT.0001.004.0076 at 0080-81 [28] (Tab 126).

<sup>683</sup> Transcript of T J O'Brien, T15834:28-32 (Day 153).

<sup>684</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124);

Exhibit 29-0003, WAT.0003.001.0001 at 0101 [26] (Tab 120);

Exhibit 29-0019, Annexure 2, STAT.0591.001.0023 at [4.7]-[4.8];

Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [89].

<sup>685</sup> Exhibit 29-0003, WAT.0001.001.0001 at 0007 and 0016 (Tab 133).

<sup>686</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0087 and 0090 (Tab 109);

Exhibit 29-0007, Statement of Dino Ali, STAT.0598.001.0001\_R at [2.3].

387 The purpose of disfellowshipping is to ‘protect the flock and safeguard the cleanness of the congregation’.<sup>687</sup> When a person is disfellowshipped, the branch office is to be notified.<sup>688</sup>

388 Unless the disfellowshipped person appeals the judicial committee’s decision to disfellowship, the judicial committee explains to the person the need for genuine repentance and advises as to the steps the person ought to take in order to be reinstated as a Jehovah’s Witness.<sup>689</sup>

### **Announcement of disfellowshipping**

389 When a person is disfellowshipped for child sexual abuse, an announcement is made to the congregation to the effect that the person is ‘no longer one of Jehovah’s Witnesses’.<sup>690</sup> The announcement is made to the congregation so that it knows not to associate with the disfellowshipped person.<sup>691</sup>

390 While the fact of disfellowshipping is announced, the grounds are not.<sup>692</sup>

### **Practical effect of disfellowshipping**

391 Mr O’Brien agreed with the proposition that ‘disfellowshipping leaves a known offender in the family and/or at large in the community’.<sup>693</sup>

#### **Available findings on sanctions - disfellowshipping**

F53 Since it is the policy or practice of the Jehovah’s Witness organisation not to report allegations of child sexual abuse to the police (other than if required by law to do so), if a known abuser is disfellowshipped he remains in the community and a risk to children in the community.

F54 The sanction of disfellowshipping does nothing to protect children in the community.

## **7.11 Appealing a disfellowshipping decision**

392 Disfellowshipping decisions may be appealed within seven days.<sup>694</sup> Appeal committees are formed ‘even if there seems to be no valid basis for it’<sup>695</sup> comprising, to the extent

<sup>687</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0086 and 0090 (Tab 109).

<sup>688</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0102 [33] (Tab 120).

<sup>689</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0091 (Tab 109).

<sup>690</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0102 [32] (Tab 120).

Exhibit 29-0003, WAT.0013.001.0001 at 0091 (Tab 109).

<sup>691</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0091 (Tab 109).

<sup>692</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0102 [32] (Tab 120);

Exhibit 29-0003, WAT.0013.001.0001 at 0091 (Tab 109);

Exhibit 29-0024, Statement of Terrence O’Brien, STAT.0592.001.0001\_R at [62];

Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R at [41].

<sup>693</sup> Transcript of T J O’Brien, T15834:34-36 (Day 153).

<sup>694</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0105 (Tab 120).

<sup>695</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0105 (Tab 120).

possible, impartial elders from a different congregation and selected by the circuit overseer, who hear the case *ab initio*.<sup>696</sup>

## 7.12 Reinstatement as a Jehovah's Witness

393 A disfellowshipped person may be reinstated into the congregation after the passage of 'sufficient' time if the judicial committee determines that the individual is truly repentant and the reason(s) for their removal from the congregation have been abandoned.<sup>697</sup>

394 The decision to reinstate is always made by the judicial committee that decided to disfellowship the person.<sup>698</sup> Where the disfellowshipped person applies for reinstatement in a new congregation, the bodies of elders in both the new and old congregation are expected to communicate and exchange relevant information.<sup>699</sup>

395 The *Shepherd the Flock* handbook instructs elders to apply restrictions in all cases of reinstatement.<sup>700</sup>

## 7.13 Support for survivors of child sexual abuse

### Role of elders

396 Congregational elders are instructed to be kind, tender, empathetic, compassionate and patient when dealing with survivors of child sexual abuse.<sup>701</sup>

397 The Jehovah's Witness organisation recognises that elders are not mental health professionals or therapists and counsels against elders taking on such a role.<sup>702</sup> Elders are instead described as 'spiritual shepherds', whose role is to ensure that a survivor's worth is not 'diminished by the shameful way they were treated' and to convey that 'the important thing is how Jehovah views them'.<sup>703</sup>

398 Mr O'Brien told the Royal Commission that '[a]lmost every elder would use on their shepherding calls visiting a victim of any kind' Jehovah's Witness articles and Scriptures

<sup>696</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0105 (Tab 120);  
Exhibit 29-0003, WAT.0013.001.0001 at 0090-91 (Tab 109).

<sup>697</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [94];  
Exhibit 29-0003, WAT.0003.001.0001 at 0120 (Tab 120);  
Exhibit 29-0003, WAT.0013.001.0001 at 0093 (Tab 109).

<sup>698</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0119 (Tab 120);  
Exhibit 29-0003, WAT.0013.001.0001 at 0093 (Tab 109).

<sup>699</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0093 (Tab 109).

<sup>700</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0122 [12] (Tab 120).

<sup>701</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0070 [21] (Tab 124);  
Exhibit 29-0003, WAT.0003.001.0001 at 0054 [21] (Tab 120).

<sup>702</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0055 [22] (Tab 120);  
Exhibit 29-0003, WAT.0001.004.0001 at 0003 (Tab 81).

<sup>703</sup> Exhibit 29-0003, WAT.0001.004.0001 at 0003 (Tab 81);  
Exhibit 29-0003, WAT.0001.004.0004 (Tab 81).

that are specific to the needs of the victim.<sup>704</sup> He suggested that the Jehovah's Witness organisation could write and ask circuit overseers to make specific enquiries in their circuit congregations about victims of child sexual abuse, and make sure that the proper Scriptures are being used to console those victims.<sup>705</sup>

- 399 Elders are cautioned against meeting alone with 'a sister who is a victim of abuse, suffers from depression, or for any other reason is in a delicate emotional state' as a woman in such a state 'may be more vulnerable and may be prone to develop improper feelings toward an elder meeting with her'.<sup>706</sup>

### **Role of women in survivor support**

- 400 While noting that 'a sister would not get involved in matters that need the attention of the elders', the *Shepherd the Flock* handbook advises elders that on occasion, a female survivor of child sexual abuse may approach an older woman in the congregation for help and emotional support.<sup>707</sup>

### **Access to professional counselling / medical services**

- 401 The Jehovah's Witness organisation recognises that some survivors of child sexual abuse require professional medical attention and condones the seeking of such assistance to the extent that it does not conflict with Bible principles.<sup>708</sup>
- 402 Mr Spinks told the Royal Commission that the types of therapies that might conflict with Bible principles do not include '[m]ainstream therapy, normal psychiatric, psychological therapy', but might include 'some of the more extreme and radical therapies'.<sup>709</sup>
- 403 Mr Toole told the Royal Commission that he is not aware of any policy that positively states that elders should advise survivors of child sexual abuse of their right to seek professional psychological assistance.<sup>710</sup>
- 404 It is submitted that the present position of the Jehovah's Witness organisation is that elders should not discourage survivors of child sexual abuse from seeking professional support from outside of the organisation, nor should they encourage it or actively advise as to a person's right to do so.

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<sup>704</sup> Transcript of T J O'Brien, T15857:34-40 (Day 153);  
Exhibit 29-0003, WAT.0001.004.0325 (Tab 77);  
Exhibit 29-0003, WAT.0001.004.0205 (Tab 78).

<sup>705</sup> Transcript of T J O'Brien, T15857:42-T15858:13 (Day 153).

<sup>706</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0057 [28] (Tab 120).

<sup>707</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0055 [24] (Tab 120).

<sup>708</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0056 [25] (Tab 120).

<sup>709</sup> Transcript of R P Spinks, T15675:32-46 (Day 152).

<sup>710</sup> Transcript of V J Toole, T15801:1-6 (Day 153).

## 7.14 Reporting to authorities

### Brief overview of relevant reporting regimes

- 405 Each state and territory in Australia has now enacted ‘mandatory reporting laws’. These laws require designated persons outside of a child’s family to report known and suspected child sexual abuse to child welfare agencies.<sup>711</sup> The mandatory reporting regime has developed throughout Australia over a 40 year period since 1969.<sup>712</sup> Currently, the laws share many features across jurisdictions: the duty is obligatory, must be immediately complied with, and applies to suspected past and present abuse; and the report destination is usually the jurisdiction’s department of child protection.<sup>713</sup>
- 406 The approach to mandatory reporting is not currently uniform across Australia and the relevant laws were created in different jurisdictions at different times.<sup>714</sup> Consequently, several significant differences remain across jurisdictions,<sup>715</sup> including the categories of persons who are obliged to make reports.<sup>716</sup> The reporting duty is normally applied to professions which typically deal with children in the course of their work (such as teachers, police, doctors and nurses).<sup>717</sup> In the Northern Territory, however, the duty applies to every adult.<sup>718</sup> In South Australia the duty has been specifically extended to apply to ministers of religion,<sup>719</sup> ‘although the duty does not extend to information communicated in the course of a religious confession’.<sup>720</sup>
- 407 Mandatory reporting laws are distinct from provisions making it a crime not to report criminal conduct to the authorities. These crimes are referred to as concealment offences. It used to be that the common law crime of misprision of a felony made it an

<sup>711</sup> *Children and Young People Act 2008* (ACT) s 356; *Children and Young Persons (Care and Protection) Act 1998* (NSW) ss 23, 27; *Care and Protection of Children Act* (NT) ss 15, 16, 26; *Child Protection Act 1999* (Qld) s 13E-I; *Children’s Protection Act 1993* (SA) ss 6, 10, 11; *Children, Young Persons and Their Families Act 1997* (Tas) ss 3, 14; *Children, Youth and Families Act 2005* (Vic) ss 162, 182, 184; *Children and Community Services Act 2004* (WA) ss 124A-H; *Family Law Act 1975* (Cth) s 67ZA.

<sup>712</sup> Associate Professor Ben Mathews, *Mandatory reporting laws for child sexual abuse in Australia: A legislative history*, *Royal Commission into Institutional Responses to Child Sexual Abuse*, Sydney, August 2014 (the **RC Mandatory Reporting Report**) at 1.2.1.4.

<sup>713</sup> RC Mandatory Reporting Report at 1.2.1.6; *Children and Young People Act 2008* (ACT) s 356; *Children and Young Persons (Care and Protection) Act 1998* (NSW) ss 23, 27; *Care and Protection of Children Act* (NT) ss 15, 16, 26; *Child Protection Act 1999* (Qld) s 13E-I; *Children’s Protection Act 1993* (SA) ss 6, 10, 11; *Children, Young Persons and Their Families Act 1997* (Tas) ss 3, 14; *Children, Youth and Families Act 2005* (Vic) ss 162, 182, 184; *Children and Community Services Act 2004* (WA) ss 124A-H; *Family Law Act 1975* (Cth) s 67ZA.

<sup>714</sup> RC Mandatory Reporting Report at 1.2.1.2-3.

<sup>715</sup> RC Mandatory Reporting Report at 1.2.1.7 and 1.2.1.7(b).

<sup>716</sup> RC Mandatory Reporting Report at 1.2.1.7 and 1.2.1.7(a).

<sup>717</sup> *Children and Young People Act 2008* (ACT) s 356; *Children, Young Persons and Their Families Act 1997* (Tas) s 14; *Children, Youth and Families Act 2005* (Vic) s 182; *Children and Community Services Act 2004* (WA) ss 124B; *Child Protection Act 1999* (Qld) s 13E; *Children and Young Persons (Care and Protection) Act 1998* (NSW) s 27.

<sup>718</sup> *Care and Protection Act 2007* (NT), s 26.

<sup>719</sup> *Children’s Protection Act 1993* (SA) s 11(2)(ga), as amended by the *Children’s Protection (Miscellaneous) Amendment Act 2005* (SA).

<sup>720</sup> RC Mandatory Reporting Report at 1.2.1.7(a); *Children’s Protection Act 1993* (SA), s 11(4).

offence for anyone to conceal his or her knowledge of the commission of a felony, but that offence has been abolished in most Australian jurisdictions.<sup>721</sup> In New South Wales, s 316 of the *Crimes Act 1900* (NSW) makes it a criminal offence for a person with knowledge or belief that a serious indictable offence has been committed to not report to authorities information that may materially assist in securing the apprehension or prosecution or conviction of the offender. Similarly in Victoria, s 327 of the *Crimes Act 1958* (Vic) makes it a criminal offence for a person to not disclose to a police officer information that leads the person for form to a reasonable belief that a sexual offence has been committed. Both jurisdictions provide a defence of reasonable excuse for withholding information<sup>722</sup> and exempt clergy members who obtain the information in the course of their profession<sup>723</sup> or a religious confession.<sup>724</sup>

### **Mandatory reporting and the Jehovah's Witness organisation**

- 408 Since at least 1995, congregational elders have been instructed to contact the Branch Office Legal Department to ascertain if any reporting obligations apply in respect of an allegation of child sexual abuse.<sup>725</sup> Mr Toole told the Royal Commission that the Jehovah's Witness organisation in Australia considers itself bound by mandatory reporting legislation in Victoria, South Australia and the Northern Territory.<sup>726</sup>
- 409 Mr Toole told the Royal Commission that in 1999 the world headquarters of the Jehovah's Witness organisation clarified that '[w]here the law does not obligate elders to report cases that come to their attention, there is no need for them to do so ...'.<sup>727</sup> Mr Spinks gave evidence that it is not the practice of the Jehovah's Witness organisation to report child sexual abuse to police,<sup>728</sup> nor has the organisation ever claimed 'to have instructed the elders to go to the authorities'.<sup>729</sup>
- 410 In August of 2002, members of all congregations in Australia were advised by the Branch Office that congregational elders have long been instructed to report allegations of child sexual abuse 'where required to by law to do so, even when there is only one witness'.<sup>730</sup> In October of 2002, the Australia Branch Office Legal Department issued a letter to all bodies of elders clarifying that '[w]hether or not they are "required by law to [report]"', can only be determined at the time when the elders contact the Society after receiving a report of child abuse'.<sup>731</sup>

<sup>721</sup> RC Mandatory Reporting Report at 2.6.3 (footnote 94); See also, for example, *Crimes Act 1900* (NSW), s 341; Schedule 11 to the *Criminal Law Consolidation Act 1935* (SA); and *Crimes (Classification of Offences) Act 1981* (Vic), ss 2 and 4.

<sup>722</sup> *Crimes Act 1958* (Vic), s 327(2); *Crimes Act 1900* (NSW), s 316(1).

<sup>723</sup> *Crimes Act 1900* (NSW), s 316(4) and (5); *Crimes Regulation 2010* (NSW), r 4(f).

<sup>724</sup> *Crimes Act 1958* (Vic), s 327(7); *Evidence Act 2008* (Vic), ss 127(1) and (4).

<sup>725</sup> Exhibit 29-0003, WAT.0001.004.0005 at 0005 (Tab 83).

<sup>726</sup> Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R at [29]-[30].

<sup>727</sup> Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R at [16];

Exhibit 29-0003, WAT.0001.004.0020 at 0020 (Tab 99).

<sup>728</sup> Transcript of R P Spinks, T15665:10-15 (Day 152).

<sup>729</sup> Transcript of R P Spinks, T15671:45-T15672:1 (Day 152).

<sup>730</sup> Exhibit 29-0003, WAT.0004.001.0001 at 0002 (Tab 105).

<sup>731</sup> Exhibit 29-0034, CORR.0182.001.0005 at 0005.

- 411 It is submitted that in the light of the letter of October 2002 and other directives issued only to elders, the letter of August 2002 to all Jehovah's Witnesses is misleading as to the true position of the organisation in relation to reporting child sexual abuse to authorities, that true position being that elders do not report to authorities unless directed to do so by the Branch Office.
- 412 Mr Toole told the Royal Commission that he has been taking calls from elders to the Legal Department for at least the last two years. He said that he discusses with the elders calling for advice what mandatory reporting obligations might apply.<sup>732</sup>
- 413 In a letter dated 10 January 2012, all bodies of elders in South Australia were advised by the Branch Office Legal Department of new mandatory reporting obligations and of the need to immediately contact the Branch Office upon receipt of any allegations of child abuse.<sup>733</sup>

### **Concealment offences and the Jehovah's Witness organisation**

- 414 Mr Spinks gave evidence that in recent weeks it has been explained to him that some states impose criminal sanctions on those who do not report knowledge of a criminal offence, i.e. concealment offences as distinct from mandatory reporting obligations.<sup>734</sup> Mr Spinks said that he understood that in resolving the truth of an allegation of child sexual abuse, through the Jehovah's Witness investigative and judicial process, an elder's state of knowledge changes from being knowledge of an accusation of a criminal offence to knowledge of the commission of a criminal offence.<sup>735</sup> That is to say, it is clear that in circumstances where elders have found a sexual offence to have been committed where concealment offences exist they are prima facie obliged to report to the police.
- 415 Mr Toole gave evidence that before being called before the Royal Commission, it had been his understanding that the 'prevailing' legislation governing reporting of child sexual abuse was the state and territory mandatory reporting legislative schemes.<sup>736</sup> He said that it had been a 'wake-up call' to learn that the concealment offences applied independently of the mandatory reporting provisions.<sup>737</sup> He told the Royal Commission that once the public hearing was concluded the Jehovah's Witness organisation in Australia would be engaging senior counsel to advise on any reporting obligations, including those arising under the criminal law.<sup>738</sup>
- 416 Mr Toole told the Royal Commission that if the law required it, then the Jehovah's Witness organisation would be happy to report child sexual abuse to authorities.<sup>739</sup> It was put to him that in NSW at least, the legislation had required reporting of such crimes since 1990, and before that the common law had imposed a similar obligation.<sup>740</sup> Mr

<sup>732</sup> Transcript of V J Toole, T15759:41-T15760:2 (Day 153).

<sup>733</sup> Exhibit 29-0003, WAT.0001.004.0065 (Tab 123).

<sup>734</sup> Transcript of R P Spinks, T15666:14-22 (Day 152).

<sup>735</sup> Transcript of R P Spinks, T15666:7-12, 34-38 (Day 152).

<sup>736</sup> Transcript of V J Toole, T15789:8-21 (Day 153).

<sup>737</sup> Transcript of V J Toole, T15789:16-27 (Day 153).

<sup>738</sup> Transcript of V J Toole, T15789:16-42 (Day 153).

<sup>739</sup> Transcript of V J Toole, T15790:13-20 (Day 153).

<sup>740</sup> Transcript of V J Toole, T15790:22-29 (Day 153).

Toole said that although he understood what was put to him, the Jehovah's Witness organisation has not reported child sexual abuse on the understanding that only the mandatory reporting laws applied.<sup>741</sup> Mr Toole confirmed that the organisation's understanding was also his understanding.<sup>742</sup>

- 417 It is implicit in Mr Toole's confession to a 'wake-up call' that prior to being called to give evidence before the Royal Commission he did not advise elders from New South Wales of their obligations under the concealment laws. It follows that where elders in NSW formed the view that child sexual abuse had occurred they were obliged under sanction of the criminal law to report those cases to the police.
- 418 Mr Toole should accordingly be referred to the Law Society of New South Wales for possible investigation.

#### Available findings on reporting

F55 Prior to this case study, the Jehovah's Witness organisation in Australia did not advise congregational elders of their obligations to report the commission of criminal offences to the police under s 316 of the *Crimes Act 1900* (NSW).

F56 This report is referred to the Law Society of New South Wales in relation to the conduct of Mr Toole in having failed to advise congregational elders of their obligations to report their knowledge of the commission of certain criminal offences to the police.

#### Reporting to secular authorities more generally

- 419 Elders are instructed that, in the absence of mandatory reporting obligations, it is the right of the individual to decide whether to report child sexual abuse to the police or other secular authorities.<sup>743</sup> The *Shepherd the Flock* handbook instructs elders that:

... If you are asked, make it clear that whether to report the matter to the authorities or not is a personal decision for each individual to make and that there are no congregational sanctions for either decision...<sup>744</sup>

[emphasis added]

- 420 The 2013 Service Desk Guidelines direct the Service Desk to advise elders not to discourage individuals from reporting matters to the authorities, but that they should remind individuals of the 'need for confidentiality when speaking with others, thus avoiding any charge of slander'.<sup>745</sup>

<sup>741</sup> Transcript of V J Toole, T15791:3-33 (Day 153).

<sup>742</sup> Transcript of V J Toole, T15791:12-17 (Day 153).

<sup>743</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0132-133 [19] (Tab 120); Exhibit 29-0003, WAT.0004.001.0001 at 0002 (Tab 105).

<sup>744</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0132 [19] (Tab 120).

<sup>745</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0081 [33] (Tab 126).

- 421 Mr Spinks said that the Service Desk does not instruct elders to report to the authorities.<sup>746</sup>
- 422 Messrs Spinks, Toole and O'Brien each gave evidence that Jehovah's Witness elders do not have the right Scripturally to usurp a victim's 'right' to report an allegation of child sexual abuse to the authorities, and as such, elders do not themselves report allegations of child sexual abuse to authorities.<sup>747</sup>
- 423 Mr Spinks said that the Scriptures that support the Jehovah's Witness organisation's position in relation to reporting to authorities are 2 Corinthians 1:24 and Galatians 6:5.<sup>748</sup>
- 424 2 Corinthians 1:24 provides, 'Not that we are the masters over your faith, but we are fellow workers for your joy, for it is by your faith that you are standing'. In and of itself, it is not at all apparent how this passage prohibits elders from reporting child sexual abuse to secular authorities. Furthermore, it is submitted that application of the passage as Mr Spinks suggests appears inconsistent with the organisation's own teachings about the role of elders, which is as a 'shepherd' to the 'flock' with an obligation to care for the flock's safety.<sup>749</sup>
- 425 Galatians 6:5 provides that '[f]or each one will carry his own load'. Again, it is not at all apparent how this passage prohibits elders from reporting child sexual abuse to authorities. In fact, it is submitted that the preceding verses<sup>750</sup> suggest that the 'one' being told to 'carry his own load' is not a victim of a serious crime; rather the preceding verses suggest that the counsel is intended to apply to a wrongdoer bearing responsibility for his wrongs.
- 426 It is accordingly submitted that the Royal Commission should not accept Mr Spinks' evidence regarding the Scriptural basis for the position of the Jehovah's Witness organisation regarding not reporting crimes to the authorities.

#### Further evidence of Mr Spinks

- 427 Mr Spinks gave evidence that when a child is in a situation where the threat of harm remains, the Service Desk instructs elders to speak to the parent or guardian of that child and assist that person to 'do all they can, including going to the authorities, if that's what ... the guardian/parent is willing to do ... and remind them that they ... will have the full support of the elders in doing that'.<sup>751</sup>
- 428 Mr Spinks said that if the elders are not in a position of being able to take judicial action, for example if there is only one witness to the alleged abuse or if it is too traumatising

<sup>746</sup> Transcript of R P Spinks, T15663:10-12 (Day 152).

<sup>747</sup> Transcript of R P Spinks, T15720:36-T15721:12 (Day 152);  
Transcript of V J Toole, T15763:6-15 (Day 153);  
Transcript of T J O'Brien, T15835:33-41 (Day 153).

<sup>748</sup> Transcript of R P Spinks, T15721:3-8 (Day 152).

<sup>749</sup> Transcript of T J O'Brien, T15847:13-18 (Day 153).

<sup>750</sup> See Galatians 6:1-4.

<sup>751</sup> Transcript of R P Spinks, T15662:5-19 (Day 152).

for the victim witness to speak to elders, then '[t]he parents would be reminded that it's their absolute right to take this to the authorities, and the elders will support them in it'.<sup>752</sup>

- 429 It is submitted that Mr Spinks' evidence that elders are told to make sure that survivors of child sexual abuse and their families have the absolute right to report to the authorities should not be accepted. Mr Spinks' evidence in this regard is not credible in the light of his earlier evidence that the advice given to elders by the Service Desk is generic advice as read out from page 131 of the *Shepherd the Flock* handbook.<sup>753</sup> The relevant paragraph provides that survivors and their families should be advised of the right to report to authorities if they ask.<sup>754</sup>
- 430 Insofar as elders reporting to authorities themselves is concerned, Mr Spinks said that if there were uniform mandatory reporting requirements across Australia, then the Jehovah's Witnesses 'will willingly and happily comply'.<sup>755</sup>

#### Further evidence of Mr Toole

- 431 In his written statement, Mr Toole told the Royal Commission that the Branch Committee instructs the Legal Department to direct elders to clearly explain to a victim of child sexual abuse and/or to the victim's family, that they have an absolute right to report the matter to authorities.<sup>756</sup> Mr Toole gave evidence that it was his understanding that this instruction was given by the Branch Committee in harmony with the direction given in the letter to all bodies of elders of 1 October 2012, although he was unable to identify that direction in the letter.<sup>757</sup> Instead, Mr Toole told the Royal Commission that the instruction from the Branch Committee was 'in the spirit of what's being discussed' in the letter of 1 October 2012.<sup>758</sup>
- 432 Mr Toole accepted that the Legal Department does not have any written instruction from the Branch Committee to direct elders to explain to a victim or her family, their right to report abuse to authorities.<sup>759</sup>
- 433 Mr Toole gave evidence that in at least the last two and a half years he has taken three to four calls regarding allegations of child sexual abuse every month.<sup>760</sup> He told the Royal Commission that in each case where he provides advice to elders and where there is no mandatory reporting obligation, it is his practice to instruct elders to:

... go back to the victim or their family and explain to them very clearly that they have the absolute right to be able to go and report this matter to the

<sup>752</sup> Transcript of R P Spinks, T15708:33-T15709:4 (Day 152).

<sup>753</sup> Transcript of R P Spinks, T15661:26-T15662:3 (Day 152).

<sup>754</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0132 [19] (Tab 120).

<sup>755</sup> Transcript of R P Spinks, T15665:38-42 (Day 152).

<sup>756</sup> Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R [15].

<sup>757</sup> Transcript of V J Toole, T15759:9-27 (Day 153).

<sup>758</sup> Transcript of V J Toole, T15759:25-27 (Day 153).

<sup>759</sup> Transcript of V J Toole, T15759:34-39 (Day 153).

<sup>760</sup> Transcript of V J Toole, T15760:18-30 (Day 153).

authorities. That's their privilege and they need to understand that, and that you will support them in whatever decision they make.<sup>761</sup>

434 Although Mr Toole gave evidence that elders in the Jehovah's Witnesses do not have the right, Scripturally, to take away an individual's right to decide whether to report a child sexual abuse complaint to the police,<sup>762</sup> he later agreed that 'in some circumstances, there would be a need for elders to report to the authorities'.<sup>763</sup> Mr Toole said further that the Legal Department will do 'whatever needs to be done to protect a child', and that '[i]f it means going to the police, we would have no hesitation in going to the police'.<sup>764</sup>

#### **Further evidence of Mr O'Brien**

435 Mr O'Brien agreed in evidence that the fact that the Jehovah's Witness organisation's disciplinary procedures can leave a perpetrator of child sexual abuse at large in the community 'can only be resolved with systematic reporting to the authorities'.<sup>765</sup>

436 Mr O'Brien gave evidence that elders in the Jehovah's Witness organisation do not see that they have the right, Scripturally, to take away the right of a victim or parent of a victim to report child sexual abuse to police, by themselves reporting child sexual abuse to the police.<sup>766</sup> However he later told the Royal Commission that the organisation would report a complaint of child sexual abuse to the police 'if the child remains at risk and there is no responsible adult within the family to remove [the child] from further risk of abuse'.<sup>767</sup> Mr O'Brien said that he did not personally have any experience or knowledge of a matter being reported to police by the organisation.<sup>768</sup>

437 Mr O'Brien accepted in evidence that, unlike child protection authorities, the Jehovah's Witness organisation does not have the power to intervene in a family situation to ensure protection of the child.<sup>769</sup>

#### **Evidence of Mr Jackson**

438 It was Mr Jackson's evidence that where a child remains at risk of abuse, 'the elders should encourage the guardian of the child, or whoever is in that family arrangement who is not the perpetrator, to notify the authorities'.<sup>770</sup> It was put to Mr Jackson that there is a Jehovah's Witness practice of not reporting child sexual abuse allegations to the authorities unless required by law to do so.<sup>771</sup> Rather than responding to the

<sup>761</sup> Transcript of V J Toole, T15759:41-T15760:16 (Day 153).

<sup>762</sup> Transcript of V J Toole, T15763:6-15 (Day 153).

<sup>763</sup> Transcript of V J Toole, T15763:42-45 (Day 153).

<sup>764</sup> Transcript of V J Toole, T15794:23-26 (Day 153).

<sup>765</sup> Transcript of T J O'Brien, T15834:34-44 (Day 153).

<sup>766</sup> Transcript of T J O'Brien, T15835:33-41 (Day 153).

<sup>767</sup> Transcript of T J O'Brien, T15860:34-37 (Day 153).

<sup>768</sup> Transcript of T J O'Brien, T15860:39-T15861:17 (Day 153).

<sup>769</sup> Transcript of T J O'Brien, T15835:22-31 (Day 153).

<sup>770</sup> Transcript of G W Jackson, T15966:30-T15967:4 (Day 155).

<sup>771</sup> Transcript of G W Jackson, T15965:2-5 (Day 155).

proposition, Mr Jackson said that he was 'not familiar with the statistics or the general practice ...'.<sup>772</sup>

- 439 Mr Jackson was asked if there was a Scriptural basis to the practice or policy of the Jehovah's Witness organisation of not reporting child sexual abuse to authorities unless required to do so by law.<sup>773</sup> He explained in response that there 'is a spiritual dilemma' arising out of the question of reporting to authorities.<sup>774</sup> Mr Jackson said that one aspect of that dilemma arises when an elder learns of an allegation of child sexual abuse and must consider his obligation of confidence in accordance with the Scriptural guidance in Proverbs 25:8-10.<sup>775</sup> Another aspect of the dilemma, he explained, was the Scriptural requirement in 1 Peter 5:2-3 that an elder 'does not have the authority to lord it over or take over control of a family arrangement' where a survivor or her guardian has the right to decide if they want to report to authorities.<sup>776</sup>
- 440 Mr Jackson said that the spiritual dilemma to which he referred arises out of the conflict between the elders' adherence to those Scriptural principles and the desire to 'make sure that children are cared for'.<sup>777</sup>
- 441 Mr Jackson did however accept that it would be possible for the Jehovah's Witness organisation to consider adopting a policy which says that in cases where there are others at risk, a report must be made to the authorities.<sup>778</sup>
- 442 Mr Jackson nonetheless qualified his evidence in relation to the capacity for the Jehovah's Witness organisation to require elders to report to authorities and said that there were 'Scriptural factors that maybe make that a little complicated, and it would certainly be a lot easier if we had mandatory laws on that'.<sup>779</sup>

### **Documentary evidence**

- 443 As dealt with in Part 2 above, the Royal Commission received evidence that of 1,006 alleged perpetrators of child sexual abuse identified by the Jehovah's Witness organisation since 1950, not one was reported by the organisation to secular authorities.<sup>780</sup>

### **Submissions in relation to reporting to authorities**

- 444 It is not possible, on the available evidence, to conclude that it is the practice of the Jehovah's Witness organisation to:
- a) positively advise victims and/or their families of their right to report allegations of child sexual abuse to the authorities, and/or

<sup>772</sup> Transcript of G W Jackson, T15965:6-7 (Day 155).

<sup>773</sup> Transcript of G W Jackson, T15965:11-14 (Day 155).

<sup>774</sup> Transcript of G W Jackson, T15965:6-8 (Day 155).

<sup>775</sup> Transcript of G W Jackson, T15965:19-39 (Day 155).

<sup>776</sup> Transcript of G W Jackson, T15965:41-T15966:21 (Day 155).

<sup>777</sup> Transcript of G W Jackson, T15966:21-23 (Day 155).

<sup>778</sup> Transcript of G W Jackson, T15967:10-14 (Day 155).

<sup>779</sup> Transcript of G W Jackson, T15967:19-22 (Day 155).

<sup>780</sup> Exhibit 29-0021, WAT.999.013.0012.

- b) encourage victims and/or their families to report allegations of child sexual abuse to the authorities.

#### **Available findings on the Jehovah's Witness organisation's policy on reporting**

F57 It is the policy and practice of the Jehovah's Witness organisation in Australia to not report allegations of child sexual abuse to the police or other authorities unless required by law to do so.

F58 The basis for this policy is said to be respect for the 'right' of the victim to herself decide whether to make a complaint to the authorities.

F59 That basis has no justification where the victim is still a minor at the time that the abuse comes to the attention of the organisation, or where there are others who may still be at risk at the hands of the alleged abuser.

F60 Since the organisation cannot remove an alleged abuser from the family or take other positive steps to safeguard children in the family from continuing risk, the organisation should have a policy to report all allegations of child sexual abuse to the authorities unless an adult victim specifically requests that a report not be made and there is no appreciable risk of children being abused.

### **7.15 The evidence of Mr Davies, formerly of the Queensland DPP**

445 Mr Davies, formerly of the Queensland DPP,<sup>781</sup> gave evidence that his experience of the internal processes of the Jehovah's Witness organisation with respect to allegations of child sexual abuse gave him cause for concern from a prosecutorial perspective for the following reasons:

- a) the delay in allegations coming to police attention caused by the internal handling of child sexual abuse complaints and the acceptance by the organisation that there is no need to refer such allegations to secular authorities<sup>782</sup>
- b) the questionable admissibility of inculpatory statements made by the accused during the disfellowshipping process owing to the incentive of a reduced penalty if an admission as to the alleged conduct is made<sup>783</sup>
- c) the impact on the survivor of the internal handling of their complaint, in particular in relation to the number of people to whom the survivor is required to disclose the details of their complaint,<sup>784</sup> and
- d) as a consequence of the number of people involved in handling a complaint, the potential for contamination of the survivor's evidence before it reaches the police.<sup>785</sup>

<sup>781</sup> Exhibit 29-0011, First statement of Jason Davies, STAT.0595.001.0001\_R at [3]-[9].

<sup>782</sup> Exhibit 29-0012, Supplementary statement of Jason Davies, STAT.0595.002.0001\_R at [8]; Transcript of J Davies, T15422:41-T15423:6, 42-46 (Day 149).

<sup>783</sup> Transcript of J Davies, T15424:4-6 (Day 149); Exhibit 29-0011, First statement of Jason Davies, STAT.0595.001.0001\_R at [16]-[18]; Exhibit 29-0012, Supplementary statement of Jason Davies, STAT.0595.002.0001\_R at [6]-[7];

<sup>784</sup> Transcript of J Davies, T15424:9-25 (Day 149).

<sup>785</sup> Transcript of J Davies, T15424:27-39 (Day 149).

### **Available findings on the impact of the Jehovah’s Witness organisation’s processes on criminal processes**

- F61 The internal processes of the Jehovah’s Witness organisation for handling allegations of child sexual abuse cause significant delay in a complaint coming, if ever, before authorities.
- F62 Admissions made by an accused during the investigative and/or judicial committee process administered by the Jehovah’s Witness organisation may not be admissible in criminal proceedings because of the circumstances in which they are made, including that incentives such as reduction in penalty are offered if an admission is made.
- F63 The number of people to whom a survivor of child sexual abuse is required to divulge the detail of her complaint exacerbates the trauma already suffered by a survivor of such abuse.
- F64 There is significant risk of contamination of a survivor’s evidence as a result of the number of times and circumstances in which a survivor is required to divulge the detail of her complaint before her abuse is, if ever, reported to the authorities.

## **7.16 Redress and acknowledgment**

- 446 Mr O’Brien told the Royal Commission the Jehovah’s Witness organisation in Australia does not have a redress scheme for responding to and potentially compensating victims of child sexual abuse in Australia because, to date, it has never received a claim.<sup>786</sup>
- 447 Mr O’Brien gave evidence that the involvement of the Jehovah’s Witness organisation in a collective redress scheme would require the approval of the 26 members of Watchtower Australia and the Governing Body.<sup>787</sup> Mr O’Brien said that he would recommend that the Jehovah’s Witness organisation establish a redress scheme of its own to care for victims of child sexual abuse.<sup>788</sup>
- 448 In the context of humanitarian relief, Mr Jackson told the Royal Commission that ‘the Governing Body is happy for our organisation to spend money helping persons ... who [have] been traumatised or affected in a bad way’.<sup>789</sup> Mr Jackson said in evidence that, subject to the Scriptures, participation of the Jehovah’s Witness organisation with other institutions in a coordinated redress scheme is ‘not something that is totally out of the option pool’.<sup>790</sup>
- 449 Mr Jackson told the Royal Commission that although Jehovah’s Witnesses try to ‘keep a high moral standard’ and ‘treat victims in a loving way’, he had not personally been involved in Governing Body discussions regarding consideration of the issue of an

<sup>786</sup> Exhibit 29-0003, WAT.9999.004.0003 (Tab 135);  
Transcript of T J O’Brien, T15835:46-T15836:5 (Day 153).

<sup>787</sup> Transcript of T J O’Brien, T15836:24-T15837:3, T15838:10-T15839:9 (Day 153)

<sup>788</sup> Transcript of T J O’Brien, T15837:5-T15838:8 (Day 153)

<sup>789</sup> Transcript of G W Jackson, T15985:38-44 (Day 153)

<sup>790</sup> Transcript of G W Jackson, T15986:16-32 (Day 153)

apology to survivors of child sexual abuse.<sup>791</sup> He said in evidence that he was unable to speak ‘collectively for everybody’ but the Governing Body has ‘apologised on other matters in the past’ and so an apology to survivors of child sexual abuse ‘is perceivable’.<sup>792</sup>

- 450 Mr Jackson agreed with the proposition put to him that ‘it is very important for people in such senior positions as [his] to really have a good understanding of the perspective of a survivor of abuse’.<sup>793</sup> He also said that empathised with BCG. However, he had neither read the statements nor heard the evidence of BCG, nor did he seem to be aware of the fact that BCG was a woman,<sup>794</sup> purportedly on account of being too busy. However he had clearly taken considerable time to follow the evidence of Jehovah’s Witness witnesses.<sup>795</sup> Mr Jackson accordingly failed to live by the principle that he said he regarded as important, namely that he should have a good understanding of the perspective of a survivor of abuse, and his stated empathy with BCG was hollow.

#### **Available findings on Mr Jackson’s stated empathy for survivors**

F65 Mr Jackson’s failure to have read or be familiar with the testimony of the survivor witnesses yet to have read or otherwise familiarised himself with the testimony of Jehovah’s Witness witnesses belies his stated empathy for the survivors and his stated recognition of the importance of their perspectives.

<sup>791</sup> Transcript of G W Jackson, T15985:16-25 (Day 153).

<sup>792</sup> Transcript of G W Jackson, T15985:29-32 (Day 153).

<sup>793</sup> Transcript of G W Jackson, T15990:32-42 and T15991:35-44 (Day 155).

<sup>794</sup> Transcript of G W Jackson, T15990:24-30 (Day 155).

<sup>795</sup> Transcript of G W Jackson, T15951: 26-42, T15952:27-32, T15954:16-27, T15965:16-19 (Day 155).

## Part 8 Current systems, policies, and procedures for preventing child sexual abuse

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### 8.1 Parental responsibility

451 The Jehovah's Witness organisation considers that the primary responsibility for the protection of children lies with parents.<sup>796</sup> In his written statement, Mr O'Brien said that this is particularly so as the organisation does not have programmes or facilities that separate children from their parents.<sup>797</sup>

452 In his written statement, Mr O'Brien also told the Royal Commission that the Jehovah's Witness organisation believes that loving and protective parents are the best deterrent to child abuse.<sup>798</sup>

#### Education through publications

453 Mr O'Brien described the position of the Jehovah's Witness organisation as being that parental education of children about sex and the dangers of child sexual abuse can be a major factor in its prevention.<sup>799</sup> He said that the Jehovah's Witness organisation educates parents via study groups and publications to help protect their children from child sexual abuse.<sup>800</sup> The 2013 Service Desk Guidelines instruct the branch service desks to advise elders to 'periodically remind parents of the need to review with their children articles in the organization's publications'.<sup>801</sup>

454 A number of *Awake!* and *Watchtower* publications dating back to 1970 and produced by the Jehovah's Witness organisation address child sexual abuse.<sup>802</sup>

### 8.2 Information sharing

#### Sharing between congregations and the branch office

455 The Jehovah's Witness organisation offers theocratic guidance on the sharing of information between relevant bodies of elders through 'letters of introduction' when a member moves from one congregation to another.

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<sup>796</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068 [10] (Tab 124).

<sup>797</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [67].

<sup>798</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [67].

<sup>799</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [55].

<sup>800</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [65]; Transcript of T J O'Brien, T15842: 37-42 (Day 153).

<sup>801</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0081 [34].

<sup>802</sup> Exhibit 29-0003, WAT.0001.004.0225 (Tab 75); Exhibit 29-0003, WAT.0001.004.0223 (Tab 76), Exhibit 29-0003, WAT.0001.004.0205 (Tab 78), Exhibit 29-0003, WAT.0001.004.0238 (Tab 82), Exhibit 29-0003, WAT.0001.004.0007 (Tab 87), Exhibit 29-0003, WAT.0001.004.0128 (Tab 106); Exhibit 29-0003, WAT.0001.004.0253 (Tab 112); Exhibit 29-0003, WAT.0001.004.0066 at 0068 [10] (Tab 124).

- 456 When a ‘known child molester’ moves to another congregation, elders are instructed to send a letter of introduction (copied to the Branch Office) with full and complete information about the person’s background and current situation to the elders of the new congregation.<sup>803</sup> The Branch Office, and not the congregational elders, determines whether or not a person is a ‘known child molester’.<sup>804</sup> Whether or not a person is a ‘known child molester’ depends upon whether he is known by the congregation to be such and is therefore ‘not “free from accusation” or “irreprehensible”, nor does he have “a fine testimony from people on the outside”’. (1 Tim. 3:1-7, 10; 5:22; Titus 1:7).<sup>805</sup>
- 457 The Branch Office determines what information regarding the accusation may be shared with the new congregation.<sup>806</sup> For example, if 20 years have passed since a person sexually abused a child and the Branch Office has determined that the person can be appointed to a position of trust, then there is no need for information regarding the person’s history of offending to be passed to a new congregation.<sup>807</sup>

### Information requests from secular authorities

- 458 All elders are directed to immediately contact the Branch Office if approached by secular authorities requesting access to congregational records or seeking testimony from elders.<sup>808</sup> In November 2014, all bodies of elders were instructed never to ‘reveal confidential information to anyone unless theocratic procedure requires it or the branch office has instructed you to do so’, and were given examples of people who may seek such information as including police, government officials, school personnel, and family members.<sup>809</sup>
- 459 Elders are instructed that the reason for resisting production of confidential records to authorities, even when those records are sought under subpoena, prior to consultation with the Branch Office Legal Department is that the records may be protected by ‘minister-communicant privilege’ or legal professional privilege.<sup>810</sup>

### Confessional privilege

- 460 In 1997 and 1999, the Australia Branch Office communicated with the headquarters of the Jehovah’s Witness organisation in relation to the availability of confessional privilege when information or documents are sought by secular authorities from the Jehovah’s Witness organisation.<sup>811</sup> The ultimate position of the organisation appears, at least in

<sup>803</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0133 [20] (Tab 120);

Exhibit 29-0019, Annexure 2, STAT.0591.001.0018 at [4.21];

Exhibit 29-0003, WAT.0001.004.0066 at 0069 (Tab 124);

Exhibit 29-0003, WAT.0001.004.0076 at 0083 [41] (Tab 126).

<sup>804</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0069 [15] (Tab 124).

<sup>805</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0069 [15] (Tab 124).

<sup>806</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0133 [21] (Tab 120);

Exhibit 29-0019, Annexure 2, STAT.0591.001.0018 at [3.2]-[3.4].

<sup>807</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0083 [42] (Tab 126).

<sup>808</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0088 [19] (Tab 120).

<sup>809</sup> Exhibit 29-0003, WAT.0014.001.0009 at 0005 [10] (Tab 131A).

<sup>810</sup> Exhibit 29-0003, WAT.0014.001.0009 at 0006 [12] (Tab 131A).

<sup>811</sup> Exhibit 29-0003, WAT.0004.001.0010 (Tab 86); Exhibit 29-0003, WAT.0001.004.0007 (Tab 87); Exhibit 29-0003, WAT.0012.001.0025 (Tab 90); Exhibit 29-0003, WAT.0004.001.0014 (Tab 91); Exhibit 29-0003,

1997, to have been that it would be appropriate to try to claim confessional privilege where a confession is obtained by a judicial committee and that any actions associated with that judicial committee, such as reporting to the body of elders and to the branch office, would form part of the confessional ritual for the purposes of any such claim.<sup>812</sup>

- 461 In oral evidence, Mr Toole agreed that it is possible that ‘the confidentiality of the confession in the case of the Jehovah’s Witnesses is very qualified’ and that ‘a lot of different people ... end up having access to that information’.<sup>813</sup>
- 462 Mr Toole said that although for the past 15 years the Jehovah’s Witnesses have taken the position of waiving confessional privilege when approached by authorities, there may be circumstances in which that position could change.<sup>814</sup>

### 8.3 Appointments to positions of authority in the organisation

#### Qualification

- 463 Elders and ministerial servants hold positions of trust within the congregation.<sup>815</sup> The Jehovah’s Witness organisation offers theocratic guidance on the qualification of a known child molester for such positions of responsibility.<sup>816</sup> For instance, an elder must be a man who is ‘irreprehensible, be free from accusation, and [has] a fine testimony from people on the outside’.<sup>817</sup> An elder should have a wife and children in subjection<sup>818</sup> and he should not have been recently reprovved for wrongdoing.<sup>819</sup>

#### Inquiry as to candidate’s history

- 464 Circuit overseers are responsible for the appointment of elders and ministerial servants following recommendation of candidates for appointment by congregational bodies of elders.<sup>820</sup>

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WAT.0012.001.0011 (Tab 92); Exhibit 29-0003, WAT.0001.004.0014 (Tab 93); Exhibit 29-0003, WAT.0001.004.0020 (Tab 99).

<sup>812</sup> Exhibit 29-0003, WAT.0004.001.0014 at 0017 (Tab 91); Exhibit 29-0003, WAT.0012.001.0014 at 0015 (Tab 91); Exhibit 29-0003, WAT.0012.001.0011 (Tab 92).

<sup>813</sup> Transcript of V J Toole, T15774:36-46 (Day 153).

<sup>814</sup> Transcript of V J Toole, T15775:1-3 (Day 153); Exhibit 29-0003, WAT.0014.001.0009 at 0010 [6].

<sup>815</sup> Exhibit 29-0024, Statement of Terrence O’Brien, STAT.0592.001.0001\_R at [82]-[83]; Exhibit 29-0003, WAT.0002.001.0034 at 0034-0035 (Tab 128); Exhibit 29-0003, WAT.0013.001.0001 at 0016-0023 (Tab 109); Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [78]; Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [15]; Exhibit 29-0003, WAT.0002.001.0001 at 0001 (Tab 97).

<sup>816</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068-0071 (Tab 124); Exhibit 29-0003, WAT.0003.001.0001 at 0031-0042 (Tab 120).

<sup>817</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0018 (Tab 109).

<sup>818</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0015-17 (Tab 109); Exhibit 29-0003, WAT.0003.001.0001 at 0032 [5] (Tab 120).

<sup>819</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0033 [7] (Tab 120); Exhibit 29-0003, WAT.0013.001.0001 at 0018 (Tab 109).

<sup>820</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0080 [25] (Tab 126); Exhibit 29-0003, WAT.0002.001.0034 at [1]-[2] (Tab 128);

- 465 If a man is nominated by his congregation's body of elders, the circuit overseer is instructed to inquire as to whether the man has a history of child sexual molestation'.<sup>821</sup> Prior to announcement of appointment as an elder in Australian states and territories where it is required, the candidate must obtain a working with children check (a **WWCC**).<sup>822</sup>
- 466 Mr O'Brien told the Royal Commission that the Jehovah's Witness organisation complies fully with legislative requirements to ensure all relevant persons have the necessary clearances for working with children.<sup>823</sup> Mr Toole said that there are approximately 7,000 elders and ministerial servants currently serving in Jehovah's Witnesses congregations in Australia who have obtained child related police checks.<sup>824</sup>
- 467 Mr Toole accepted, and it is submitted, that to some degree the efficacy of the WWCC is undermined by the practice of Jehovah's Witnesses not to systematically report those in their midst accused of child sexual abuse.<sup>825</sup> That is because the system depends on reports being made to authorities in order to maintain the WWCC database. There is therefore an element of hypocrisy in the Jehovah's Witness organisation claiming credit for having obtained clearances for working with children for its elders and ministerial servants, but at the same time not reporting the offences of its elders and ministerial servants which would prevent them from being able to obtain working with children clearance.

#### **Available findings on the system of prevention of child sexual abuse - WWCC**

F66 The documented practice of the Jehovah's Witness organisation of not reporting child sexual abuse to the authorities undermines the efficacy of the working with children check system, a system to which the organisation says it subscribes and with which it says it complies.

- 468 If a man has 'a history of child molestation' he is not automatically disqualified from appointment as an elder or ministerial servant. For instance, the 2013 Service Desk Guidelines provide that if a man molested a child in the 'distant past' and 'if there is no apparent outcry', he may be recommended for appointment as a ministerial servant.<sup>826</sup> Similarly, if a man is known to have sexually abused a child before he was baptised as a Jehovah's Witness, he is not necessarily disqualified from holding a position of responsibility in the congregation.<sup>827</sup>
- 469 Since at least 1998, elders have been instructed that it is 'best to wait at least 20 years since the last incident of child abuse was committed before retaining or appointing a

Exhibit 29-0003, WAT.0002.001.0039 at [1] (Tab 129).

<sup>821</sup> Exhibit 29-0003, WAT.0002.001.0034 at [4] (Tab 128);

Exhibit 29-0003, WAT.0002.001.0039 at 0040 [6] (Tab 129).

<sup>822</sup> Exhibit 29-0003, WAT.0002.001.0034 at 0035 (Tab 128).

<sup>823</sup> Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [78].

<sup>824</sup> Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R at [31].

<sup>825</sup> Transcript of V J Toole, T15775:35-47 (Day 153).

<sup>826</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0078 [14] (Tab 126).

<sup>827</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0076 [3]-[4] (Tab 126).

former child abuser’, although there may be exceptions to this, including if the abuse was committed prior to baptism.<sup>828</sup>

### Reappointment of elders and ministerial servants

470 If 20 years have passed since the child sexual abuse and the man has served faithfully, there is no outcry from the congregation, and ‘everything else points to his currently enjoying Jehovah’s blessing’, then the branch office may decide disqualification from service is not necessary. However, the 2013 Service Desk Guidelines warn that:

if a former child molester continues in a position of responsibility, whether the sin occurred before or after baptism – there may be serious problems if he later molests a child. This could bring reproach on Jehovah’s name ...<sup>829</sup>

471 Since 1950, 28 alleged perpetrators of child sexual abuse were appointed to a position of authority after having been the subject of an allegation of child sexual abuse. Further, of 127 alleged perpetrators of child sexual abuse deleted as elders or ministerial servants as a result of allegations of child sexual abuse, 16 were later reappointed.<sup>830</sup>

## 8.4 Congregational risk management of known offenders

### Counselling and monitoring of persons accused of child sexual abuse

472 Elders are instructed to counsel a person found to have committed child sexual abuse to:

... refrain from displaying affection for children, to avoid hugging or holding children on their lap, never to be alone with a child (other than their own), not to allow children to spend the night in their home ...<sup>831</sup>

473 Mr Spinks told the Royal Commission that soon after a reproof for child sexual abuse is imposed and an announcement made to the congregation, the elders may deliver a ‘warning lecture’ to the congregation about the type of sin and how to prevent it.<sup>832</sup> Mr Spinks told the Royal Commission that, in this way, ‘congregation members are aided in their ability to protect children from child sexual abuse’.<sup>833</sup>

474 Elders are instructed that a “‘known child molester” should be told not to work alone with children in the field ministry ... This serves to protect any minor who answers the door, the former abuser, and the reputation of the congregation’.<sup>834</sup>

<sup>828</sup> Exhibit 29-0003, WAT.0004.001.0021 at [1]-[2] (Tab 98).

<sup>829</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0077 [11] (Tab 126).

<sup>830</sup> Exhibit 29-0021, WAT.9999.013.0012.

<sup>831</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068-0069 (Tab 124);  
Exhibit 29-0003, WAT.0001.004.0076 at 0082 [35] (Tab 126).

<sup>832</sup> Exhibit 29-0019, First statement of Rodney Spinks, STAT0591.001.0001\_R at [44];  
Exhibit 29-0003, WAT.0003.001.0001 at 0100 [23] (Tab 120).

<sup>833</sup> Exhibit 29-0019, First statement of Rodney Spinks, STAT0591.001.0001\_R at [44].

<sup>834</sup> Exhibit 29-0003, WAT.0001.004.0076 at 0082 [36] (Tab 126).

- 475 If a person has been assessed by the judicial committee as displaying genuine repentance and is reproved, the judicial committee is to ‘monitor the spiritual progress of the repentant wrongdoer’.<sup>835</sup>
- 476 If the Branch Office considers a person to be a ‘predator’, the Service Desk will advise congregational elders to meet with parents of ‘minor children’ in the congregation and issue a warning about the person.<sup>836</sup>
- 477 In circumstances where a person has been accused of child sexual abuse and the elders are not authorised to take judicial action, for example, because the person did not confess and there was only one witness to the conduct, the elders are instructed to ‘remain vigilant with regard to the conduct and activity of the accused’.<sup>837</sup>
- 478 Mr O’Brien told the Royal Commission that the elders would meet with a person against whom an allegation of child sexual abuse had been made but not proven and ‘give very clear direction on what restrictions would apply to their association with children, with others in the congregation, and [the elders] would monitor that’.<sup>838</sup>
- 479 Mr O’Brien said that others in the congregation would not be aware of the restrictions placed upon a person against whom an allegation of child sexual abuse had been made.<sup>839</sup> He accepted that in those circumstances supervision of that person is therefore confined to when the elders or an elder is present to observe the person.<sup>840</sup>
- 480 Mr O’Brien gave evidence that the extent to which elders are able to discharge their obligation to care for the congregation is restricted by application of two-witness rule and that ‘unless there is a second witness to a similar type of event, or the same event, then ‘the elders’ hands are tied with warning the person’.<sup>841</sup>

### Evaluation of risk and treatment of offenders

- 481 Mr Spinks accepted that the processes used by secular society to evaluate the risk of re-offending were not used by the Jehovah’s Witnesses.<sup>842</sup>
- 482 Mr Spinks also gave evidence that the Jehovah’s Witnesses did not offer any kind of programmes for the professional treatment of offenders.<sup>843</sup>
- 483 Dr Monica Applewhite, who was engaged by the Jehovah’s Witness organisation to provide expert evidence about its practices and procedures, told the Royal Commission that ‘once somebody abuses, once their internal mechanisms of control have allowed

<sup>835</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0099 [22] (Tab 120).

<sup>836</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0069 [13] (Tab 124);  
Exhibit 29-0003, WAT.0001.004.0076 at 0083 [40] (Tab 126).

<sup>837</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124).

<sup>838</sup> Transcript of T J O’Brien, T15847:34-41 (Day 153).

<sup>839</sup> Transcript of T J O’Brien, T15847:43-45 (Day 153).

<sup>840</sup> Transcript of T J O’Brien, T15847:47-T15848:16 (Day 153).

<sup>841</sup> Transcript of T J O’Brien, T15848:18-28 (Day 153).

<sup>842</sup> Transcript of R P Spinks, T15715:45-T15716:1 (Day 152).

<sup>843</sup> Transcript of R P Spinks, T15716:14-20 (Day 152).

them to cross that line once, I don't have confidence in those internal mechanisms of control for the future'.<sup>844</sup>

### **Available findings on the system of prevention of child sexual abuse – risk of reoffending**

F67 The practices and procedures of the Jehovah's Witness organisation for the prevention of child sexual abuse, and in particular for the management of the risk of an abuser reoffending, do not take account of the actual risk of an offender reoffending and accordingly place children in the organisation at significant risk of sexual abuse.

## **8.5 Records management**

- 484 The Jehovah's Witness organisation's current document retention policy provides that records concerning an individual accused of child molestation are to be indefinitely retained in the congregational confidential file.<sup>845</sup> Since 2009 the Australia Branch Office has required that all congregational documents relating to a matter of established child abuse be sent to the Branch Office.<sup>846</sup>
- 485 Mr Toole stated that indefinite retention of records relating to child abuse has been a long-standing practice of the Jehovah's Witness organisation.<sup>847</sup>
- 486 Elders are also directed that records relating to the appointment and deletion of elders and ministerial servants should be kept indefinitely.<sup>848</sup>

<sup>844</sup> Transcript of M L Applewhite, T15498:9-13 (Day 150).

<sup>845</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0068 [11] (Tab 124);

Exhibit 29-0003, WAT.0001.004.0076 at 0083 [41] (Tab 126).

Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R at [44];

Exhibit 29-0019, Annexure 2, STAT.0591.001.0018 at [4.12];

Exhibit 29-0024, Statement of Terrence O'Brien, STAT.0592.001.0001\_R at [63].

<sup>846</sup> Exhibit 29-0003, WAT.0002.001.0015 (Tab 119).

<sup>847</sup> Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R at [33]-[34].

<sup>848</sup> Exhibit 29-0003, WAT.0002.001.0034 at 0037 [15] (Tab 128).

## Part 9 Additional issues

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### 9.1 Accessibility and clarity of information regarding systems policies and procedures

#### Identification of body of documents recording current policy

- 487 Messrs Toole, Spinks and O'Brien told the Royal Commission that the letter to all bodies of elders dated 1 October 2012 is the document which offers current spiritual advice and guidance to elders on how to handle matters involving child sexual abuse.<sup>849</sup>
- 488 That letter to all bodies of elders instructs elders to destroy earlier letters regarding institutional handling of child sexual abuse.<sup>850</sup> The letter instructs elders to first have regard to the *Shepherd the Flock* handbook and to relevant Scriptural principles involved, and to consult the 1 October 2012 letter each time a matter of child abuse arises.<sup>851</sup>
- 489 Mr Spinks told the Royal Commission that current child sexual abuse policy is recorded in the 1 October 2012 letter, the *Shepherd the Flock* handbook, the 2013 Service Desk Guidelines, the *Organized to do Jehovah's Will* handbook, and the Bible.<sup>852</sup> However, Mr Spinks also said that these documents do not represent the complete direction given to elders in relation to responding to allegations of child sexual abuse, but rather they are the relevant documents dealing with 'key issues'.<sup>853</sup> Mr Spinks acknowledged that it would be hard in those circumstances for anyone to know what the position is in relation to current policy and procedure.<sup>854</sup>
- 490 Mr Spinks agreed in evidence that it would be difficult for an elder to ascertain the current policy and on what material to rely in handling a matter, but he said that this is the reason elders are instructed to immediately contact the Branch Office when they receive an allegation of child sexual abuse.<sup>855</sup>

#### Clarity and accessibility to elders of current policy

- 491 The Royal Commission heard evidence that it is the practice of the Jehovah's Witness organisation to encourage survivors of child sexual abuse and their families to report the abuse to authorities. Mr Spinks did not accept that the true practice is in fact, as specified in the *Shepherd the Flock* handbook, that elders are instructed only to discuss reporting to authorities if asked.<sup>856</sup> Mr Spinks agreed that the *Shepherd the Flock*

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<sup>849</sup> Exhibit 29-0023, Statement of Vincent Toole, STAT.0593.001.0001\_R [13]; Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R [18], [24]; Exhibit 29-0024, First statement of Terrence O'Brien, STAT.0592.001.0001\_R [54].

<sup>850</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0066 [1] (Tab 124).

<sup>851</sup> Exhibit 29-0003, WAT.0001.004.0066 at 0066 [1]-[2] (Tab 124).

<sup>852</sup> Exhibit 29-0019, First statement of Rodney Spinks, STAT.0591.001.0001\_R [24].

<sup>853</sup> Transcript of R P Spinks, T15683:15-43 (Day 152).

<sup>854</sup> Transcript of R P Spinks, T15687:34-T15688:3 (Day 152).

<sup>855</sup> Transcript of R P Spinks, T15684:17-24 (Day 152).

<sup>856</sup> Transcript of R P Spinks, T15747:10-29 (Day 152).

handbook is one document that needs to change to reflect the actual policy of the Jehovah's Witness organisation.<sup>857</sup>

- 492 Mr Spinks also accepted that the *Shepherd the Flock* handbook was 'confusing ... to say the least' as to the policy on whether a survivor may be accompanied by a support person in a judicial committee proceeding.<sup>858</sup>
- 493 Mr Spinks was unable to identify where in the suite of documents said to record current policy, the Jehovah's Witness organisation's policy that an accuser need not face the accused in the investigative and judicial committee process was recorded.<sup>859</sup>
- 494 Mr Jackson agreed that the documents, manuals and instructions of the Jehovah's Witness organisation should make clear that a survivor of sexual assault should not have to make her allegation in the face of her abuser.<sup>860</sup>
- 495 Mr O'Brien told the Royal Commission that one matter to which the Jehovah's Witness organisation could give greater consideration is the provision to elders of clearly and more specific and tailored information and documentation as to the process for the handling of investigations and judicial committees involving child sexual abuse.<sup>861</sup>

#### **Clarity and accessibility to survivors and their families of information regarding systems, policies and procedures**

- 496 Mr O'Brien gave evidence that a copy of *Organized to do Jehovah's [Will]* is issued to each member of the congregation prior to baptism.<sup>862</sup> He also told the Royal Commission that every member of the congregation is provided with a copy of the Watchtower library on CD, which is updated annually, includes publications going back many years, and is searchable.<sup>863</sup> Mr O'Brien also described the publicly available Jehovah's Witness organisation website as a mean of providing information to congregants.<sup>864</sup>
- 497 It would appear that only the letter to all congregations of 28 August 2002<sup>865</sup> has specifically addressed to all members of the Jehovah's Witness organisation the organisation's process for handling of complaints of child sexual abuse. The 1 October 2012 letter and the elders' *Shepherd the Flock* handbook are not available to publishers, and the 2013 Service Desk Guidelines are not even available to circuit overseers, elders and ministerial servants.

<sup>857</sup> Transcript of R P Spinks, T15747:31-33 (Day 152).

<sup>858</sup> Transcript of R P Spinks, T15695:16-18 (Day 152).

<sup>859</sup> Transcript of R P Spinks, T15686:36-T15687:28 (Day 152) and see paragraphs 308 to 312 of these submissions.

<sup>860</sup> Transcript of G W Jackson, T15952:34-40 (Day 155).

<sup>861</sup> Transcript of T J O'Brien, T15832:24-33 (Day 153).

<sup>862</sup> Transcript of T J O'Brien, T15843:27-43 (Day 153).

<sup>863</sup> Transcript of T J O'Brien, T15858:32-45 (Day 153).

<sup>864</sup> Transcript of T J O'Brien, T15858:47-T15859:4 (Day 153).

<sup>865</sup> Exhibit 29-0003, WAT.0004.001.0001 (Tab 105).

- 498 Mr Spinks accepted that a victim of child sexual abuse should have access to a clear policy and procedure about how to raise their allegation and how the Jehovah's Witness organisation will respond.<sup>866</sup> He also accepted that there was currently no document to which a victim of child sexual abuse could turn that would explain the process.<sup>867</sup>
- 499 Mr O'Brien told the Royal Commission that the Jehovah's Witness organisation could give greater consideration to provision of clear information about the processes to victims and their parents.<sup>868</sup>

### Submissions in relation to clarity of information

- 500 It is submitted that the Jehovah's Witness organisation's current policies and procedures for responding to allegations of child sexual abuse are insufficiently documented and accessible to those responsible for their implementation.
- 501 It is submitted that the Jehovah's Witness organisation's current policies and procedures for responding to allegations of child sexual abuse are not sufficiently clear and accessible to those who might wish to make a complaint of child sexual abuse.

#### Available findings on the accessibility of procedures and policies

F68 The Jehovah's Witness organisation's documented procedures for reporting on and responding to allegations of child sexual abuse are deficient in that they are not documented in such a way as to be easily accessible in one document and available to all interested or affected parties and some matters that are stated to be the policies or practices of the organisation are not recorded at all.

## 9.2 Leaving the Jehovah's Witness organisation

- 502 The relevance of the question of leaving the organisation arises from the not improbable scenario of a survivor of abuse in the organisation wanting to leave the organisation – particularly if she feels that her complaint of abuse was not dealt with adequately or if her abuser remains in the organisation.
- 503 The *Organized to do Jehovah's Will* publisher's handbook provides explicitly that a person who no longer wishes to be known as a Jehovah's Witness, will by the action of stating as much, disassociate himself from the Jehovah's Witness organisation:

The term "disassociation" applies to the action taken by a person who, although a baptised member of the congregation, deliberately repudiates his Christian standing, rejecting the congregation by his actions or by stating that he no longer wants to be recognised as or known as one of Jehovah's Witnesses. Because he is disassociated, his situation before Jehovah is far different from that of an inactive Christian, one who no longer shares in the field ministry. An inactive person may have failed to study God's Word

<sup>866</sup> Transcript of R P Spinks, T15684:35-43 (Day 152).

<sup>867</sup> Transcript of R P Spinks, T15684:45-T15685:2 (Day 152).

<sup>868</sup> Transcript of T J O'Brien, T15833:1-11 (Day 153).

regularly, or...he may have lost his zeal for serving Jehovah. The elders as well as other concerned members of the congregation will continue rendering appropriate spiritual assistance to an inactive brother. (Rom. 15:1; 1 Thess. 5:14; Heb. 12:12) However, the person who disassociates himself by repudiating the faith and deliberately abandoning Jehovah's worship is viewed in the same way as one who is disfellowshipped. A brief announcement is made to inform the congregation, stating: "[Name of person] is no longer one of Jehovah's Witnesses".<sup>869</sup>

[emphasis added.]

- 504 Jehovah's Witnesses are counselled against associating, fraternising or conversing with a person who has been disfellowshipped or who has disassociated.<sup>870</sup> This practice is known as shunning.<sup>871</sup>
- 505 Even family members are instructed not to associate with a disfellowshipped or disassociated relative, unless the association is unavoidable such as if they share a house with the person.<sup>872</sup>
- 506 Violation by a Jehovah's Witness of the decree against associating with a disfellowshipped or disassociated person may itself, in certain circumstances, be a disfellowshipping offence.<sup>873</sup>
- 507 Mr Jackson gave evidence that a person who no longer wants to be known as a Jehovah's Witness has the 'total freedom' of taking the action of disassociating.<sup>874</sup> He told the Royal Commission that '[i]f they don't want to apply to officially be removed as one of Jehovah's Witnesses, they can tell anyone they want that they are no longer a Jehovah's Witness'.<sup>875</sup>
- 508 Mr O'Brien said that an inactive Jehovah's Witness is not prohibited from free association with other Jehovah's Witnesses.<sup>876</sup>
- 509 Mr Jackson told the Royal Commission that disassociation as described in the *Organized to do Jehovah's Will* handbook simply gives a person 'the right to officially have an announcement made'.<sup>877</sup> He reiterated his earlier evidence that if they decide not to

<sup>869</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0092 (Tab 109);  
See also Exhibit 29-0003, WAT.0003.001.0001 at 0117 (Tab 120).

<sup>870</sup> Exhibit 29-0027, EXH.029.027.0001 at 0006;  
Exhibit 29-0003, WAT.0003.001.0001 at 0117 (Tab 120);  
Transcript of T J O'Brien, T15848:30-T15849:16 (Day 153).

<sup>871</sup> Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [18], [21], [66].

<sup>872</sup> Exhibit 29-0027, EXH.029.027.0001 at 0006;  
Exhibit 29-0003, WAT.0003.001.0001 at 0117 (Tab 120);  
Transcript of T J O'Brien, T15849:27-41 (Day 153);  
Transcript of G W Jackson, T15980:13-22 (Day 155).

<sup>873</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0117 (Tab 120).

<sup>874</sup> Transcript of G W Jackson, T15975:18-22 (Day 155).

<sup>875</sup> Transcript of G W Jackson, T15975:22-25 (Day 155).

<sup>876</sup> Transcript of T J O'Brien, T15846:2-6 (Day 153).

<sup>877</sup> Transcript of G W Jackson, T15976:1-21 (Day 155).

exercise the right to an announcement of disassociation, then they won't automatically be disassociated.<sup>878</sup>

- 510 Mr Jackson ultimately agreed that if a person 'definitely' no longer wants to be subject to the Jehovah's Witness organisation's discipline and rules, then they must actively leave the organisation by disassociating.<sup>879</sup> A person who merely becomes inactive, or 'fades', is still regarded to be a Jehovah's Witness by the organisation and is therefore still subject to its rules and disciplinary procedures. Such a person is therefore still susceptible to being disfellowshipped for some or other 'offence' under the rules of the organisation.
- 511 It is submitted that Mr Jackson's oral evidence is inconsistent with the position regarding disassociation published to Jehovah's Witnesses internationally in the form of the *Organized to do Jehovah's Will* handbook. It is further submitted that the true position in relation to a person who no longer wants to be known as a Jehovah's Witness and who no longer wishes to be subject to the organisation's rules and regulations, is that as recorded in the *Organized to do Jehovah's Will* handbook.

### Freedom of choice

- 512 Mr O'Brien agreed that Jehovah's Witnesses tend to know and associate closely with one another.<sup>880</sup> He told the Royal Commission that there is a strong sense of community within the organisation in Australia, members refer to each other as 'brother' and 'sister' and congregation members spend a lot of time together each week.<sup>881</sup> Mr O'Brien accepted that for a Jehovah's Witness, his or her social network is generally comprised of other Jehovah's Witnesses.<sup>882</sup>
- 513 Mr Jackson told the Royal Commission that the Jehovah's Witness organisation recognises an individual's freedom to make religious choices.<sup>883</sup>
- 514 It was put to Mr O'Brien that as a Jehovah's Witness, a survivor of child sexual abuse may be faced with the impossible choice of staying in an organisation which is protective of their abuser, or of leaving the organisation and consequently losing their entire family and social network.<sup>884</sup> He told the Royal Commission that the decision to disassociate is a personal one and that a survivor of child sexual abuse could instead choose to become inactive and therefore retain their 'spiritual and familial association'.<sup>885</sup>
- 515 Mr O'Brien said in evidence, that in circumstances where the survivor wished to disassociate as a consequence of the intensity of her feelings from her experience, she would understand the implications of disassociation.<sup>886</sup> Mr O'Brien disagreed that 'it is

<sup>878</sup> Transcript of G W Jackson, T15976:15-21 (Day 155).

<sup>879</sup> Transcript of G W Jackson, T15981:19-23 (Day 155).

<sup>880</sup> Transcript of T J O'Brien, T15844:23-31 (Day 153).

<sup>881</sup> Transcript of T J O'Brien, T15844:23-39 (Day 153).

<sup>882</sup> Transcript of T J O'Brien, T15845:16-18 (Day 153).

<sup>883</sup> Transcript of G W Jackson, T15974:45-47 (Day 155).

<sup>884</sup> Transcript of T J O'Brien, T15851:22-31 (Day 153).

<sup>885</sup> Transcript of T J O'Brien, T15852:28-31 (Day 153).

<sup>886</sup> Transcript of T J O'Brien, T15851:33-37 (Day 153).

incredibly hard for someone to leave [the Jehovah's Witness organisation] because of the huge pain, suffering, cruelty that she must face if she does leave'.<sup>887</sup>

- 516 Ultimately, Mr O'Brien told the Royal Commission that he could 'only be guided by what the Scriptures say'.<sup>888</sup>
- 517 Mr Jackson did not accept that putting people in the position of having to choose between their faith and their family and social network was contrary to that freedom of religious choice.<sup>889</sup> It was Mr Jackson's evidence that people are not forced to remain within the organisation.<sup>890</sup>
- 518 Mr Jackson agreed that in the case of a person baptized at a young age who wants to leave the Jehovah's Witness organisation, that person is faced with a stark choice, one consequence of which is that the person must leave everyone they know behind them.<sup>891</sup>
- 519 Mr Jackson accepted that the decision to disassociate and leave the Jehovah's Witnesses was a 'difficult' one that can be 'personally devastating because [a person] can lose their whole social network and their families'.<sup>892</sup>
- 520 However, both Mr Jackson and Mr O'Brien disagreed that the practice of shunning makes the Jehovah's Witness a 'captive organisation'.<sup>893</sup>
- 521 It is submitted that the Jehovah's Witness organisation's policy of requiring its adherents to actively shun those who leave the organisation makes it a 'captive organisation' whose rules regarding association with those who have chosen to leave the organisation impact the capacity of a survivor of child sexual abuse within the organisation to exercise their right to freedom of religion.

### **Scriptural basis for the practice of shunning**

- 522 Mr Jackson told the Royal Commission that the Scriptural basis for shunning can be found in the passage starting at 1 Corinthians 5:1.<sup>894</sup> However, this passage deals explicitly with circumstances of sexual immorality existing in the congregation and Paul says that the man who committed the deed must be handed over to Satan 'so that the spirit may be saved in the day of the Lord' (verse 5). Paul also says that the congregation must 'stop keeping company with sexually immoral people' (verse 9).
- 523 The passage would therefore appear to provide some Scriptural basis to the practice of shunning those who have been found guilty of some or other gross sexual sin (within

<sup>887</sup> Transcript of T J O'Brien, T15852:19-22 (Day 153).

<sup>888</sup> Transcript of T J O'Brien, T15851:44-T15852:3 (Day 153).

<sup>889</sup> Transcript of G W Jackson, T15982:6-13 (Day 155).

<sup>890</sup> Transcript of G W Jackson, T15982:25-26(Day 155).

<sup>891</sup> Transcript of G W Jackson, T15983:8-13(Day 155).

<sup>892</sup> Transcript of G W Jackson, T15981:38-T15982:4 (Day 155).

<sup>893</sup> Transcript of G W Jackson, T15983:31-32(Day 155);

Transcript of T J O'Brien, T15852:15-22 (Day 153).

<sup>894</sup> Transcript of G W Jackson, T15983:35-44 (Day 155).

the rules of the organisation), but provides no basis at all for the practice of shunning those who merely seek to exercise their right to leave the organisation.

- 524 The Jehovah's Witness organisation's practice of shunning those who leave the organisation is also in conflict with Mr Jackson's evidence that Jehovah God is a compassionate God<sup>895</sup> and that Jehovah God recognises the worth and dignity of all human beings.<sup>896</sup>

#### **Available findings on shunning**

F69 Members of the Jehovah's Witness organisation who no longer want to be subject to the organisation's rules and discipline have no alternative than to leave the organisation which requires that they disassociate from it.

F70 The Jehovah's Witness organisation's policy of requiring its adherents to actively shun those who leave the organisation:

- a) makes it extremely difficult for someone to leave the organisation
- b) is cruel on those who leave and on their friends and family who remain behind
- c) is particularly cruel on those who have suffered child sexual abuse in the organisation and who wish to leave because they feel that their complaints about it have not been adequately dealt with
- d) is not apparently justified by the Scriptures which are cited in support of it
- e) is adopted and enforced in order to prevent people from leaving the organisation and thereby to maintain its membership, and
- f) is in conflict with the organisation's professed support for freedom of religious choice and the belief that Jehovah God is a compassionate God who recognises the worth and dignity of all human beings.

<sup>895</sup> Transcript of G W Jackson, T15974:30-31 (Day 155).

<sup>896</sup> Transcript of G W Jackson, T15974:33-35 (Day 155).

## Part 10 Dr Monica Applewhite

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525 At the request of the Jehovah’s Witness organisation, the Royal Commission heard evidence from Dr Monica Applewhite who was engaged by the Jehovah’s Witness organisation to provide an expert report on the response of the organisation to allegations of child sexual abuse.

### 10.1 Dr Applewhite’s qualifications

526 Dr Applewhite holds a Bachelor of Science in Social Work from Texas Christian University and a Master of Science in Social Work and a PhD in Clinical Social Work from the University of Texas at Arlington.<sup>897</sup> Dr Applewhite’s PhD is not specifically relevant to child sexual abuse.<sup>898</sup>

#### Published work

527 In oral evidence, Dr Applewhite told the Royal Commission that she has not authored any peer-reviewed articles or publications.<sup>899</sup>

528 The Royal Commission heard that Dr Applewhite has, over the course of her career, consulted with numerous organisations to identify and analyse the best practices of organisations in relation to preventing and responding to incidents of abuse.<sup>900</sup> Dr Applewhite told the Commission that she had never published the results of this analysis as the research methodology involved in the analysis was not up to the rigours of empirical research.<sup>901</sup>

### 10.2 Dr Applewhite’s experience

529 In her report, Dr Applewhite told the Royal Commission that she has ‘extensive experience working directly with sexual offenders who have perpetrated abuse in organisations, as well as 22 years of conducting root cause analysis of such cases for the purpose of determining the methods used by sexual offenders to access children within churches, schools and other organisations’.<sup>902</sup>

530 Dr Applewhite accepted that, since 2007, her work has primarily involved running educational programmes for independent and private schools in relation to the prevention of child sexual abuse and current standards of best practice.<sup>903</sup> Dr

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<sup>897</sup> Exhibit 29-0013, Annexure 2, STAT.0606.001.0017;  
Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [2].

<sup>898</sup> Transcript of ML Applewhite, T15434:32-39 (Day 150).

<sup>899</sup> Transcript of ML Applewhite, T15434: 43-47 (Day 150).

<sup>900</sup> Transcript of ML Applewhite, T15437: 35-T15438:21 (Day 150).

<sup>901</sup> Transcript of ML Applewhite, T15438:31-46 (Day 150).

<sup>902</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [2].

<sup>903</sup> Exhibit 29-0013, Annexure 2, STAT.0606.001.0017;  
Transcript of ML Applewhite, T15442: 38-42 (Day 150).

Applewhite also accepted that her work in Australia has, for the most part, involved conducting educational programmes for Catholic education organisations.<sup>904</sup>

### **Previous experience as an expert witness for the Jehovah’s Witness organisation**

531 Dr Applewhite has previously been engaged by the Jehovah’s Witness organisation to provide expert evidence in four separate civil liability cases – three in the United States and one in the United Kingdom.<sup>905</sup> Dr Applewhite told the Royal Commission that each of the civil cases related to claims for damages arising out of allegations of child sexual abuse and that, in each case, the Jehovah’s Witness organisation was cited as a defendant.<sup>906</sup> Dr Applewhite told the Royal Commission that, in those cases, she had not been hired to give evidence critical of the organisation and could not recall ever having given evidence that was critical of the organisation.<sup>907</sup>

### **10.3 Dr Applewhite’s expert report**

532 Dr Applewhite agreed that her report constituted a documentary review of the Jehovah’s Witness organisation’s policies and procedures and that her report did not consider the practical implementation of those policies or procedures.<sup>908</sup>

533 Dr Applewhite’s report was based on her review of documents provided to her by Watchtower Australia, publications that are available on the Jehovah’s Witness organisation website (which date from 2000), and the witness statements of Mr O’Brien and Mr Toole.<sup>909</sup>

534 In preparing her report Dr Applewhite did not consider the statements of the survivor witnesses.<sup>910</sup> Dr Applewhite also said that she had not considered any independent studies or research about the Jehovah’s Witness organisation.<sup>911</sup>

### **10.4 Dr Applewhite’s written opinions**

535 Dr Applewhite expressed three opinions in her report.

536 First, in paragraph 36 of her report, Dr Applewhite stated that:

In my opinion, the current messages to those who have experienced abuse and the guidelines that have been provided to elders in congregations of Jehovah’s Witnesses are consistent with, and in some respects better than, the current practices of religious organizations throughout the world.<sup>912</sup>

<sup>904</sup> Transcript of ML Applewhite, T15446: 39-42 (Day 150);

Transcript of ML Applewhite, T15444:10-T15447:9 (Day 150).

<sup>905</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [4].

<sup>906</sup> Transcript of M L Applewhite, T15452:21-47 (Day 150).

<sup>907</sup> Transcript of M L Applewhite, T15453:20-38 (Day 150).

<sup>908</sup> Transcript of M L Applewhite, T15462:37-T15463: 5 (Day 150).

<sup>909</sup> Transcript of M L Applewhite, T15460:6-T15461:29 (Day 150).

<sup>910</sup> Transcript of M L Applewhite, T15461:31-33 (Day 150).

<sup>911</sup> Transcript of M L Applewhite, T15461:35-37 (Day 150).

<sup>912</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [36].

537 Secondly, in paragraph 45 of her report, Dr Applewhite stated that:

In my opinion, Jehovah's Witnesses were well in advance of other religious organizations in providing educational materials to parents and families. The quality of the materials they provided during the 1980's [sic] and 1990's [sic] exceeded the standards of care for the time and continue to be more substantial than what many religious organizations offer parents and guardians today.<sup>913</sup>

538 Thirdly, in paragraph 46 of her report, Dr Applewhite stated that:

In my own experience, I have not found examples in Australia of religious organizations that have provided parents, guardians, and the general public with the quality or consistency of information about prevention and response to sexual abuse or about how to support for [sic] those who have been abused that Jehovah's Witnesses have provided in their publications.<sup>914</sup>

539 Dr Applewhite acknowledged that her report did not identify the basis on which she had formed her opinions.<sup>915</sup> She accepted that her report failed to identify the 'current standards' of other religious organisations,<sup>916</sup> or to which 'religious organisations' she had had reference in writing her report.<sup>917</sup> Dr Applewhite told the Royal Commission that her understanding of material provided to parents and families about sexual development in children by other faith-based organisations was 'anecdotal'.<sup>918</sup>

540 Dr Applewhite accepted that it would be difficult for the Royal Commission to accept the opinions expressed in paragraphs 36, 45, and 46 of her report, because her report does not identify the basis on which the opinions were formed.<sup>919</sup>

541 At the request of senior counsel for Watchtower Australia, the Royal Commission granted Dr Applewhite permission to submit a supplementary report setting out the reasons for the opinions in her expert report.<sup>920</sup>

542 On 16 August 2015, Dr Applewhite wrote to the legal representative of Watchtower Australia and advised that she was unable to prepare a supplementary statement due to other commitments. She conveyed in her letter her belief that 'between the research that has already been undertaken by the Commission and the evidence provided by others who testified after [her], the questions [Watchtower Australia has] presented to [her] have been or shortly will be answered'.<sup>921</sup>

<sup>913</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [45].

<sup>914</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [46].

<sup>915</sup> Transcript of ML Applewhite, T15459:20-T15460:4 and T15463:35-44 (Day 150).

<sup>916</sup> Transcript of ML Applewhite, T15504:22-32 (Day 150).

<sup>917</sup> Transcript of ML Applewhite, T15504:22-T15505:14 (Day 150).

<sup>918</sup> Transcript of ML Applewhite, T15459:13-23 (Day 150).

<sup>919</sup> Transcript of ML Applewhite, T15463:35-47 (Day 150);

Transcript of ML Applewhite, T15459:20-46 (Day 150).

<sup>920</sup> Transcript of ML Applewhite, T15520:1-15521:3 (Day 150).

<sup>921</sup> Letter from Dr Monica Applewhite to Mr Bray, 16 August 2015, received by the Royal Commission on 25 August 2015.

## 10.5 Dr Applewhite's errors on factual issues

543 In her report, Dr Applewhite addressed several factual matters in relation to which she was asked questions in oral evidence.

### **Factual issue: elders as 'fellow workers'**

544 In her report, Dr Applewhite told the Royal Commission that:

Jehovah's Witnesses teach that elders should avoid taking a superior position with reference to other congregation members. Elders are viewed as fellow workers by their fellow elders and by other congregation members.<sup>922</sup>

545 Dr Applewhite told the Royal Commission that her understanding of how congregation members view elders is based solely on materials and literature published by the Jehovah's Witness organisation and not on any empirical study of how the elders are actually viewed by members.<sup>923</sup>

546 Dr Applewhite accepted, as evidenced in the organisation's own documents, that Jehovah's Witnesses consider that elders are appointed by the Holy Spirit;<sup>924</sup> that elders have a leadership role within the congregation;<sup>925</sup> that congregation members entrust their spiritual life to the elders as shepherds of the flock;<sup>926</sup> and that elders are responsible for investigating reports of wrongdoing within the congregation, establishing judicial committees, making a determination as to wrongdoing and imposing sanctions on wrongdoers.<sup>927</sup> Despite the documentary evidence in relation to the role of elders, Dr Applewhite did not accept that elders are viewed as anything other than fellow workers by congregation members.<sup>928</sup> Dr Applewhite told the Royal Commission that the literature of the Jehovah's Witness organisation does not set elders apart as 'distinctive or in some ways [sic] superior' to other congregation members.<sup>929</sup>

547 It is submitted that, contrary to the evidence of Dr Applewhite, the literature and materials published by the Jehovah's Witness organisation sets elders apart from the rest of the congregation, and that it would be incorrect to conclude that elders are viewed as 'fellow workers' by ordinary congregation members. It is further submitted that in fact elders enjoy positions of great responsibility, power and influence and are probably regarded in that way by ordinary congregation members. Certainly, the experiences of both BCB and BCG support the view that elders are held up as having authority and power and certainly not as being 'fellow workers'.<sup>930</sup>

<sup>922</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [10].

<sup>923</sup> Transcript of M L Applewhite, T15465:34-T15466:12 (Day 150).

<sup>924</sup> Transcript of M L Applewhite, T15467:42-45 (Day 150).

<sup>925</sup> Transcript of M L Applewhite, T15468:16-20 (Day 150).

<sup>926</sup> Transcript of M L Applewhite, T15468:16-43 (Day 150).

<sup>927</sup> Transcript of M L Applewhite, T15469:8-35 (Day 150).

<sup>928</sup> Transcript of ML Applewhite, T15470:3-T15471:31 (Day 150).

<sup>929</sup> Transcript of M L Applewhite, T15471:15-41 (Day 150).

<sup>930</sup> Exhibit 29-0001, Statement of BCB, STAT.0603.001.0001\_R at [14], [15], [79];

### **Factual issue: role of ministerial servants in providing pastoral care**

548 In her report, Dr Applewhite told the Royal Commission that:

Ministerial servants are members of the congregation who provide non-pastoral practical assistance and service to the elders and the congregation. Ministerial servants are not authorized to provide spiritual guidance, counselling or any other pastoral services to members of the congregation.<sup>931</sup>

549 However, documents in evidence suggest otherwise. Specifically, *Organised to Do Jehovah's Will* provides for circumstances where a ministerial servant might 'care for' a congregation book study group until such time as an elder is available to take over.<sup>932</sup> *Shepherd the Flock* also provides for circumstances where a ministerial servant will accompany an elder in visiting members of the congregation to provide spiritual guidance and counsel, particularly where a ministerial servant might be training to become an elder.<sup>933</sup>

550 Dr Applewhite did not accept the proposition that *Organised to Do Jehovah's Will* authorises ministerial servants to undertake pastoral care in certain circumstances,<sup>934</sup> but agreed that *Shepherd the Flock* does not exclude a ministerial servant from participating in pastoral care with an elder.<sup>935</sup> Nonetheless, Dr Applewhite ultimately did not accept that the evidence given in her report was incorrect.<sup>936</sup>

551 It is submitted that, contrary to Dr Applewhite's evidence, the literature and materials published by the Jehovah's Witness organisation envisage circumstances in which a ministerial servant might be authorised to provide pastoral care to members of the congregation.

### **Factual issue: role of elders and ministerial servants in relation to children**

552 In her report, Dr Applewhite told the Royal Commission that:

None of the responsibilities of a ministerial servant or elder allow or require that he be alone with children or otherwise separate from his or her family.<sup>937</sup>

553 From at least December 1998 the Jehovah's Witness organisation has instructed all bodies of elders that:

Those who are appointed to privileges of service, such as elders and ministerial servants, are put in a position of trust. One who is extended

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Exhibit 29-0006, Statement of BCG, STAT.0590.001.0001\_R at [9], [10], [13], and [77].

<sup>931</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [20].

<sup>932</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0029 (Tab 109).

<sup>933</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0024-25 [23] (Tab 120); see also Exhibit 29-0003, WAT.0013.001.0001 at 0044 (Tab 109).

<sup>934</sup> Exhibit 29-0003, WAT.0013.001.0001 at 0043 (Tab 109); Transcript of ML Applewhite, T15475:27-T15476:28 (Day 150).

<sup>935</sup> Transcript of ML Applewhite, T15478:13-15 (Day 150).

<sup>936</sup> Transcript of ML Applewhite, T15478:17-23 (Day 150).

<sup>937</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [21].

privileges in the congregation is judged by others as being worthy of trust. This includes being more liberal in leaving children in their care and oversight.<sup>938</sup>

- 554 Dr Applewhite told the Royal Commission that the above direction was meant as ‘a warning to let elders know that families might be more trusting of a person and allow their children to be alone with someone who was a ministerial servant or an elder’, and that it was her understanding that elders and ministerial servants were not meant to meet alone with women or children.<sup>939</sup> Dr Applewhite was unable to provide any reference in the Jehovah’s Witness organisation’s policies for this understanding and did not otherwise identify the source of her understanding.<sup>940</sup>
- 555 While there is a documented prohibition on an elder meeting alone with a woman who is a victim of abuse for fear that she might ‘develop improper feelings’ towards him,<sup>941</sup> there is no such documented prohibition, at least in evidence, against an elder or ministerial servant being alone with a child. Senior Counsel for Watchtower Australia undertook to locate the relevant reference and provide it to the Royal Commission.<sup>942</sup> As at the date of these submissions, no such reference has been provided.
- 556 It is accordingly submitted that, contrary to Dr Applewhite’s evidence, there is no specific prohibition on elders and ministerial servants meeting alone with children.

**Factual issue: the two-witness rule**

- 557 Dr Applewhite agreed that child sexual abuse most often occurs in private, and that as a result, a survivor would have ‘real difficulties’ establishing that child sexual abuse had occurred according to a standard of proof that required two witnesses to the abuse.<sup>943</sup> Dr Applewhite further agreed that elders are not able to take any action where there is only one witness and the accused denies the allegation.<sup>944</sup> She acknowledged that in such circumstances, the effect of the application of the two-witness rule is that an alleged perpetrator remains, with his rights intact, in the congregation and able to interact with the survivor.<sup>945</sup> She agreed that that result is ‘not a very good place to end up’.<sup>946</sup>
- 558 Dr Applewhite also accepted that the role of the two-witness rule in preventing allegations of child sexual abuse from being established has the potential to further traumatise survivors of child sexual abuse and to place the survivor’s psychological well-being at a ‘by no means ... ideal place’.<sup>947</sup>

<sup>938</sup> Exhibit 29-0003, WAT.0002.001.0001 at 0001 (Tab 97).

<sup>939</sup> Transcript of M L Applewhite, T15479:13-24 (Day 150).

<sup>940</sup> Transcript of M L Applewhite, T15479:26-29 (Day 150).

<sup>941</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0057 [28] (Tab 120).

<sup>942</sup> Transcript of M L Applewhite, T15479:26-34 (Day 150).

<sup>943</sup> Transcript of M L Applewhite, T15495:2-T15496:29 (Day 150).

<sup>944</sup> Transcript of M L Applewhite, T15516:35-T15517:9 (Day 150).

<sup>945</sup> Transcript of M L Applewhite, T15516:35-T15517:6 (Day 150).

<sup>946</sup> Transcript of M L Applewhite, T15517:8-9 (Day 150).

<sup>947</sup> Transcript of M L Applewhite, T15503:7-28 (Day 150).

### **Factual issue: accused facing accuser and absence of support person**

- 559 Dr Applewhite told the Royal Commission that it was the current practice of the Jehovah's Witness organisation to allow a survivor to write a letter rather than requiring her to present her allegation directly and in person to elders and the accused in a judicial committee hearing.<sup>948</sup>
- 560 Dr Applewhite said that her understanding of the current practice was based on the letter of 1 October 2012 to all bodies of elders and on the witness statement of Mr Toole.<sup>949</sup> She agreed that the direction in *Shepherd the Flock* was that a survivor would have to present her evidence before a three-man judicial committee and the accused, but she told the Royal Commission that it was her understanding that the direction had been modified by the letter of 1 October 2012 to the effect that testimony in person was not necessary.<sup>950</sup> It was put to Dr Applewhite, and she agreed, that the letter of 1 October 2012 did not in fact modify the direction in *Shepherd the Flock* in the way that she had understood.<sup>951</sup>
- 561 Dr Applewhite accepted that the Jehovah's Witness organisation's documented policies require a survivor to give their testimony before a judicial committee in the presence of the accused, unless the survivor lives 'a great distance away or for some reason [is] not able to be physically present'.<sup>952</sup>
- 562 In relation to the direction in *Shepherd the Flock* that 'observers should not be present for moral support', Dr Applewhite agreed that such a direction excludes a survivor from having someone with her during a judicial committee hearing to provide moral support.<sup>953</sup>
- 563 Dr Applewhite ultimately said that 'if it turns out that the practice that they have today does not allow someone to write a letter and they have to confront their offender and they have to sit in the room with no support it is not going to meet the standard of care'.<sup>954</sup> It submitted that Dr Applewhite's evidence that such a requirement of a survivor would not meet the standard of care, should be accepted.

### **Factual issue: reporting to authorities**

- 564 In her report, Dr Applewhite told the Royal Commission that:

Child sexual abuse is regarded as a crime by Jehovah's Witnesses. Elders are instructed to report crimes according to the law and never to discourage anyone from reporting abuse to law enforcement.<sup>955</sup>

<sup>948</sup> Transcript of M L Applewhite, T15485:34-41, T15493:20-21 (Day 150).

<sup>949</sup> Transcript of M L Applewhite, T15489:19-21 (Day 150).

<sup>950</sup> Transcript of M L Applewhite, T15488:34-T15489:9, T15489:25-35 (Day 150).

<sup>951</sup> Transcript of M L Applewhite, T15491:21-T15492:28, (Day 150).

<sup>952</sup> Transcript of ML Applewhite, T15493:26-47 (Day 150).

<sup>953</sup> Exhibit 29-0003, WAT.0003.001.0001 at 0091 [3] (Tab 120);

Transcript of M L Applewhite, T15491:2-19 (Day 150).

<sup>954</sup> Transcript of M L Applewhite, T15494:2-15 (Day 150).

<sup>955</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [26].

- 565 Dr Applewhite agreed that she did not mean to imply in her report that elders are instructed to report crimes generally, but that it is the case that elders are instructed to report to authorities only after the Branch Office has advised if a mandatory reporting obligation applies in the particular case.<sup>956</sup>
- 566 Dr Applewhite later expressed her view that a mandatory reporting requirement should be introduced so that elders would not have the option to not report allegations of child sexual abuse to police.<sup>957</sup>
- 567 Dr Applewhite also told the Royal Commission that in her opinion, criminal sanctions are necessary in respect of perpetrators of child sexual abuse so that there are ‘clear consequences’ that will ‘act as a deterrent’.<sup>958</sup>

## 10.6 Submissions in relation to the opinions proffered in Dr Applewhite’s report

- 568 It is submitted that the Royal Commission cannot accept the opinions expressed by Dr Applewhite in paragraphs 36, 45 or 46 of her report, because:
- a) those opinions are not supported by the reasons set out in her report, and
  - b) the facts and assumptions upon which Dr Applewhite’s opinions are based are not identified in her report or in her oral evidence.

### Available findings on Dr Applewhite’s expert opinions

F71 The opinions expressed by Dr Applewhite in paragraphs 36, 45 and 46 of her report are rejected because they are not substantiated by identifiable facts and assumptions or by reasons.

F72 Dr Applewhite’s report contains a number of factual errors with regard to her documenting of the relevant practices and procedures of the Jehovah’s Witnesses.

F73 Dr Applewhite’s report is therefore rejected.

## 10.7 Dr Applewhite’s oral evidence: Finkelhor’s Model

- 569 In her report, Dr Applewhite referenced articles in *Awake!*, which in turn referred to research conducted by Dr David Finkelhor,<sup>959</sup> who, Dr Applewhite agreed, is a ‘credible’ and ‘leading researcher and academic writer in the field’ of prevention of child sexual

<sup>956</sup> Transcript of M L Applewhite, T15482:16-43 (Day 150).

<sup>957</sup> Transcript of M L Applewhite, T15495:43-T15496:-9 (Day 150).

<sup>958</sup> Transcript of M L Applewhite, T15513:42-T15514:1 (Day 150).

<sup>959</sup> Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [43(a)].

abuse.<sup>960</sup> Dr Applewhite explained that by including such references she had wanted to illustrate that, ‘solid researchers [...] are cited in the articles’.<sup>961</sup>

- 570 Dr Applewhite was shown a report published by the Australian Institute for Family Studies in June 2015 entitled ‘Conceptualising the prevention of child sexual abuse’ (the **AIFS Report**).<sup>962</sup> The AIFS Report identifies Dr Finkelhor’s Four Preconditions Model (**Finkelhor’s Model**), which was first published in 1984 and which has been used to understand the behaviour of child sexual abuse offenders.<sup>963</sup>
- 571 Dr Applewhite was familiar with Finkelhor’s Model.<sup>964</sup> Dr Applewhite agreed that the following social/cultural factors that support three of the four preconditions for an individual to engage in child sexual abuse identified in Finkelhor’s Model, exist within the Jehovah’s Witness organisation. They are:
- a) repressive norms about masturbation and extra marital sex<sup>965</sup>
  - b) weak criminal sanctions (in circumstances where mandatory reporting obligations do not apply and the Jehovah’s Witnesses do not report to authorities)<sup>966</sup>
  - c) ideology of patriarchal prerogatives for fathers, at least in the sense of it being a patriarchal organisation<sup>967</sup>
  - d) barriers to women’s equality,<sup>968</sup> and
  - e) strong ideology of family sanctity.<sup>969</sup>
- 572 In respect of Finkelhor’s fourth precondition<sup>970</sup> and its relevant social/cultural factors, Dr Applewhite said that she ‘is not sure about’ whether the Jehovah’s Witness organisation or community can be characterised as exhibiting ‘social powerlessness of children’.<sup>971</sup>
- 573 Dr Applewhite said that she would have to look at the matter more carefully before accepting that the identified social/cultural factors ‘raised some flashing lights’ or came together in a ‘perfect storm’ with regard to the risk of child sexual abuse occurring in the Jehovah’s Witness organisation.<sup>972</sup>

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<sup>960</sup> Transcript of M L Applewhite, T15511:8-10 (Day 150); Exhibit 29-0013, Statement of Dr Monica Applewhite, STAT.0606.001.0001 at [43(a)].

<sup>961</sup> Transcript of ML Applewhite, T15511:16-17 (Day 150).

<sup>962</sup> Exhibit 29-0015, WEB.0061.001.0001.

<sup>963</sup> Exhibit 29-0015, WEB.0061.001.0001 at 0041.

<sup>964</sup> Transcript of ML Applewhite, T15512:1-6 (Day 150).

<sup>965</sup> Transcript of ML Applewhite, T15513:18-30 (Day 150).

<sup>966</sup> Transcript of ML Applewhite, T15513:32-T15514:1 (Day 150).

<sup>967</sup> Transcript of ML Applewhite, T15515:3-5 (Day 150).

<sup>968</sup> Transcript of ML Applewhite, T15515:9-11 (Day 150).

<sup>969</sup> Transcript of ML Applewhite, T15515:34-40 (Day 150).

<sup>970</sup> Exhibit 29-0015, WEB.0061.001.0001 at 0042.

<sup>971</sup> Transcript of ML Applewhite, T-15515:47-T15516:8 (Day 150).

<sup>972</sup> Transcript of ML Applewhite, T15516:16-21 (Day 150).

## 10.8 Dr Applewhite's oral evidence: Standards of Best Practice

- 574 Dr Applewhite accepted a number of components to current standards of best practice in relation to raising and responding to allegations of child sexual abuse within religious organisations. She accepted that religious organisations should have:
- a) a process for reporting allegations of child sexual abuse which is survivor focussed and designed to ensure that the child or adult survivor feels able to come forward and be comfortable in reporting the allegation<sup>973</sup>
  - b) a process for reporting allegations of child sexual abuse that does not require a survivor to confront the alleged perpetrator of their abuse or be in the same room as the alleged perpetrator without support<sup>974</sup>
  - c) a system for preventing perpetrators of child sexual abuse from being put back in a position of trust with children<sup>975</sup>
  - d) an ability to take child-safe action in order to remove children from imminent danger, or a relationship with other authorities that have that ability,<sup>976</sup> and
  - e) strong and cooperative relationships with child protection authorities and with criminal justice authorities.<sup>977</sup>
- 575 Dr Applewhite accepted, and it is submitted, that the Jehovah's Witness organisation's current policies and procedures for raising and responding to child sexual abuse do not meet all the current standards of best practice.<sup>978</sup> She also accepted that 'there are better ways' for handling complaints than having a survivor tell her story to two and then three men without moral support with the accused being present,<sup>979</sup> and that the two-witness rule is 'problematic'.<sup>980</sup>

### Available findings on Dr Applewhite's oral evidence

- F74 Dr Applewhite accepted the following components to current standards of best practice in relation to raising and responding to allegations of child sexual abuse within religious organisations, namely that religious organisations should have:
- a) a process for reporting allegations of child sexual abuse which is survivor focussed and designed to ensure that the child or adult survivor feels able to come forward and be comfortable in reporting the allegation
  - b) a process for reporting allegations of child sexual abuse that does not require a survivor to confront the alleged perpetrator of their abuse or be in the same room as the alleged perpetrator without support
  - c) a system for preventing perpetrators of child sexual abuse from being put back in a position of trust with children

<sup>973</sup> Transcript of ML Applewhite, T15448:35-T15449:10 (Day 150).

<sup>974</sup> Transcript of ML Applewhite, T15494:2-15 (Day 150).

<sup>975</sup> Transcript of ML Applewhite, T15452:8-19 (Day 150).

<sup>976</sup> Transcript of ML Applewhite, T15450:14-18 (Day 150).

<sup>977</sup> Transcript of ML Applewhite, T15451:38-46 (Day 150).

<sup>978</sup> Transcript of ML Applewhite, T15500:21-44 (Day 150).

<sup>979</sup> Transcript of ML Applewhite, T15501:36-41 (Day 150).

<sup>980</sup> Transcript of ML Applewhite, T15503:10 (Day 150).

- d) an ability to take child-safe action in order to remove children from imminent danger, or a relationship with other authorities that have that ability, and
- e) strong and cooperative relationships with child protection authorities and with criminal justice authorities.

F75 The opinion expressed by Dr Applewhite in oral evidence that requiring a survivor of child sexual abuse to present her testimony before elders and her abuser would not meet the relevant standard is accepted.

F76 The opinion expressed by Dr Applewhite that requiring a survivor of child sexual abuse to present her allegation and testimony to three men without the presence of a support person would not meet the relevant standard is accepted.

F77 The Jehovah's Witness organisation's current policies and procedures for raising and responding to complaints or allegations of child sexual abuse do not meet all current standards of best practice.

## Part 11 Summary of available findings

### Available findings on the Jehovah's Witnesses relationship with secular authorities

F1 The Jehovah's Witness organisation presents its members with conflicting and ambiguous teachings regarding their relationship with secular authorities, thereby fostering a distrust of such authorities.

### Available findings on historical child sexual abuse data

F2 Since 1950, the Jehovah's Witness organisation in Australia has received allegations of child sexual abuse against 1,006 of its members relating to at least 1,800 victims, and has in that period not reported a single allegation to the police or other authorities, even though 579 of those against whom an allegation was made confessed to having committed child sexual abuse.

F3 The Jehovah's Witness organisation in Australia receives approximately three to four reports of allegations of child sexual abuse each month.

### Available findings on BCB's first disclosure

F4 The elders bringing the man whom BCB accused of abusing her to her home was unjustified and traumatising for BCB and should not have occurred.

F5 Although the elders may have been following the documented procedure at the time and they may have believed that Scriptural principle required that the accuser face the accused with her allegations, it was distressing to and unsupportive of BCB to require that of her.

F6 It was distressing for BCB to be required by the elders to tell of what had happened to her to a group of men, including the man whom she accused of abusing her, and it was not likely to, nor did it, result in BCB disclosing the full extent of her abuse.

F7 It was inconsistent with the elders' professed sympathy for BCB for them not to have offered her the opportunity of the support and involvement of women in the process of investigating her allegations of abuse.

F8 The elders did not explain to BCB the purpose of their investigation and the meetings with her such as to ensure that she had an understanding of that purpose, which left her confused and disempowered.

F9 The application of the two-witness rule meant that there was insufficient evidence for the elders to act against BCB's abuser even though they believed her, which left her feeling disbelieved and unsupported, and it left the abuser in the congregation where he may have been a risk to other children.

F10 Mr Horley telling BCB that she should not discuss her abuse with anyone left her feeling silenced and unsupported.

F11 BCB was not told by the elders that she could, let alone should, report her abuse to the authorities.

F12 In circumstances where both investigating elders agreed that there was substance to BCB's allegations, they should have taken steps against Bill Neill, at least by imposing some restrictions on his activities involving children and thereby addressing the potential risk that he posed to other children.

F13 It was traumatic for BCB and inappropriate of Mr Horley for him to have required BCB to attend Bible study at Bill Neill's home when he knew that BCB accused Bill Neill of abusing her.

F14 The recommendation of the elders to the Branch Office that Bill Neill be reinstated as an elder 'once this has died down' and their expressed concern 'that there may also be worldly people who also know' demonstrates that they were more concerned about the reputation of Bill Neill and the congregation than about the risk that he posed to children.

**Available findings on BCB's second disclosure**

F15 It was wrong of Joe Bello, and contrary to the Jehovah's Witness organisation's own direction in that regard, to discourage BCB from reporting to the Royal Commission by asking whether she 'really wants to drag Jehovah's name through the mud'.

F16 The elders in BCB's present congregation should have supported BCB in her reporting to the Royal Commission if that is what she wanted to do.

**Available findings on the investigation and judicial committee processes following BCG's disclosure**

F17 The elders did not explain to BCG the purpose of their investigation and their meetings with BCG such as to ensure that she had an understanding of that purpose, which left her confused and disempowered.

F18 It was traumatising for BCG to be required by the elders to tell what had happened to her to a group of men, including the man whom she accused of sexually abusing her, and it was not likely to, nor did it, result in BCG disclosing the full extent her abuse.

F19 It would have been supportive of the elders to offer BCG the opportunity of the support and involvement of other women in the process of investigating her allegations of abuse.

F20 During their judicial committee investigation or proceedings the elders received evidence that BCH had abused BCG's elder sister and her two younger sisters, but they took no action in relation to that evidence.

F21 The evidence presented to the judicial committee of BCH having abused his other daughters satisfied the Jehovah's Witness organisation's own rules with regard to sufficiency of evidence to establish that BCH had abused BCG, but the elders wrongly ignored that evidence and accordingly failed to uphold BCG's complaint against BCH.

F22 In the course of the judicial committee process, and before the elders reached a conclusion on BCH's guilt in relation to his extra-marital conduct, BCH confessed to having abused BCG.

F23 The elders inexplicably and wrongly ignored BCH's confession to having abused BCG and thereby, within the precepts of the Jehovah's Witness organisation's own rules and procedures, failed to uphold BCG's complaint against BCH.

F24 BCG was not told by the elders that she could, let alone should, report her abuse to the authorities.

F25 The appeal committee's requirement that BCG give evidence of her sexual abuse by her father to a group of seven men including her named abuser was unjustified and traumatising to BCG and should never have happened.

F26 The failure by the elders to report BCH's sexual abuse of BCG to the police had the result that BCH remained at large in the community and a risk to children, and reflects that the elders were not concerned with child safety but rather with keeping their organisation 'clean'.

F27 The judicial committee's failure to uphold BCG's complaint of abuse by BCH conveyed to BCG that the organisation tolerated child sexual abuse within its ranks.

F28 The advice given by the elders to BCG that she not speak about her abuse to anyone had the effect of silencing her.

F29 The elders' treatment of BCG was unsympathetic and unsupportive and left her feeling worthless and helpless.

#### **Available findings on the reinstatement of BCH**

F30 BCH was reinstated as a Jehovah's Witness little more than three years after he had been disfellowshipped for, amongst other things, five or six counts of sexual abuse of his daughter.

F31 The decision to reinstate BCH took no account of the risk that BCH posed to children, paid little regard to the fact that he had been disfellowshipped because of child sexual abuse, and was focussed principally on his extra-marital relationship.

F32 The decision to reinstate BCH took no account of BCH's failure to apologise to BCG, a factor relevant to consideration of sincere repentance, or of what BCG might have had to say about BCH being reinstated.

F33 The decision to reinstate BCH was disrespectful and unsupportive of BCG.

F34 The Branch Office's response to BCG on 26 February 1996 caused BCG to feel angry, upset and let down, and did not convey support and concern to BCG on the part of the Jehovah's Witness organisation.

#### **Available findings on the impact of the judicial committee process on criminal proceedings against BCH**

F35 The judicial committee and appeal committee processes that preceded BCG reporting her abuse by her father to the police complicated the criminal proceedings because of the numbers of people involved in those processes and the telling and retelling of the experience.

#### **Available findings on the risk management and second disfellowshipping of BCH**

F36 When BCH was reinstated no restrictions were placed on him which were relevant to his risk to children despite his established history of child sexual abuse.

F37 BCH was disfellowshipped a second time for lying in relation to child sexual abuse rather than for child sexual abuse itself.

F38 The reasons canvassed and then given for the second disfellowshipping of BCH show that those from the Jehovah's Witness organisation who were involved were more concerned about a charge of lying than they were about BCH's sexual abuse of his daughters.

#### **Available findings on the authority of the Governing Body**

F39 Mr Spinks' evidence that the Australia Branch has full authority to produce documents, seminars, letters to elders and letters to publishers without the approval or agreement of the Governing Body is rejected.

F40 The Governing Body retains authority in respect of all publications in the name of the Jehovah's Witness organisation and any view or perspective contrary to that of the Governing Body is not tolerated.

### **Available findings on the investigation process**

F41 There are no circumstances in which the survivor of a sexual assault should have to make her allegation in the presence of the person whom she accuses of having assaulted her, and, contrary to the present position, the documents, manuals and instructions produced by the Jehovah's Witness organisation should make this clear.

F42 The requirement that two or more eyewitnesses to the same incident are required in the absence of a confession from the accused, the testimony of two or three witnesses to separate incidents of the same kind of wrongdoing, or strong circumstantial evidence testified to by at least two witnesses (i.e. the two witness rule):

- a) means that in respect of child sexual abuse which almost invariably occurs in private, very often no finding of guilt will be made in respect of a guilty accused
- b) causes victims of child sexual abuse to feel unheard and unsupported when it results in allegations of child sexual abuse not being upheld
- c) is a danger to children in the Jehovah's Witness organisation because its consequence is that very often nothing is done about an abuser in the organisation
- d) does not seem to be applied by the Jehovah's Witness organisation in the case of an accusation of adultery, which suggests that adultery is taken more seriously by the organisation than child sexual abuse, and
- e) needs to be revisited by the Jehovah's Witness organisation with a view to abandoning it or at least reformulating it to ensure that safe decisions as to someone being guilty of child sexual abuse can be made more easily.

F43 The requirement that only elders (i.e. men) can participate in the making of decisions in the investigation process on whether or not someone has committed child sexual abuse:

- a) is a fundamental flaw in that process which weakens the decisions by excluding women, and
- b) needs to be revisited by the Jehovah's Witness organisation to ensure a meaningful role for women.

### **Available findings on the judicial committee process**

F44 Under the current documented judicial committee process, if the evidence of the complainant is to be taken into account then she must give evidence in person unless she lives a great distance away or for some other reason is not able to be physically present.

F45 The stated willingness of the Jehovah's Witness organisation in Australia to have the evidence of a complainant of child sexual abuse give evidence remotely or by way of a written statement should be formalised and documented so that those running judicial committee processes and those affected by them are properly advised of the position.

F46 Under the current documented judicial committee process, a complainant of child sexual abuse is prohibited from having someone present with her in the judicial committee process to offer support.

F47 The stated willingness of the Jehovah's Witness organisation in Australia to allow a complainant of child sexual abuse to be accompanied by a support person of her choosing should be formalised and documented so that those running judicial committee processes and those affected by them are properly advised of the position.

F48 The current documented process for responding to allegations of child sexual abuse within the Jehovah's Witness organisation is focussed largely on the rights and comfort of the accused, with little regard to the requirements of a victim of abuse.

**Available findings on the management of risk**

F49 The failure of the Jehovah's Witness organisation to take into account the risk of re-offending when considering whether an offender is repentant, and consequently in deciding whether to merely reprove rather than to disfellowship, or whether to re-admit someone who has previously been disfellowshipped, does not adequately take account of considerations of child safety and should be revisited.

**Available findings on sanctions – reproof**

F50 Since it is the policy or practice of the Jehovah's Witness organisation not to report allegations of child sexual abuse to the police (other than if required by law to do so), if a known abuser is found to be repentant and for that reason merely reproofed rather than disfellowshipped he remains in the congregation and a risk to children in the congregation.

F51 The system of not announcing the reasons for reproof means that members of the congregation are not warned about the risk that such a wrongdoer poses to children in the congregation.

F52 The sanction of reproof therefore does nothing to protect children in the congregation and in the broader community.

**Available findings on sanctions – disfellowshipping**

F53 Since it is the policy or practice of the Jehovah's Witness organisation not to report allegations of child sexual abuse to the police (other than if required by law to do so), if a known abuser is disfellowshipped he remains in the community and a risk to children in the community.

F54 The sanction of disfellowshipping does nothing to protect children in the community.

**Available findings on reporting**

F55 Prior to this case study, the Jehovah's Witness organisation in Australia did not advise congregational elders of their obligations to report the commission of criminal offences to the police under s 316 of the *Crimes Act 1900* (NSW).

F56 This report is referred to the Law Society of New South Wales in relation to the conduct of Mr Toole in having failed to advise congregational elders of their obligations to report their knowledge of the commission of certain criminal offences to the police.

**Available findings on the Jehovah's Witness organisation's policy on reporting**

F57 It is the policy and practice of the Jehovah's Witness organisation in Australia to not report allegations of child sexual abuse to the police or other authorities unless required by law to do so.

F58 The basis for this policy is said to be respect for the 'right' of the victim to herself decide whether to make a complaint to the authorities.

F59 That basis has no justification where the victim is still a minor at the time that the abuse comes to the attention of the organisation, or where there are others who may still be at risk at the hands of the alleged abuser.

F60 Since the organisation cannot remove an alleged abuser from the family or take other positive steps to safeguard children in the family from continuing risk, the organisation should have a policy to report all allegations of child sexual abuse to the authorities unless an

adult victim specifically requests that a report not be made and there is no appreciable risk of children being abused.

#### **Available findings on the impact of the Jehovah's Witness organisation's processes on criminal processes**

F61 The internal processes of the Jehovah's Witness organisation for handling allegations of child sexual abuse cause significant delay in a complaint coming, if ever, before authorities.

F62 Admissions made by an accused during the investigative and/or judicial committee process administered by the Jehovah's Witness organisation may not be admissible in criminal proceedings because of the circumstances in which they are made, including that incentives such as reduction in penalty are offered if an admission is made.

F63 The number of people to whom a survivor of child sexual abuse is required to divulge the detail of her complaint exacerbates the trauma already suffered by a survivor of such abuse.

F64 There is significant risk of contamination of a survivor's evidence as a result of the number of times and circumstances in which a survivor is required to divulge the detail of her complaint before her abuse is, if ever, reported to the authorities.

#### **Available findings on Mr Jackson's stated empathy for survivors**

F65 Mr Jackson's failure to have read or be familiar with the testimony of the survivor witnesses yet to have read or otherwise familiarised himself with the testimony of Jehovah's Witness witnesses belies his stated empathy for the survivors and his stated recognition of the importance of their perspectives.

#### **Available findings on the system of prevention of child sexual abuse – WWCC**

F66 The documented practice of the Jehovah's Witness organisation of not reporting child sexual abuse to the authorities undermines the efficacy of the working with children check system, a system to which the organisation says it subscribes and with which it says it complies.

#### **Available findings on the system of prevention of child sexual abuse – risk of reoffending**

F67 The practices and procedures of the Jehovah's Witness organisation for the prevention of child sexual abuse, and in particular for the management of the risk of an abuser reoffending, do not take account of the actual risk of an offender reoffending and accordingly place children in the organisation at significant risk of sexual abuse.

#### **Available findings on the accessibility of procedures and policies**

F68 The Jehovah's Witness organisation's documented procedures for reporting on and responding to allegations of child sexual abuse are deficient in that they are not documented in such a way as to be easily accessible in one document and available to all interested or affected parties and some matters that are stated to be the policies or practices of the organisation are not recorded at all.

#### **Available findings on shunning**

F69 Members of the Jehovah's Witness organisation who no longer want to be subject to the organisation's rules and discipline have no alternative than to leave the organisation which requires that they disassociate from it.

F70 The Jehovah's Witness organisation's policy of requiring its adherents to actively shun those who leave the organisation:

- a) makes it extremely difficult for someone to leave the organisation
- b) is cruel on those who leave and on their friends and family who remain behind
- c) is particularly cruel on those who have suffered child sexual abuse in the organisation and who wish to leave because they feel that their complaints about it have not been adequately dealt with
- d) is not apparently justified by the Scriptures which are cited in support of it
- e) is adopted and enforced in order to prevent people from leaving the organisation and thereby to maintain its membership, and
- f) is in conflict with the organisation's professed support for freedom of religious choice and the belief that Jehovah God is a compassionate God who recognises the worth and dignity of all human beings.

#### **Available findings on Dr Applewhite's expert opinions**

F71 The opinions expressed by Dr Applewhite in paragraphs 36, 45 and 46 of her report are rejected because they are not substantiated by identifiable facts and assumptions or by reasons.

F72 Dr Applewhite's report contains a number of factual errors with regard to her documenting of the relevant practices and procedures of the Jehovah's Witnesses.

F73 Dr Applewhite's report is therefore rejected.

#### **Available findings on Dr Applewhite's oral evidence**

F74 Dr Applewhite accepted the following components to current standards of best practice in relation to raising and responding to allegations of child sexual abuse within religious organisations, namely that religious organisations should have:

- a) a process for reporting allegations of child sexual abuse which is survivor focussed and designed to ensure that the child or adult survivor feels able to come forward and be comfortable in reporting the allegation
- b) a process for reporting allegations of child sexual abuse that does not require a survivor to confront the alleged perpetrator of their abuse or be in the same room as the alleged perpetrator without support
- c) a system for preventing perpetrators of child sexual abuse from being put back in a position of trust with children
- d) an ability to take child-safe action in order to remove children from imminent danger, or a relationship with other authorities that have that ability, and
- e) strong and cooperative relationships with child protection authorities and with criminal justice authorities.

F75 The opinion expressed by Dr Applewhite in oral evidence that requiring a survivor of child sexual abuse to present her testimony before elders and her abuser would not meet the relevant standard is accepted.

F76 The opinion expressed by Dr Applewhite that requiring a survivor of child sexual abuse to present her allegation and testimony to three men without the presence of a support person would not meet the relevant standard is accepted.

F77 The Jehovah's Witness organisation's current policies and procedures for raising and responding to complaints or allegations of child sexual abuse do not meet all current standards of best practice.

**Angus Stewart SC**

25 September 2015

What follows is an extrapolation of the numbers of child sex abuse victims and perpetrators for Jehovah's Witnesses in Britain, Canada and the United States based on yearbook figures and the assumption that offense rates in those countries will be similar to Australia. Thanks to the work of the Australian Royal Commission, we know that 1,006 alleged child molesters were recorded by Watchtower in Australia between 1950 and 2014, and these 1,006 alleged perpetrators are said to have abused at least 1,800

- Lloyd Evans

	Australia		Britain		Canada		United States	
	Publishers	Victims	Publishers	Victims	Publishers	Victims	Publishers	Victims
<b>1950</b>	4502	3.38	20842	15.67	16013	12.04	98468	74.02
<b>1951</b>	5098	3.83	23080	17.35	18669	14.03	118462	89.05
<b>1952</b>	5716	4.30	24847	18.68	20338	15.29	126626	95.18
<b>1953</b>	6302	4.74	26104	19.62	22350	16.80	139966	105.21
<b>1954</b>	6874	5.17	27145	20.40	23944	18.00	153969	115.74
<b>1955</b>	7603	5.72	28073	21.10	25306	19.02	163875	123.18
<b>1956</b>	8244	6.20	30342	22.81	25677	19.30	169835	127.66
<b>1957</b>	9359	7.04	34004	25.56	28541	21.45	187762	141.14
<b>1958</b>	10613	7.98	37416	28.13	30933	23.25	202141	151.95
<b>1959</b>	11834	8.90	40884	30.73	32861	24.70	221240	166.31
<b>1960</b>	12746	9.58	43650	32.81	34603	26.01	232632	174.87
<b>1961</b>	13650	10.26	44974	33.81	36459	27.41	248681	186.93
<b>1962</b>	14634	11.00	46842	35.21	37227	27.98	267436	201.03
<b>1963</b>	15045	11.31	47053	35.37	37418	28.13	280052	210.52
<b>1964</b>	15821	11.89	48849	36.72	38790	29.16	292052	219.54
<b>1965</b>	16156	12.14	48982	36.82	39293	29.54	302450	227.35
<b>1966</b>	16588	12.47	49073	36.89	39554	29.73	305481	229.63
<b>1967</b>	17317	13.02	50154	37.70	40237	30.25	311378	234.06
<b>1968</b>	18305	13.76	52805	39.69	41458	31.16	323688	243.32
<b>1969</b>	19838	14.91	55876	42.00	43265	32.52	343673	258.34
<b>1970</b>	21474	16.14	59705	44.88	45734	34.38	371561	279.30
<b>1971</b>	22721	17.08	62813	47.22	48100	36.16	402893	302.85
<b>1972</b>	23309	17.52	64434	48.44	49233	37.01	418239	314.39
<b>1973</b>	23547	17.70	65348	49.12	50650	38.07	439489	330.36
<b>1974</b>	26012	19.55	71944	54.08	56108	42.18	506367	380.64
<b>1975</b>	27610	20.75	75168	56.50	58380	43.88	534765	401.98
<b>1976</b>	27936	21.00	76694	57.65	60573	45.53	544644	409.41
<b>1977</b>	28078	21.11	75136	56.48	60940	45.81	530374	398.68
<b>1978</b>	27864	20.95	73859	55.52	60540	45.51	513673	386.13
<b>1979</b>	28468	21.40	74862	56.27	61281	46.06	521370	391.91
<b>1980</b>	29995	22.55	78346	58.89	62938	47.31	543457	408.52
<b>1981</b>	31086	23.37	80824	60.76	65867	49.51	563452	423.55
<b>1982</b>	33153	24.92	83564	62.82	68410	51.42	581934	437.44
<b>1983</b>	35982	27.05	87732	65.95	73139	54.98	616058	463.09
<b>1984</b>	39052	29.36	92616	69.62	76866	57.78	648704	487.63
<b>1985</b>	41299	31.04	97370	73.19	80614	60.60	678510	510.04
<b>1986</b>	42998	32.32	101863	76.57	84343	63.40	710344	533.97

<b>1987</b>	44649	33.56	105082	78.99	87459	65.74	734378	552.03
<b>1988</b>	46733	35.13	108599	81.63	90846	68.29	762960	573.52
<b>1989</b>	49095	36.90	112742	84.75	94176	70.79	788709	592.87
<b>1990</b>	51541	38.74	115511	86.83	97752	73.48	816417	613.70
<b>1991</b>	53484	40.20	118100	88.78	100991	75.91	846028	635.96
<b>1992</b>	55039	41.37	120648	90.69	103412	77.73	866362	651.24
<b>1993</b>	56345	42.35	122245	91.89	105201	79.08	878841	660.62
<b>1994</b>	57780	43.43	123194	92.60	106664	80.18	889570	668.69
<b>1995</b>	59474	44.71	125138	94.07	109168	82.06	912002	685.55
<b>1996</b>	60216	45.26	124623	93.68	110235	82.86	921123	692.41
<b>1997</b>	59892	45.02	123318	92.70	109880	82.60	929471	698.68
<b>1998</b>	60226	45.27	123191	92.60	109664	82.43	944218	709.77
<b>1999</b>	59768	44.93	121723	91.50	108437	81.51	940650	707.09
<b>2000</b>	59392	44.64	120592	90.65	107742	80.99	945000	710.36
<b>2001</b>	58993	44.35	119655	89.94	107218	80.60	945689	710.87
<b>2002</b>	59934	45.05	120801	90.81	108217	81.35	972754	731.22
<b>2003</b>	60510	45.49	120478	90.56	108409	81.49	988236	742.86
<b>2004</b>	60533	45.50	120514	90.59	108012	81.19	992809	746.29
<b>2005</b>	60399	45.40	121166	91.08	107534	80.83	995071	747.99
<b>2006</b>	60692	45.62	122412	92.02	107618	80.90	1008281	757.92
<b>2007</b>	62022	46.62	125808	94.57	108974	81.92	1042528	783.67
<b>2008</b>	62159	46.72	126580	95.15	109086	82.00	1059253	796.24
<b>2009</b>	63454	47.70	128435	96.54	110467	83.04	1096502	824.24
<b>2010</b>	63951	48.07	129230	97.14	111193	83.58	1115786	838.74
<b>2011</b>	64498	48.48	130808	98.33	111970	84.17	1145723	861.24
<b>2012</b>	64884	48.77	131629	98.95	112710	84.72	1156150	869.08
<b>2013</b>	65596	49.31	132515	99.61	113111	85.03	1167723	877.78
<b>2014</b>	66484	49.98	134308	100.96	113617	85.41	1186598	891.97
	2394572							
<b>Victims</b>		1800.00		4158.64		3515.26		30567.53
<b>Perpetrators</b>		1,006		2324.22		1964.64		17083.85
<b>Victims/Perp</b>	1.789264414							
<b>Ratio (# annual reported publishers per new victim)</b>	1330.317778							
<b>Total Victims</b>	40,041.44							
<b>Total Perps</b>	22,378.72							

**CASE STUDY 29 - Statement of Geoffrey William Jackson**

**Name** GEOFFREY WILLIAM JACKSON

**Address** 124 Columbia Heights  
Brooklyn, New York  
United States of America

**Occupation** Minister

**INTRODUCTION**

1. This statement is to supplement my testimony given to the Royal Commission on 14 August 2015 in respect of the following three Scriptural issues, on which I undertook to Justice Peter McClellan AM to make further inquiries:
  - a. the use of male judges in the Christian congregation;
  - b. a specific reference in material published by Jehovah's Witnesses about the use of secular courts in cases of abuse; and
  - c. whether Deuteronomy 22:25-27 is an exception to the Scriptural requirement of "two witnesses".

## Issue 1: Use of Male Judges

2. At 15954.29 of the transcript, His Honour asked me whether there was "*any biblical impediment to a determination, a judicial determination, being made by a body which includes women... ..?*". I responded in part by noting that although women can be involved in this very sensitive area, the role of judges in the congregation lies with men. I then referred to 1 Timothy 3:1 and following a further request by His Honour, I informed His Honour that I would provide further Scriptural references as to the use of male judges in the Christian congregation (T.159555.35). The following exchange then took place:
 

*Q. We would appreciate it, because one possible modification to meet this issue of the lack of women as judges of allegations brought forward by women against men may be a modification of your process to include women in the judicial determination step. You understand?*

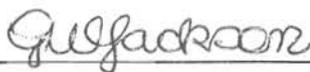
*A. I do understand, your Honour, and we will make sure you get those references.*

3. My response to His Honour's request is as follows.

*Judging in the Old Testament*

4. With the Exodus of the Israelites from Egypt, Moses, as Jehovah God's representative, became a judge. Moses thereafter appointed "capable men" as chiefs of thousands, of hundreds, of fifties, and of tens. (Exodus 18:13-26) The nation was organised with male chiefs authorised to handle

Signature: \_\_\_\_\_



Witness: \_\_\_\_\_



**CASE STUDY 29 - Statement of Geoffrey William Jackson**

smaller cases whenever necessary. But anything unusually complicated or difficult, or a matter of national importance, was to be brought to Moses or to the sanctuary before the priests, all of whom were male. (Numbers 3:1-51; Deuteronomy 17:8-12) The judges were not only to render judicial decisions regarding established wrongs but, if alleged offences were reported to them or they otherwise heard about such, they were to "investigate the matter thoroughly" to confirm if the accusation was true.—Deuteronomy 17:2-7.

5. The men selected as judges were to be capable, trustworthy men, fearing Jehovah God and hating dishonest profit. (Exodus 18:21) They were generally family heads or heads of tribes, older men of the city in which they acted as judges. Male Levites, who were set aside by Jehovah God as special instructors in the Law, also served prominently as judges.—Deuteronomy 1:15; 1 Chronicles 23:3, 4; 2 Chronicles 19:8.

*Judging in the New Testament*

6. On Pentecost 33 C.E., the Mosaic Law ended and spiritual oversight (including judging) of the congregation was entrusted to elders ("overseers"). However, the principles espoused in the Old Testament (Hebrew Scriptures) guided the first-century Christian congregation and served as the context for future practices. Thus, in setting forth the qualifications for elders, the apostle Paul identifies only male members of the congregation as potential elders when he states:

*"This statement is trustworthy: If a man is reaching out to be an overseer, he is desirous of a fine work."  
(1 Timothy 3:1)*

That Paul's use of the terms "man" and "he" were not generalities referring to both men and women is confirmed in verse 2, where he lists being "a husband of one wife" as one of the requirements. And in verse 11 of the same chapter, Paul specifically offers counsel to women.

7. In Paul's letter to Titus, he restates the Scriptural qualification that men serve as elders, notice Titus chapter 1, verses 5 and 6:

*"I left you in Crete so that you would correct the things that were defective and make appointments of elders in city after city, as I instructed you: if there is any man free from accusation, a husband of one wife, having believing children who are not accused of debauchery or rebelliousness."*

8. In addition, James chapter 5, verses 14 to 16, says:

*"Is there anyone sick among you? Let him call the elders of the congregation to him, and let them pray over him, applying oil to him in the name of Jehovah.<sup>15</sup> And the prayer of faith will make the sick one well, and Jehovah will raise him up. Also, if he has committed sins, he will be forgiven.<sup>16</sup> Therefore, openly confess your sins to one another and pray for one another, so that you may be healed. A righteous man's supplication has a powerful effect."*

Signature: \_\_\_\_\_

*Geoff Jackson*

Witness: \_\_\_\_\_

*[Handwritten Signature]*

**CASE STUDY 29 - Statement of Geoffrey William Jackson**

9. The sickness referred to in James chapter 5, verse 14 is spiritual, not physical, as can be discerned from the fact that verses 15 and 16 identify prayer and confession as aids in recovery. As indicated in verse 15, this admonition to "*call the elders*" (male overseers) is not limited to only those who need to confess wrongdoing, since the verse says "*if he [the one calling the elders] has committed sins, he will be forgiven.*" The context indicates that "*anyone suffering hardship*" who needed assistance beyond what might be obtained through personal effort and prayer is directed by the Scriptures to "*call the elders*" for help. (James 5:13)
10. Such ones "*suffering hardship*" would include an alleged victim of child abuse who would stand to gain a measure of spiritual and emotional recovery in knowing that the alleged actions of an abuser would appropriately be looked into by the Christian congregation in accord with Scriptural guidelines.
11. These Scriptural passages and my comments regarding judging matters in the Christian congregation (including allegations of child sexual abuse or any other serious sin), are, of course, looking at things from a spiritual, not a secular, perspective.
12. As I have previously testified, Jehovah's Witnesses do not view this ecclesiastical process as a replacement for any criminal and/or civil inquiry into such conduct.

**Issue 2: Use of Secular Courts in Cases of Abuse**

13. At T.15986.33-T15990.10 the Commissioner explored with me the position of an elder who "absolutely believed" a victim of abuse, but in a situation where there was insufficient Scriptural evidence for a Judicial Committee to act against the perpetrator due to the lack of corroborating evidence. At T15988.23 the following exchange occurred:

*Q. Yes, but I'm putting to you the proposition that you have one witness who you absolutely believe.*

*A. Yes.*

*Q. What do you do?*

*A. Well, for the ultimate protection of that child, I could  if they feel that child, and other children, are in danger, I can  well, I would hope that the conscience of the elders would notify the police if the parent is not willing to do that.*

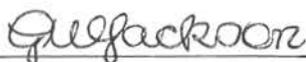
*Q. So you would hope that the elders would act in that way. Is there any*

*A. Yes.*

*Q.  instruction that they are to act in that way?*

*A. You know, your Honour, this is not my field. I can't tell you all the sections where we've said that, but that is my understanding, but if that instruction isn't given, that's perhaps something that we need to look at.*

Signature: \_\_\_\_\_



Witness: \_\_\_\_\_



**CASE STUDY 29 - Statement of Geoffrey William Jackson**

14. The book *"Keep Yourselves in God's Love,"* published by Jehovah's Witnesses, has been the basis for study at our congregation meetings worldwide and has been reviewed on a one-on-one basis with all newly baptized Jehovah's Witnesses since 2009. (An extract is found at Tender Bundle 127: WEB.0053.001.0001). The publication has the following comment on page 223:

"In rare instances, one Christian might commit a serious crime against another—such as rape, assault, murder, or major theft. In such cases, it would not be unchristian to report the matter to the authorities, even though doing so might result in a court case or a criminal trial."

## Issue 3: Explanation of Deuteronomy 22:25-27

15. At T15970-15974, Counsel Assisting suggested that the requirement of at least two witnesses in relation to cases of sexual abuse had no proper Scriptural foundation, relying upon references to Deuteronomy 22:25-27 to support this proposition.
16. While these verses might appear to be an exception to the Scriptural requirement that there be at least two witnesses to establish a matter, that is not a correct reading of the passages.
17. Five chapters earlier, at Deuteronomy 17:6, the Mosaic Law clearly states without exception:

*"On the testimony of two witnesses or of three witnesses the one who is to die should be put to death. He must not be put to death on the testimony of one witness."*

And in Deuteronomy chapter 19, verse 15, it says:

*"No single witness may convict another for any error or any sin that he may commit. On the testimony of two witnesses or on the testimony of three witnesses the matter should be established."*

18. It is important to note that the two contrasting situations in verses 23 to 27 of Deuteronomy chapter 22 do not deal with proving whether the man is guilty in either situation. His guilt is assumed in both instances. In saying that he:

*"happened to meet her in the city and lay down with her"*

or he:

*"happened to meet the engaged girl in the field and the man overpowered her and lay down with her".*

in both instances, the man had already been proved guilty and worthy of death, this being determined by proper procedure earlier in the judges' inquiry. But the question at this point before the judges (having established that improper sexual relations had occurred between the man and the woman) was whether the engaged woman had been guilty of immorality or was a victim of rape. This is a different issue, although related, to establishing the man's guilt.

Signature: \_\_\_\_\_

*Geoff Jackson*

Witness: \_\_\_\_\_

*J. H. H.*

**CASE STUDY 29 - Statement of Geoffrey William Jackson**

19. The elders had guidance in determining if any guilt should be charged to her. In the second instance (verse 27), the woman would not die,

*"for he happened to meet her in the field, and the engaged girl screamed, but there was no one to rescue her".*

Such a cry for help might be admitted by her assailant, which would confirm her claimed innocence. On the other hand, if the assailant denied that the woman had screamed for help, the judges would not have a basis for refusing her claim, since, in effect, it would be her word against his and there was no one nearby either to rescue her or to serve as a witness one way or the other as to her scream for help. Thus, the judges would not have a basis for taking any action against her because any claim contrary to her professed innocence could not be established by two or more witnesses. The woman, as claimed, would be judged innocent. In that case (verses 25 and 26),

*"the man who lay down with her is to die by himself, and you must do nothing to the girl."*

This is because (verses 26 and 27):

*"[t]he girl has not committed a sin deserving of death. This case is the same as when a man attacks his fellow man and murders him. For he happened to meet her in the field, and the engaged girl screamed, but there was no one to rescue her."*

20. So it is not as though the woman at this point in the inquiry is seeking to prove the man's guilt and finds herself as the only witness against him. However, it is of interest that the raping of a woman is said to be "the same as when a man attacks his fellow man and murders him." (Deuteronomy 22:26) Thus, the crime of rape is made parallel to murder, equated not only as to reprehensibility but also evidently as to being established by the same Scriptural rules of evidence, which included having the testimony of two witnesses (Numbers 35:30).
21. Understandably, there is concern in child abuse situations because there is seldom an additional eyewitness to such a crime. Even in those circumstances, the Christian congregation does not ignore the accusation. I refer the Royal Commission to the testimony of Mr Rodney Spinks of the Service Department in which he set out the further protective steps which are taken following an allegation. In addition, in those jurisdictions with mandatory reporting, elders would be required to report accusations regardless of the number of eyewitnesses.

Signed: Geoff Jackson  
 Date: September 2, 2015  
 Witness: J. Spinks  
 Date: Sept 2, 2015

Signature: Geoff Jackson

Witness: J. Spinks