

ROYAL COMMISSION INTO INSTITUTIONAL
RESPONSES TO CHILD SEXUAL ABUSE

Public Hearing - Case Study 40
(Day 194)

Hearing Room 1, Level 17,
Governor Macquarie Tower
Farrer Place, Sydney Court

On Monday, 27 June 2016 at 10am

Before:

The Chair: Justice Peter McClellan AM
Commissioners: Mr Robert Fitzgerald AM
Professor Helen Milroy

Counsel Assisting: Mr Angus Stewart SC

1 THE CHAIR: Yes, Mr Stewart?
2
3 MR STEWART: Your Honour, prior to calling and dealing
4 with the last witness in the Leeuwin and Balcombe section
5 of this case study, there is an application in relation to
6 the second part of the case study, to do with the cadets -
7 an application for a suppression order. In relation to
8 that and, I understand, in any event, there are some
9 applications for leave to appear, or at least for some of
10 my colleagues to place themselves on record. I give them
11 that opportunity.
12
13 THE CHAIR: Who is first to do what?
14
15 MS C GLEESON: Your Honour, I appear for an applicant for
16 a non-publication direction. He's a person who is to be
17 named and subject to an adverse allegation in evidence that
18 will be lead this afternoon.
19
20 THE CHAIR: So he's not proposing, at the moment, to give
21 evidence, or is he?
22
23 MS GLEESON: That's on my understanding, your Honour.
24
25 MR STEWART: It is not proposed to call him to give
26 evidence, no, your Honour. Also appearing this morning for
27 the first time is counsel for the survivor who names
28 Ms Gleeson's client.
29
30 THE CHAIR: Who is that?
31
32 MR J P BENJAMIN: Your Honour and Commissioners, I am
33 instructed by Howden Sagggers Lawyers. I appear for
34 Aaron Symonds.
35
36 THE CHAIR: What is the nature of the allegation?
37
38 MR STEWART: The nature of the allegation is that when
39 Mr Symonds was about 16 years of age and in the cadets,
40 Ms Gleeson's client, who was involved in the cadets as an
41 instructor or officer, and obviously then an adult, I think
42 in his 20s, engaged in or enticed or got involved with
43 Mr Symonds in sexual conduct and activity with him in
44 circumstances where, on Mr Symonds's version, certainly
45 consent ended, and yet, Ms Gleeson's client continued and
46 Mr Symonds is prepared to give evidence and have his name
47 not suppressed and explain what happened. The particularly

1 important part for our investigation or inquiry is what did
2 the cadets do about that when it was later reported to the
3 cadets some years later.

4
5 THE CHAIR: Which cadets are we talking about?

6
7 MR STEWART: Air Force Cadets.

8
9 THE CHAIR: In Queensland?

10
11 MR STEWART: In Queensland.

12
13 THE CHAIR: Ms Gleeson, what do you want to say?

14
15 MS GLEESON: Your Honour, I have some written submissions
16 that I have provided to your solicitor last night.

17
18 THE CHAIR: I've read those.

19
20 MS GLEESON: I don't wish to say terribly much other than
21 what is contained in those submission, save to stress that,
22 firstly, it is not the intention of this application to cut
23 across anything that Mr Symonds may wish to say; and,
24 secondly, that it is not necessary, in my respectful
25 submission, for my client's name to be revealed in order to
26 investigate what it is that the ADF Cadets did in respect
27 of this complaint and what they may have done to protect
28 the complainant at the time at which the alleged acts
29 occurred.

30
31 The only other thing I need to say is obviously these
32 are allegations which are made, which have been
33 investigated by the Queensland Police, and that is in
34 Mr Symonds' own evidence. No charges have been proffered
35 and my client is entitled to a presumption of innocence and
36 to some protection of his reputation in circumstances in
37 which these allegations are very serious and are likely to
38 be harmful to his reputation.

39
40 THE CHAIR: I take it that your client was one of a number
41 of leaders of a cadet establishment; is that right?

42
43 MS GLEESON: I don't have instructions on precisely how
44 many. I assume he wasn't the only one. On the evidence
45 I have been given, he is the only person who is named.

46
47 THE CHAIR: So if he's not named, then the public with an

1 interest in that establishment would be left to guess who
2 it was, I assume.

3
4 MS GLEESON: That is so and that is a risk --

5
6 THE CHAIR: So the risk is then to everyone's reputation,
7 isn't it?

8
9 MS GLEESON: That may be so, but I wouldn't put that as
10 sum countervailing consideration that suggests that my
11 client should be singled out in the circumstances I have
12 identified.

13
14 THE CHAIR: The second thing is that Mr Symonds' story
15 does relate to your client, and your client, if he wishes,
16 of course, would have the opportunity to respond to it. Do
17 you understand that?

18
19 MS GLEESON: Yes, I do understand that. That's obviously
20 something that will need to occur if my application is
21 unsuccessful. But, in my respectful submission, it would
22 be only to protect his reputation, his interests and the
23 risk of any further criminal prosecution, which is not the
24 object to which this Commission is directed.

25
26 THE CHAIR: Our purpose, in accordance with our
27 instructions, is to reveal what has happened within
28 institutions and, as you know, Royal Commissions operate in
29 public. The consequence of that is that institutions and
30 individuals are named, and that has happened on many
31 occasions so far in the course of this Commission. Do you
32 understand that?

33
34 MS GLEESON: Yes, I understand all of those things. I am
35 merely saying --

36
37 THE CHAIR: Your client is not in a unique position; you
38 understand that?

39
40 MS GLEESON: My client, in my respectful submission,
41 considers that he is in a unique position because he is
42 determined, having had these allegations already
43 investigated by the Queensland Police, to protect his
44 reputation against allegations that he says are unfounded.

45
46 In my respectful submission, the fact that he has made
47 that concern known places him into a special position in

1 which his interests should be protected, particularly where
2 the work of this Commission can be done properly without
3 naming my client.
4
5 THE CHAIR: Multiple people have been in the position of
6 your client in the course of the Commission's work. You
7 understand that?
8
9 MS GLEESON: Yes, I do understand that.
10
11 THE CHAIR: So why is your client unique?
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13 MS GLEESON: Because of my concern's real concern for his
14 reputation in circumstances in which he feels that he does
15 not have any further case to answer. I say that saying
16 plainly that my client doesn't wish to interfere with
17 Mr Symonds's ability to tell his story today, other than
18 that he does not wish to be named.
19
20 THE CHAIR: Very well. Mr Stewart?
21
22 MR STEWART: Your Honour, the critical impact that a
23 suppression order of the nature that's sought would have
24 would be to silence Mr Symonds in that one aspect, but it's
25 an absolutely central aspect to what he wants to say, and
26 that's to identify the person whom he says abused him.
27 That's a drastic consequence, to silence a survivor of
28 child sexual abuse from being able to name the person whom
29 he says abused him. That's a critical consideration.
30
31 Of course, this is a public inquiry, it must, as far
32 as possible, have its proceedings conducted in public,
33 including each aspect of it, so that the public can
34 understand what it is that we're doing here and
35 investigating. Ms Gleeson's client can otherwise question
36 Mr Symonds as to what he says through the legal
37 representation in this Commission.
38
39 THE CHAIR: Is there anything you want to say in reply?
40
41 MS GLEESON: I thought perhaps my friend --
42
43 THE CHAIR: Mr Benjamin, do you want to say something.
44
45 MR BENJAMIN: Only that Mr Symonds' point of view is that
46 he has been open about his identity in this process also.
47 He has expressed a desire to see that the applicant be

1 named in the records of the Commission also.

2
3 I note, from the point that your Honour raised earlier
4 about the number of leaders and singling out, whilst in his
5 evidence Mr Symonds will single out which particular small
6 group of cadets he was a member of, he will also give
7 evidence that Mr Oakley was the leader of another cadet
8 group and so it again opens that field right back up to it
9 being a potentially large number of people if people tried
10 to speculate as to the identity of the person. I have no
11 other submissions.

12
13 THE CHAIR: Yes.

14
15 MS GLEESON: I want to address one point arising from
16 that. I would have thought that the principle
17 consideration of leading any evidence that might cause
18 other people to speculate or otherwise as to what has
19 occurred is to invite people to come forward with things
20 that they know. If any person who is interested in this
21 part of the proceedings is considering the evidence and
22 knows anything, then they will either know or not know
23 whether or not my client is involved or they will know or
24 not know whether any other cadet officer is involved. It
25 should not matter whether or not people are invited to
26 speculate because all that is doing is increasing the
27 danger to my client.

28
29 THE CHAIR: I don't understand that. The problem will be
30 that any leader, either at the same time or relevant time,
31 in this part of the cadet operation - their reputations all
32 could be placed in detriment.

33
34 MS GLEESON: I don't consider that that would be any
35 greater risk than would be the risk of this entire
36 proceeding taking place.

37
38 THE CHAIR: That's your submission, is it?

39
40 MS GLEESON: Yes, that's correct. But I don't think it
41 creates any more appreciable risk of there being damage to
42 the reputation of cadet officers when allegations are being
43 made against them in any event.

44
45 THE CHAIR: Ms Gleeson, all I'm pointing out is it is not
46 your view that matters, it is your submissions that I want.
47 Do you understand?

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MS GLEESON: Then to the extent that I just said "I think", I submit.

THE CHAIR: Very well. Is there anything more you want to say?

MS GLEESON: There's nothing more I want to say, thank you, Commissioner.

THE CHAIR: The public hearing will soon move to look at the situation in cadets in part of Queensland some years ago. In the course of that inquiry, Mr Aaron Symonds will give evidence in which he will allege that he was sexually abused by a leader within that organisation. Application is made on behalf of that leader to have his name suppressed.

It is an unusual application in this Commission. As occurs in any Royal Commission which will operate primarily in public, individuals will be named and evidence which is potentially adverse to their reputations will be received. It is an inevitable consequence of a public hearing. In the present case, it is put that the leader fears that his reputation may be damaged in circumstances where the police have apparently carried out an investigation of the issue but have not, so far, determined that there should be a prosecution. What the position in the future might be I do not know and it is not relevant to speculate.

However, the allegation which will come forward, presumably, will be serious, and if it is aired without the name of the alleged abuser, the consequence will be that the reputation of anyone who was a leader in this organisation at the relevant time would be thrown into doubt. That would, of course, be grossly unfair to all of those people when the allegation relates to a particular individual.

Although it may be that the individual believes his reputation will be damaged, both his counsel will have an opportunity to cross-examine Mr Symonds, if that is the wish of the leader, and also that person will be provided with an opportunity to give evidence if he so wishes.

In the circumstances, appreciating that there may be some damage to the leader's reputation, following the

1 course which the Commission has followed in many cases and
2 having regard to the other matters to which I have
3 referred, the application is refused.
4
5 MS GLEESON: It is probably not necessarily for me to do
6 anything further, other than to seek leave to appear during
7 the evidence of Mr Symonds.
8
9 THE CHAIR: You have that leave. Do you wish to have your
10 client called.
11
12 MS GLEESON: I will have to take instructions.
13 I anticipate no.
14
15 MR STEWART: As your Honour pleases. Returning, then, to
16 Leeuwin and Balcombe, I call as a witness Michael Lysewycz.
17
18 MS GLEESON: Your Honour and Commissioners, may I be
19 excused until further in the proceedings?
20
21 THE CHAIR: Yes, you may.
22
23 <MICHAEL LYSEWYCZ, sworn: [10.20am]
24
25 <EXAMINATION BY MR STEWART:
26
27 MR STEWART: Q. Would you state your full names and
28 occupation?
29 A. My name is Michael Lysewycz. I'm special counsel in
30 the Department of Defence, that is a position within the
31 Australian Public Service.
32
33 Q. Mr Lysewycz, do you have before you a copy of your
34 statement for the Royal Commission dated 23 June 2016?
35 A. I do.
36
37 Q. Do you confirm the statement as being true and
38 correct?
39 A. I do.
40
41 MR STEWART: I tender the statement.
42
43 THE CHAIR: That will be exhibit 40-023 exhibit.
44
45 EXHIBIT #40-023 STATEMENT OF MICHAEL LYSEWYCZ, DATED
46 23/06/2016
47

1 MR STEWART: Q. Mr Lysewycz, as you've said, you're
2 Defence Special Counsel at the Defence legal division,
3 Department of Defence; is that right?

4 A. Yes.

5

6 Q. You've held that position since 1 December 2014?

7 A. Yes.

8

9 Q. Prior to that, from 2009 you held the position of
10 assistant secretary, legal services in the Defence legal
11 division of the department; is that right?

12 A. Yes.

13

14 Q. From all of that, can I take it you're a qualified
15 lawyer?

16 A. Yes, I am.

17

18 Q. On 1 December 2014, as I understand it, you commenced
19 duties as Defence Special Counsel in the newly created
20 Office of Defence Special Counsel; is that right?

21 A. Yes.

22

23 Q. Referred to ODSC?

24 A. Yes.

25

26 Q. That office was established to focus exclusively on a
27 limited number of issues identified by the Defence legal
28 executive as being of particular significance and having
29 strategic importance to Defence; is that right?

30 A. Correct.

31

32 Q. The management and resolution of civil claims related
33 to abuse is one of the matters with which the ODSC has been
34 tasked?

35 A. That's correct.

36

37 Q. I understand also that you are one of Defence's
38 representatives to a Commonwealth taskforce that is
39 examining policy options for the implementation of this
40 Royal Commission's recommendations contained in its report
41 entitled "Redress and Civil Litigation"; is that correct?

42 A. Yes.

43

44 Q. Thank you. You say in paragraph 9 of your statement
45 that there is less scope for adaptation when claims are
46 litigated against Defence - we'll confine ourselves here to
47 sexual abuse claims - as compared to when they are taken

1 forward in an unlitigated context of alternative dispute
2 resolution; is that right?

3 A. That's correct.

4

5 Q. Can you explain that? In what way is there less scope
6 for adaptation when claims are litigated?

7 A. There are two elements. One is that the act of
8 commencing proceedings immediately brings a matter within
9 the supervisory role of a court. We become subject to
10 court orders and directions on how the matter is to
11 proceed.

12

13 Second, and allied to that, is the willingness of
14 those representing the survivor in the court proceedings to
15 actually engage in the alternate dispute resolution.
16 That's not a uniform aspiration on the part of those who
17 are representing clients against us. So our ability to
18 actually design and modify a process to suit the survivor
19 is limited to that degree - that is, the outside influence
20 of where we're at.

21

22 Q. So am I to understand that you're not suggesting that
23 Defence's attitude towards a survivor who alleges a claim
24 is different depending on whether they litigate or not?

25 A. No, I'm not suggesting that at all.

26

27 Q. So there's no, as it were, punitive approach from
28 Defence's side as to whether someone litigates or doesn't
29 litigate?

30 A. No. The overarching aspiration is to do no further
31 harm. That's a fairly broad concept and that applies
32 irrespective of whether it is a self-represented survivor,
33 a survivor represented by lawyers, a litigated claim or an
34 unlitigated claim.

35

36 Q. Perhaps we can take a look at paragraph 14 of your
37 statement. You refer in particular to the case of [CJI].
38 At the time that your statement was prepared, [CJI]'s name
39 was subject to a pseudonym. That position has changed.
40 That person in fact is Mr Glen Greaves. So where you've
41 addressed it in relation to [CJI], I take it that's in
42 relation to Mr Greaves' claim; is that correct?

43 A. That's correct.

44

45 Q. In the second half of that paragraph you say that any
46 compensation offered by the Commonwealth for PTSD as a
47 result of abuse at Leeuwin would inevitably affect the

1 claimant's statutory compensation by DVA for the same
2 condition. Can you explain why there is an inevitability
3 about that?
4 A. I thought that in part became apparent in the course
5 of evidence given to the Commission on Friday when DVA was
6 here. They had compensated Mr Greaves on a total
7 incapacity basis for PTSD. In that particular claim it was
8 referable to an injury they say was sustained in Vietnam.
9

10 After that decision had been made and before our claim
11 had arrived, medical evidence indicated that there was
12 another potential cause for the PTSD. Mr Greaves is
13 totally incapacitated, either because of a contributing
14 event or it might have been Leeuwin or it might have been
15 Vietnam. The claim as presented to us had already been
16 fully compensated under an existing statutory compensation
17 scheme. The risk we ran in seeking to compensate him
18 further is that that compensation would unravel.
19

20 Q. I understand that the position taken in relation to
21 any reparation payments that were made by DART is that
22 those would not be regarded as having to be offset against
23 benefits that were received from DVA, benefits or
24 entitlement; is that right?
25

26 THE CHAIR: Q. Well, I assume there's a statutory basis
27 for that, is there?

28 A. Your Honour, that was an executive undertaking by a
29 former Minister for Defence, Mr Stephen Smith.
30

31 Q. To relieve the statutory obligation?

32 A. Basically, he said it is in the basis of a ex gratia
33 payment and he gave an undertaking that it would not
34 inhibit an individual's opportunity to take further action
35 that's available to them and that the reparation payment
36 would not be taken into account, and we're giving effect to
37 that.
38

39 Q. Does the statute allow that?

40 A. Sometimes it's good not to ask.
41

42 THE CHAIR: All right.
43

44 THE WITNESS: It is for the benefit of the claimant.
45

46 THE CHAIR: I fully understand what's happening, but -
47 yes.

1
2 MR STEWART: Q. Assuming the efficacy of that, then -
3 and perhaps that's a questionable assumption, but for the
4 purposes of my next question, and then we'll move on - was
5 there any reason why, subsequent to DART, for those who had
6 for some reason missed the DART deadline and not made any
7 claims to DART, an ex gratia/reparation payment could not
8 be made for them and not be caught up in the set-off
9 provisions?

10 A. Again, that would be a matter for the executive of
11 government. That's not a power that I have or that Defence
12 currently has. The DART scheme, if I were to call it that,
13 had a finite life that's about to be reached, and it really
14 is for the incoming government to decide what to do next.
15 A reparation payment of some kind may be considered,
16 I don't know.

17
18 Q. The DART schemes ends on 30 June, in three days' time;
19 is that right?

20 A. No, it has been extended to September, I understand,
21 at least to cover the period of the election and the new
22 government coming into play.

23
24 Q. And finally on this aspect, leaving aside the
25 Veterans' Entitlements Act, the VEA, and just dealing with
26 the SRCA, you would have heard last week that I asked
27 Mr Bayles about whether - well, I pointed out that under
28 section 48(4A) of that Act, non-economic loss payments were
29 not subject to the set-off or claw-back. Did you hear that
30 evidence?

31 A. I'll take what you say. I don't immediately recall
32 that.

33
34 Q. I was just going to ask, and perhaps you have already
35 hinted at what the answer is, and that's whether,
36 subsequent to Friday, you've given any thought to whether,
37 in fact, it is possible, where the entitlements are under
38 SRCA and not under the VEA, whether it is possible to avoid
39 the set-off provisions by making a compensation payment for
40 non-economic loss.

41 A. Not to that specifically. I have given a lot of
42 thought to Mr Greaves' position over the weekend but
43 I haven't formed a view at this stage. It is something
44 that I'll have to address after this hearing is finished.

45
46 Q. Then dealing specifically with Mr Greaves' mediation,
47 Defence instructed solicitors Henry Davis York in relation

1 to Mr Greaves's claim; is that right?

2 A. That's correct.

3

4 Q. And they, in turn, briefed Mr Michael Fordham SC to
5 give an opinion or, as it turned out, a couple of opinions
6 on the claim; is that right?

7 A. That's correct.

8

9 Q. Could I refer you to tab 33 in exhibit 40-006. That,
10 I take it, is the opinion received from senior counsel in
11 relation to this claim?

12 A. Yes. That was the first opinion, and I think he
13 subsequently issued an addendum to it.

14

15 Q. Yes, that's right. We'll come to that in a moment.
16 It is at tab 34. No need to go to it just yet. In
17 paragraph 38 - that's at Ringtail page 214 - Mr Fordham
18 says in those circumstances, being the circumstances he has
19 identified above, which is that Defence would not be in a
20 position to challenge the fact of the assaults that
21 Mr Greaves alleged, he goes on to say:

22

23

24

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28

29

30 Now, of course, the matter wasn't litigated, but for the
31 purposes of dealing with Mr Greaves' claim in the alternate
32 dispute resolution process, was that advice accepted? In
33 other words, was it accepted that there was a breach of
34 duty in relation to Mr Greaves because of inadequate
35 supervision?

36 A. Yes, it was.

37

38 Q. In paragraph 74 --

39

40 MS McLEOD: I hesitate to interrupt my learned friend, but
41 understood that this document was subject to a
42 non-publication order and I understand we're currently
43 live-streaming. There may be a way around it, but --

44

45 THE CHAIR: What's the document?

46

47 MR STEWART: It is an opinion by a senior counsel in

1 preparation for the mediation in this case. The document,
2 it's true, is subject to a non-publication order. It is
3 not the case that discussion of the document or evidence in
4 relation to issues that arise out of it is subject to a
5 non-publication order.

6
7 THE CHAIR: You just quoted from the content of it. You
8 were seeking to use the content, aren't you?

9
10 MR STEWART: In limited respect.

11
12 THE CHAIR: Nevertheless, I think that's covered by the
13 order, it has to be.

14
15 MR STEWART: I can put that to one side and deal with the
16 issues separately. I can put the document to one side.

17
18 THE CHAIR: Unless Ms McLeod has any other position.

19
20 MS McLEOD: I don't seek to restrict Counsel Assisting's
21 discussion of these issues, but it might be better not to
22 quote from it. If Mr Lysewycz could have the document in
23 front of him and he could be directed to things, there
24 might be broad questions directed to those topics, I don't
25 have an issue with that. That might be one approach.

26
27 THE CHAIR: A second would be that you just waive the
28 privilege.

29
30 MS McLEOD: I don't have those instruction, your Honour.

31
32 THE CHAIR: Very well. That's a pity, because obviously
33 this is an important part of the Commonwealth's
34 relationship to these people. If that's where the
35 Commonwealth wishes to sit, I can't do anything about it.

36
37 MS McLEOD: I do understand that your Honour. Perhaps if
38 Counsel Assisting could let me know which paragraphs he
39 wishes to read and I could seek specific instructions.

40
41 THE CHAIR: I think that would be useful.

42
43 MR STEWART: Your Honour, that may take longer than the
44 benefit that will be gained. I can deal with the issue
45 without referring to the document.

46
47 THE CHAIR: It is a matter for you.

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MR STEWART: As your Honour pleases.

Q. Mr Lysewycz, one of the issues that arose in the preparation for the mediation in Mr Greaves' case was the question of time limitation; is that right?

A. That's correct.

Q. What approach did the Commonwealth or Defence take on the question of time limitation in approaching the mediation?

A. You mean in Mr Greaves' specific case or more generally.

Q. No, Mr Greaves' case specifically?

A. The first thing we do is ascertain the facts, where the assault occurred, and how the claim is being framed in relation to the event and subsequent injury. I think in Mr Greaves' case it was confined to HMAS Leeuwin, the actual event and the consequence. To the extent that a lack of supervision claim was made, that complicates matters to a degree. If, for example - and this does occur with some of the litigated claims - it is alleged that there was a systems failure, that works up the chain inevitably either back to Sydney or back to Canberra, because HMAS Leeuwin as a training institution wasn't operating in isolation; the people responsible for that institution were based elsewhere.

Now, my recollection is that HMAS Leeuwin came under the purview of the director of personnel and training in Canberra, Navy, and he was in turn, through the chain, responsible to the Australian Naval Board, which is based in Canberra. So there's an immediate tension.

If you look at these historic claims, and Mr Greaves, what is the applicable law - is it Western Australia, is it New South Wales, or is it the ACT? The problem then is that in the ACT, for example, the court has a discretion to extend time in certain circumstances. In Western Australia the circumstances are different, and in New South Wales now, of course, the circumstances are totally different because the limitation is not available. That just adds complexity to the way in which any one of these claims is presented.

Part of what I do with my team is to assess the facts

1 as best we can and work out what the applicable law is and
2 then bring that to the table and then, in a collaborative
3 way, explore options with the other side. That's what we
4 did here.

5
6 Q. I understand there are a lot of different
7 considerations and you seek to take account of them, but in
8 conclusion, then, what role did the fact or the possibility
9 of a statutory time bar play in the approach that was taken
10 by Defence to the mediation of Mr Greaves' claim?

11 A. Two elements: one, took the view that it did not
12 defeat the claim totally; and, second, that it would be
13 placed in amongst all of the factors that we would take
14 into account as litigation risk factors when we sought to
15 negotiate a discount.

16
17 Q. Once you got to the mediation itself, did Defence ever
18 make an offer in a monetary sum?

19 A. In this particular mediation we did not. We conferred
20 with counsel after the opening session, which was a general
21 session in which Mr Greaves participated, and we took the
22 view that even to make an offer was risky, so we decided,
23 on that particular day, to use the intellectual grunt that
24 was available through various counsel and lawyers to see if
25 there was a way of approaching this matter without
26 compromising his statutory entitlements, and the bulk of
27 the day was taken up with that endeavour.

28
29 Q. What did you perceive the risk to be in making an
30 offer?

31 A. Things can be interpreted disadvantageously by others
32 who are not privy to the discussions after the event. We
33 were worried that even discussing seriously figures could
34 be misinterpreted by those who subsequently seek to get a
35 claw-back.

36
37 Q. The upshot of it was that you were not able to find a
38 way around the claw-back provisions; is that right?

39 A. That's right. We looked in the course of the day at
40 discretionary remedies - that includes ex gratia payments,
41 act of grace and compensation for defective administration.
42 For various reasons, each one of those alternatives fell
43 and was not available.

44
45 Q. One of them being an ex gratia payment, you mentioned
46 earlier, was not something that was within the authority of
47 Defence to give with a promise that it won't be clawed

1 back. Of course, such a promise had been given, as you
2 said, by the minister in respect to the DART payments. Did
3 Defence seek from the relevant minister the possibility
4 that this could be done again?

5 A. No. Decisions on ex gratia are made by the executive
6 of government - that would usually be a sponsoring minister
7 and others, including the Prime Minister. There are
8 guidelines and understandings as to how ex gratias work -
9 ex gratia payments work, the policy. That's driven by or
10 oversights by Prime Minister and Cabinet, I had some
11 experience with that. This particular claim would not get
12 off the ground.

13

14 Q. I refer you to tab 43. In respect of which there
15 isn't a non-publication order. Are you familiar with this
16 email, Mr Lysewycz?

17 A. Yes, I am.

18

19 Q. So this is a report back, as I understand it, from the
20 Defence's solicitor by email the day after the mediation,
21 to various people and copied to yourself, as to what
22 happened in the mediation; is that right?

23 A. That's correct.

24

25 Q. Included in it, if we can just scroll down a little
26 bit, or up, rather, so I can see the main paragraph, the
27 paragraph which begins "We confirm", you will see towards
28 the end of the paragraph it says:

29

30 An agreement was reached in accordance with
31 the attached deed.

32

33 Then it says:

34

35 It was also agreed that the Commonwealth
36 would pay \$70,000 towards the plaintiff's
37 costs and disbursements within 28 days.

38

39 And the attached letter was provided to Shine in this
40 regard, Shine being the solicitors acting for Mr Grieves;
41 is that right?

42 A. That's correct, yes.

43

44 Q. Can you explain, from the Commonwealth's side, how it
45 came about that an agreement to pay costs or a contribution
46 to costs was concluded?

47 A. Sure. We had engaged with Shine Lawyers for a

1 considerable period of time, not only on the Greaves
2 application but its portfolio of claimants. There were
3 quite a number of them. I think that's dealt within part
4 of my statement. That comprised a number of meetings,
5 including a meeting we sponsored here in Sydney with
6 attendance by Veterans Affairs. They spent considerable
7 time getting instructions from client claimants. They
8 identified three test areas, Mr Greaves' circumstances was
9 one.

10
11 At the end of the mediation, or towards the end of the
12 mediation, Shine Lawyers did approach us for a contribution
13 towards their costs, and they named a sum. I had
14 consideration about that and thought in the circumstances
15 we should contribute towards their costs and did so.

16
17 Q. Did you make it a condition of that contribution that
18 Mr Greaves sign a release in respect of any common law
19 damages claim that he may have?

20 A. No.

21
22 Q. Was any condition applied, from the Defence's side, to
23 the agreement to pay costs?

24 A. No. Look, the deed is a documentary record of the
25 outcome of the mediation. It records the fact that nothing
26 was paid, that an apology was made and that I had agreed to
27 pay \$70,000 towards their costs. There are other clauses
28 in there, some of which are, on their own terms, now
29 operative, and there are those which indicate that
30 Mr Greaves would not rely - sorry, not take further action
31 in certain circumstances. That was alluded to last week.
32 There's a question as to whether the deed itself fails by
33 for want of consideration. That's something - that's what
34 it is.

35
36 THE CHAIR: Where is that?

37
38 MR STEWART: It is at tab 42. I ask that it be brought up
39 on the screen.

40
41 Q. In fact, unless I'm mistaken, the question of costs -
42 it is tab 39, apparently. I don't know why mine is
43 different.

44
45 THE CHAIR: 39?

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47 MR STEWART: 39.

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Q. Mr Lysewycz, in fact, the question of costs is dealt with separately from the deed by a side letter agreeing to pay the costs and not incorporated in the deed. Do you recall that?

A. Yes. In fact, since the Greaves mediation and outcome, we, as a matter of practice, moved to that model, rather than insisting on a deed, where the only outcome really is an apology or a discussion.

Q. What drove that change? In other words, why did you change that model and not require a deed of release?

A. My colleagues and I reflected on the need for a deed of release in circumstances where there really wasn't an outcome, a financial outcome. If it was simply recording the fact that an apology was tendered and accepted, we can do that by signed letter or memorandum.

THE CHAIR: Q. I'm not sure I am following. The deed at 39 has a release and provides a bar to further proceedings. Is that the deed we're talking about?

MR STEWART: Yes, your Honour.

THE WITNESS: That's the wrong document on the screen there.

MR STEWART: It is the wrong document on the screen but I've given up with the screen.

THE CHAIR: That's right.

Q. Is it right to think that as a conclusion of the mediation there was a deed which was executed which operates to bar any further proceedings?

A. On its terms, yes, your Honour.

Q. On its terms? What do you mean, that's what it says?

A. There are clauses in there which would operate as a bar to further proceedings.

Q. Yes, that's right.

A. Yes.

Q. I thought you were saying that that wasn't extracted, but you did - that was part of the deal, as it were?

A. That's the deed that they signed up to, yes.

1
2 Q. And that's the deal?
3 A. Yes.
4
5 Q. That he had to forgo any further claims?
6 A. Yes.
7
8 Q. Why did you do that?
9 A. Well, at the time it was pretty well standard
10 operating procedure. We go into a mediation with a deed
11 ready in the event that we have an outcome.
12
13 Q. Maybe, but if the position is that nothing is paid,
14 therefore, nothing is agreed to be paid, why does the
15 Commonwealth insist on a bar?
16 A. That's a good question and that's what caused us, in
17 this particular case --
18
19 Q. That's why I'm asking you.
20 A. Yes. That's why we actually revisited the issue and
21 decided not to do that for future cases.
22
23 THE CHAIR: All right.
24
25 MR STEWART: Q. You signed this deed yourself on behalf
26 of the Commonwealth of Australia; is that right?
27 A. I did, yes.
28
29 Q. Of course, we know that the principal obstacle in this
30 case was the question the compensatory set-off or
31 claw-back; is that not so?
32 A. That's right.
33
34 Q. Putting that to one side, of course, one of the
35 factors, as you've identified, which would have featured in
36 the negotiation was the risk of a statutory time
37 limitation?
38 A. That's right, yes.
39
40 Q. Since then, of course, the assessment of that risk
41 would have changed because of the announcement by the
42 Attorney-General of government policy not to rely on a
43 statutory time bar in cases such as these, at least for a
44 period of time; is that right?
45 A. Yes.
46
47 Q. You understand how Mr Greaves has been prejudiced by

1 being required to sign a deed of release and in a situation
2 that is fluid where, indeed, considerations and the state
3 of the law may change down the track and he might have a
4 claim or a better claim which he has now had to abandon?
5 A. I'm not sure about that. In light of the way in which
6 the questions were posed last week, there has to be some
7 serious question as to whether the deed is operative - a
8 further consideration.

9
10 Q. At the time you signed it, of course, you intended it
11 to be operative?

12 A. Yes, we were intending it to --

13
14 THE CHAIR: Q. I don't know if that's right. It is a
15 deed. It's not a contract. You've executed a deed,
16 haven't you?

17 A. As your Honour points out, yes. It might be
18 complicated. It is a deed in the Commonwealth's favour.
19 It would be a question as to whether the Commonwealth would
20 rely upon it.

21
22 THE CHAIR: I think that's the real issue: would the
23 Commonwealth rely upon that clause.

24
25 MR STEWART: Q. Of course, in signing this, at that time
26 you intended that the Commonwealth would have the
27 opportunity to rely on that clause?

28 A. Yes, that's why I signed it.

29
30 Q. The question then simply is what possible
31 justification was there for that?

32 A. Well, at the end of each of these survivor claims one
33 needs to be able to say it's finished, both from the
34 survivor's point of view there needs to be finality, but
35 also from the point of public consideration, we have
36 engaged in a process and the matter is finished, and that's
37 what we intend.

38
39 THE CHAIR: Q. That's not quite right, is it? You've
40 engaged in a process that provided a nil return for the
41 survivor?

42 A. That particular process did, but the survivor still
43 avails of statutory entitlements at the highest level
44 through a compensation scheme.

45
46 Q. There's no issue about that. At the end of the day,
47 whatever might change it may still be in the survivor's

1 interests to maintain his statutory entitlements rather
2 than any common law claim?
3 A. That's correct.
4
5 Q. But the fact of the matter is you've extracted by deed
6 a bar, in circumstances where the negotiation - the whole
7 process provided absolutely no benefit to the survivor.
8 A. No financial outcome, that's right.
9
10 Q. No outcome: he got nothing?
11 A. I'd like to think that the day's work wasn't wasted.
12 He had an apology and we did have an opportunity to talk to
13 him. That's an intangible benefit of some sort, I would
14 agree.
15
16 THE CHAIR: Very well.
17
18 MR STEWART: I have no further questions.
19
20 THE CHAIR: Does anyone else have any questions?
21
22 <EXAMINATION BY MS DAVID:
23
24 MS DAVID: Q. Thank you Mr Lysewycz. My name is David
25 and I represent Mr Greaves and also another witness, [CJT],
26 who was also at Leeuwin. I just have a few questions in
27 relation to this matter. Could I just come now to the
28 matter we've just been talking about, the deed of release.
29 Just to be clear, my client gave evidence - I don't know
30 whether you've heard his evidence, that is Mr Greaves - he
31 said, "I was told if I didn't sign this disclaimer" - and
32 by that he meant the deed of release - "my lawyers wouldn't
33 be paid." I just to be clear on what your evidence is.
34 Are you saying that it wasn't a condition of the payment to
35 Shine that he sign it? I'm just a little bit unsure what
36 your evidence is?
37 A. That's correct. I did not impose that as a condition;
38 and, second, I was not privy to all of the discussions that
39 Mr Greaves had with his legal advisers, understandably.
40
41 Q. All right. So in terms of the deed of release that
42 was signed, when a claimant, like Mr Greaves, embarks upon
43 this process, this collaborative process, there's no
44 obligation on him whatsoever to sign any release, is there,
45 would you agree with that - as part of that process? It is
46 not a condition of him entering into that process that he
47 sign some sort of deed at the end as to the outcome, is it?

1 A. I don't set that as a precondition that must be
2 satisfied, no. If a particular survivor had a real issue
3 with it and that was the deal-breaker, so to speak,
4 I wouldn't insist on it; I would look for an alternative.
5

6 Q. I guess what I am saying is that it is not a
7 precondition to embarking upon the mediation that any deed
8 need to be signed at the end of that?

9 A. No. The deed comes at the end of the day. We were
10 focused on very many other things rather than the deed.
11

12 Q. So it is your clear evidence that even if he had not
13 signed this deed, you would have agreed to pay Shine
14 Lawyers; is that correct?

15 A. If pressed, I would have found another way of
16 satisfying my requirements, which is a document - yes,
17 I would have.
18

19 Q. Some other document other than this deed of release?

20 A. Yes.
21

22 Q. In coming to that, clearly, in this particular case -
23 I think you've said in your statement that this was a test
24 case and the conversation, the discussion that went on that
25 day, assisted a broader range of cases than Mr Greaves'; is
26 that correct?

27 A. Correct.
28

29 Q. In this particular case, you have said at
30 paragraph 27:

31
32 We also discussed paying compensation only
33 for general damages and not paying
34 compensation for economic loss or medical
35 expenses ...
36

37 Could I ask you, could you perhaps give some clarification
38 in relation to what you were trying to achieve there and,
39 in particular, whether there is any way of separating out,
40 for example, under some head of damage, a particular
41 payment that doesn't impact upon the veteran's
42 entitlements? You obviously looked at --

43 A. I explored it; I couldn't find a way around it
44 because, ultimately, whatever the payment was and how it
45 might be characterised, it comes back to being a payment in
46 respect of an injury which is already being compensated
47 fully under a statutory scheme.

1
2 Q. You're saying that you couldn't look at the particular
3 payments - the weekly payments and the payments for medical
4 expenses - under some head of damage different to the
5 general damages?
6 A. No, they are separate categories.
7
8 Q. Yes, they are separate categories?
9 A. Pain and suffering is distinguishable from economic
10 loss or medicals.
11
12 Q. Pardon?
13 A. Pain and suffering, general damages, is
14 distinguishable from past and future economic loss and past
15 and future medicals.
16
17 Q. It wasn't possible to do that, in this case, on the
18 basis of some other head of damage - I am sorry, not "head
19 of damage" - some other condition, such as some physical
20 condition, putting aside the post-traumatic stress disorder
21 in this case?
22 A. None of us who participated in the mediation could
23 find a way, and I think there were six or seven very
24 experienced lawyers at the table.
25
26 Q. If it had been established in this particular case,
27 for example, that there was another condition, aside from
28 the conditions for which Mr Greaves was receiving veteran's
29 entitlements under DVA, that could be linked or connected
30 to the HMAS Leeuwin incident, would you have been able to
31 make a payment in those circumstances?
32 A. I don't know.
33
34 Q. If it was an entirely separate condition than the
35 post-traumatic stress disorder or any other condition for
36 which he's receiving the TPI, would that not have opened up
37 the possibility of providing some sort of compensation or
38 some award?
39 A. I think that the only thing I could say is possibly,
40 it depends upon what it was, and I would have to pick up
41 the phone and talk to DVA and see what they say.
42
43 Q. Just on the issue, it is quite clear that the
44 veteran's entitlements afford a high level of security and
45 comfort to people such as Mr Greaves by reason of the Gold
46 Card, in particular, that their medical expenses will be
47 taken care of - you would agree with that?

1 A. Yes.

2

3 Q. But there must be some cases, though, where the damage
4 that a person has suffered is such that you would be able
5 to compensate them over and above any value of the
6 veteran's entitlements and the Gold Card? Are there not
7 cases that fall into that category?

8 A. Quite possibly. In Mr Greaves' case, on his own
9 evidence, he's going to require medical treatment of
10 various kinds for a long time, and one of the challenges
11 for lawyers in a case like this is to accurately estimate
12 and adequately estimate a sum which will cover future
13 medical needs. His life expectancy is at least another
14 20 years, and we don't know how his condition is going to
15 deteriorate. It is really academic and risky to try to
16 anticipate that. A Gold Card is just that: it is a
17 guarantee of medical treatment during that period of
18 uncertainty. I can't match that for a certainty, not in an
19 estimation.

20

21 Q. I appreciate that and that, clearly, there is a lot of
22 uncertainty, but, still, I'm just asking you, could you not
23 contemplate that there are still cases where you could give
24 a value that would give a comfort and security to a
25 claimant beyond what the DVA could pay?

26 A. I can't absolutely say yes. I could do this
27 exercise - and I've done it in the past: assume that there
28 were no statutory entitlements, what is the value of this
29 claim at common law in a particular jurisdiction? And
30 we'll come up with a figure and then we can compare that
31 against what a person is actually receiving and likely to
32 receive under a statutory scheme. We can do that
33 comparison. And invariably the common law payout is
34 higher. That's the way it works. With statutory schemes
35 there are various caps, there's an inflexibility as to what
36 a decision maker may decide upon, where as in common law,
37 you know, even if you just talk about a buffer, a buffer
38 can be anything from 60,000 to 150,000 and that's
39 defensible in terms that we're familiar with. So you can
40 get slightly higher amounts.

41

42 Q. I don't know whether you heard Mr Greaves' evidence,
43 but clearly one of the concerns that he had was that he was
44 unable to relocate, because of his dire financial
45 circumstances, to a place where he could access better
46 services, where he didn't have to travel five or seven
47 hours to a reasonable doctor, but he just could not afford

1 the costs of relocation. So what I'm saying is is there
2 not some contemplation that the benefits would be greater
3 than that to cover those sorts of needs by a person such as
4 Mr Greaves?

5 A. I heard his evidence and I appreciate what his hope
6 would be.

7
8 Q. Yes.

9 A. Is that really relevant to what we would do on a day
10 of a mediation?

11
12 Q. I would submit that it is relevant to this inquiry,
13 that although the TPI is a good benefit, nevertheless, it
14 is still considerably less, for example, than the average
15 wage. So in terms of making assessments into the future,
16 I'm just asking, is it looked at, for example, in the case
17 of someone like Mr Greaves who, by reason of their
18 psychological and physical conditions, their capacity to
19 meet their potential in terms of economic work and economic
20 opportunities is clearly not reached? I guess that's what
21 I'm saying. It just seems to me that everybody looks at
22 the Veterans' Entitlements Act but does not really look
23 beyond that, and that is unfair to people such as
24 Mr Greaves who have to live a somewhat diminished lifestyle
25 by reason of what has occurred to them at the hands of
26 Defence?

27 A. I don't know how - is there a question there. How do
28 I answer that? Mr Greaves --

29
30 Q. The question is that it just seems to me that there's
31 a limit in the view of Defence as to what they might pay?

32 A. There is a limit as to what I can do. Another way of
33 characterising what you're saying is that Mr Greaves lives
34 in a location which is not readily accessible to the
35 particular medical treatment he requires. Given that he is
36 already within the care of DVA and has a Gold Card,
37 I should have thought those representing him could make
38 those representations to DVA to see if something can be
39 done.

40
41 Q. In relation to this, again, you've been asked
42 questions and I won't press you in terms of deed, but
43 I think on behalf of my client, you have said in your
44 statement that you felt that he was grateful to Defence,
45 that Defence had done its best to find a way forward. I'm
46 not being critical of you Mr Lysewycz, I'm just trying to
47 understand on this occasion what did Defence actually try

1 to do, other than the apology that you've referred to?
2 A. I thought I said: both teams, plus the mediator, who
3 was senior counsel in his own right, spent all day looking
4 specifically at Mr Greaves' situation, his facts and the
5 law surrounding that, exploring a way to see whether there
6 was some way of making a payment to him. We didn't
7 succeed.
8
9 Q. You would have --
10 A. As I understand it - I do recall talking to Mr and
11 Mrs Greaves at the end of the mediation and what I've said
12 there accurately represents or reflects what they said to
13 me.
14
15 Q. You've said you've looked at his evidence. He said
16 that - and you agreed, I think, in previous questioning -
17 he in fact is prejudiced. In fact, he walked away with
18 less rights than he entered the mediation, would you agree
19 with that?
20 A. He walked away with a deed that barred future recovery
21 action.
22
23 Q. Yes. So, essentially, less rights than what he walked
24 in with?
25 A. His rights haven't been extinguish. The deed can't
26 extinguish the rights. They sit there. He can't do
27 anything to enforce them. As I mentioned in response to a
28 comment by his Honour --
29
30 THE CHAIR: Q. If you can't enforce a right it has been
31 extinguished hasn't it?
32 A. It hasn't been extinguished your Honour, no.
33
34 Q. He can't enforce it.
35 A. He can try to pursue them, and whether we rely upon
36 the deed in response is a different matter.
37
38 Q. That's a different issue, because that would just
39 become a matter of the Commonwealth's generosity?
40 A. No. I would put it slightly differently, your Honour.
41 I mention elsewhere in my statement that this is a work in
42 progress. The work of this Royal Commission hasn't
43 finished yet and you are having an impact elsewhere. For
44 example, in respect of HMAS Leeuwin, the West Australian
45 Police has established a taskforce to investigate abuse at
46 that institution. It is quite possible that evidence will
47 come to light, as a result of those investigations, which

1 we should be taking into account for these claims. From my
2 point of view, I would be quite happy to revisit matters
3 that were resolved if circumstances required in light of
4 what comes to light in the future. It would be
5 exceptional, but that's the only way we can do it and
6 maintain some sense of, what's the word, looking after the
7 survivors that we're dealing with. We take them as we do
8 on a particular day, having regard to the law and the facts
9 as known. If there is a major change after the event, we
10 certainly wouldn't just leave it alone. At least that's my
11 aspiration.

12
13 MS DAVID: Q. Just to understand, as I understand from
14 the trail of emails and communications with Henry Davis
15 York in the lead-up to the negotiations, particularly in
16 emails from Kerry Stewart, there was an emphasis on the
17 fact that they had indicated to the claimants, to Shine
18 Lawyers, that raise continually this issue that no damage
19 that could be awarded was going to be above what he was
20 receiving by way of his DVA entitlements. This seemed to
21 be the theme of that communication. Do you recall that?
22 A. Oh, yes.

23
24 Q. In one of the emails it was suggested, "If you want to
25 have the mediation anyway, we will proceed to do so." I'm
26 just trying to understand what other possibilities were
27 Defence envisaging when they went into that mediation,
28 given that real constraint about which they'd warned Shine
29 on numerous occasions?

30 A. Honestly, I can't answer that. I have done quite a
31 few mediations in other things since then and I honestly
32 can't tell you what other things we might have had in mind.

33
34 Q. Just to finish, as a representative of my client,
35 I note that in your statement you've said at paragraph 8
36 that the overarching aspiration behind the process was to
37 avoid doing harm to the survivors. Do you accept what
38 Mr Greaves has said, by reason of this process, whereby he
39 felt quite confused by it. He said, "When I walked out of
40 the mediation I was gutted" and, "I felt like I was being
41 abused all over again."

42 A. I heard him say that and I was surprised by it.

43
44 Q. Pardon?

45 A. I was surprised by that, because the person that I saw
46 walkway from the mediation didn't exhibit any
47 characteristics of a person that's just been gutted.

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Q. But you would accept that a person such as Mr Greaves is a heavily traumatised person?

A. That's correct.

Q. He comes in there, he has all those attributes?

A. Yes.

Q. Would you also agree that Mr Greaves is absolutely not a lawyer; that these concepts are very likely to confuse him, as he has said?

A. Yes. Any layman would.

Q. I just want to make the record reflect - and I note that your statement was not available at the time that he gave his evidence - that he was grateful to Defence, that it had done its best to find a way forward - that is not the feeling that Mr Greaves had at the end of the day; he found it confusing and he felt further abused.

A. That's what he said last week, yes. But on the day he was represented by two experienced solicitors and senior counsel who was quite expert in this field. We don't expect laypeople to be able to understand these complex areas of law and claims on their own, and the expectation I would have is that those representing him would convey the message, and I accept that Mr Greaves, after the event, says that, on reflection, he didn't understand.

Q. I suggested to Shine Lawyers on Friday, and I would suggest it again, that having a person such as Mr Greaves sign such a deed as this deed was oppressive to him.

A. I don't agree with that. We can put rather a complex deed to a person in Mr Greaves' circumstance, adequately advised independently, that's the way business is done.

MS DAVID: Nothing further, thank you.

THE CHAIR: Ms McLeod, do you have any questions?

MS McLEOD: No questions, thank you, your Honour.

MR STEWART: Your Honour.

<EXAMINATION BY MR STEWART:

MR STEWART: Q. Mr Lysewycz, there was a question from my learned friend Ms David that you didn't answer. When

1 Mr Greaves left the mediation, he had less by way of rights
2 than when he entered the mediation; do you agree?
3 A. Yes.
4
5 Q. What possible justification was there for that?
6 A. In hindsight, there wasn't, because as we've explored
7 this issue over the last hour, even taking into account
8 last week, it has been pointed out that there was no
9 financial benefit to him.
10
11 MR STEWART: Thank you, your Honour, no further questions.
12
13 THE CHAIR: Thank you sir. That concludes your evidence.
14 You're excused.
15
16 THE WITNESS: Thank you, your Honour.
17
18 <THE WITNESS WITHDREW
19
20 MR STEWART: Your Honour, finally, for now, in relation to
21 Leeuwin and Balcombe, I tender the documents that my
22 learned friend Ms McLeod produced last week. I can explain
23 what they are.
24
25 THE CHAIR: What do I call it? Correspondence?
26
27 MR STEWART: I intend tendering them separately. The
28 first is correspondence dated 8 March 1974.
29
30 THE CHAIR: Is it all relevant to the same issue?
31
32 MR STEWART: The first two are relevant to the same issue.
33
34 THE CHAIR: Why don't we mark them together?
35
36 MR STEWART: As your Honour pleases. It is two letters
37 from Mr McDonald to the parents of apprentices at Balcombe
38 in 1974.
39
40 THE CHAIR: They'll be together exhibit 40-024.
41
42 EXHIBIT #40-024 TWO LETTERS FROM MR McDONALD TO THE PARENTS
43 OF APPRENTICES AT BALCOMBE IN 1974
44
45 MR STEWART: The other is a document that has been put
46 together by Defence now which records the information that
47 they have available to them on discharge rates at Leeuwin.

1
2 THE CHAIR: That document regarding the discharge rate
3 will be exhibit 40-025.
4
5 EXHIBIT #40-025 DOCUMENT COMPILED BY DEFENCE RECORDING
6 INFORMATION ON DISCHARGE RATES AT HMAS LEEUWIN
7
8 THE CHAIR: What does it show?
9
10 MR STEWART: Your Honour, it takes some analysis. I'm
11 very happy for my learned friend to explain it to your
12 Honour, if it is going to be of assistance.
13
14 THE CHAIR: Someone should so we make sure we all
15 understand it.
16
17 MS McLEOD: If your Honour pleases. There was discussion
18 last week about the concept of - some called it "wastage",
19 others called it "reasons for discharge". This is giving
20 something of a breakdown to the Commission in relation to
21 the reasons for discharge and, as your Honour will see,
22 there is a short description below each category of
23 discharge to give the ultimate numbers.
24
25 THE CHAIR: So you're looking at the sheet that identifies
26 the individuals; is that right?
27
28 MS McLEOD: Yes.
29
30 THE CHAIR: What's under the various headings? The
31 commanding officer, and the intake size; what's "UFTRO".
32
33 MS McLEOD: "Unfit for training in the rating of", which
34 is expanded on the first page, your Honour, with a short
35 description.
36
37 THE CHAIR: All right. Very well. And then "Unsuitable".
38
39 MS McLEOD: That simply means, for example, if someone was
40 training as a cook and they were unsuitable as a cook, then
41 the discharge relates to the appropriateness of that trade
42 for that person.
43
44 THE CHAIR: All right. And "SNLR"?
45
46 MS McLEOD: That is "services no longer required";
47 otherwise might be described as dishonourable discharge.

1
2 THE CHAIR: "Free"?
3
4 MS McLEOD: Usually without any penalty - for example, if
5 there's a request for discharge on compassionate grounds.
6
7 THE CHAIR: And "DPOE"?
8
9 MS McLEOD: That's "Disability present on entry that had
10 not been disclosed or diagnosed".
11
12 THE CHAIR: And "BNPS"?
13
14 MS McLEOD: "Below Naval physical standards" - failing a
15 medical test, for example, or a fitness test.
16
17 THE CHAIR: Then although there are other forms of
18 discharge, there's then "Dismissal".
19
20 MS McLEOD: Yes. So there is a distinction, your Honour,
21 between services no longer required, "SNLR" and dismissal.
22
23 THE CHAIR: All right. And then the "Total number
24 discharged" and "Percentages", that's of the relevant
25 intake, is that the idea?
26
27 MS McLEOD: Yes, your Honour.
28
29 THE CHAIR: What's the time frame?
30
31 MS McLEOD: As indicated on the front page, your Honour,
32 17 March 1963 to 1 March 1965 - sorry, those two intakes
33 are not included. I'll find out that information for you,
34 your Honour.
35
36 THE CHAIR: What you can see happening on the first page
37 is generally the rates as percentages are significantly
38 lower than what's on the second page, but we don't have a
39 time frame, do we?
40
41 MS McLEOD: No, your Honour, but you'll see it covers
42 every intake, so I can find the dates for you.
43
44 THE CHAIR: I imagine you can, yes. That would make more
45 sense, for our purposes, of the document.
46
47 MS McLEOD: Yes, certainly, your Honour.

1
2 THE CHAIR: Very well. Thank you.
3
4 MR STEWART: Your Honour, would this be a convenient time
5 to take the morning adjournment? There needs to be some
6 shifting around at the Bar table and getting ready.
7
8 THE CHAIR: Very well. We will take the morning
9 adjournment.
10
11 SHORT ADJOURNMENT
12
13 THE CHAIR: Yes, Mr Stewart?
14
15 MR STEWART: Your Honour, I call Susan Campbell. There
16 are also some of my colleagues wishing to put their names
17 on record to seek leave, your Honour.
18
19 MS DAVID: Your Honour, I seek leave to appear for
20 Ms Campbell.
21
22 THE CHAIR: You have that leave.
23
24 MR O'BRIEN: May I seek leave to appear for [CJG].
25
26 THE CHAIR: Yes, you have that leave.
27
28 MS W THOMPSON: Your Honour, may I seek leave to appear
29 for [CJD]?
30
31 THE CHAIR: Yes, you have that leave. No-one else? Very
32 well.
33
34 <SUSAN MARGARET CAMPBELL, sworn: [11.45am]
35
36 <EXAMINATION BY MR STEWART:
37
38 MR STEWART: Q. Would you state your full names and your
39 occupation?
40 A. My full name is Susan Margaret Campbell and I'm a
41 full-time teacher.
42
43 Q. Thank you. Do you have before you a copy of your
44 statement for the Royal Commission dated 7 June 2016?
45 A. I have.
46
47 Q. Do you confirm that that statement is true and

1 correct?

2 A. It is true and correct.

3

4 THE CHAIR: It will be exhibit 40-026.

5

6 EXHIBIT #40-026 STATEMENT OF SUSAN MARGARET CAMPBELL

7 DATED 07/06/2016

8

9 MR STEWART: Q. I invite you to read your statement
10 commencing at the third paragraph?

11 A. "My full name is Susan Margaret Campbell. I was born
12 in 1949 and I am 66 years old.

13

14 I'm the mother of Eleanore Tibble, who was born in
15 1985.

16

17 Eleanore joined the Australian Air Force Cadets in
18 February 1998 when she was 13 years of age. She joined
19 number 1 Flight, Northern Territory Squadron, Air Training
20 Corps in Darwin.

21

22 Eleanore loved being a cadet. She went on every camp,
23 every parade and every extra-curricula activity which her
24 Flight offered. Eleanore made many friends and she felt
25 that her unit was like an extended family. I could see
26 that he gained a sense of self-worth and felt valued
27 through her involvement in the Australian Air Force Cadets.

28

29 In late 1998, I separated from Eleanore's father and
30 returned with Eleanore to Tasmania to assist with the care
31 of, and be closer to, my aged parents. There was domestic
32 violence within my relationship with Eleanore's father. No
33 doubt the violence had an adverse effect on Eleanore, for
34 which she received counselling. Eleanore was keen to
35 rejoin the Air Force Cadets in Hobart as soon as
36 practicable.

37

38 In February 1999, Eleanore joined the Air Force Cadets
39 number 1 Flight Air Training Corps based at the Anglesea
40 Barracks in Hobart. She was 14 years old.

41

42 Eleanore again thrived in her new unit, and had a
43 particular love for the drills and manoeuvres. In June
44 2000, Eleanore was promoted to cadet sergeant. This was a
45 big milestone for her given her goal of pursuing a
46 long-term career in the Defence forces.

47

1 I first met Matthew Harper, an Air Force Cadet
2 instructor in Eleanore's unit, in about June 2000. He
3 would have been aged around 30 years at the time.
4

5 Harper visited our family home at Kempton on at least
6 two occasions to have dinner and at another two less formal
7 occasions. He told us that he had also lived in Darwin
8 where he had previously been an Air Force pilot before
9 moving to Tasmania in 1998/1999.
10

11 I found Harper affable. At the time we lived
12 45 kilometres from Anglesea Barracks in Hobart and
13 I remember that during Harper's visits he assured me that
14 because he was a taxi driver he would look after Eleanore
15 if she ever needed to stay late in the city or missed the
16 bus and needed a lift. On one occasion, he also took
17 Eleanore flying in Hobart.
18

19 Once, he invited Eleanore to his sister's house in
20 Huonville, which I thought at the time was odd, but he said
21 there was going to be a whole gathering of cadets. I did
22 not know then that the Australian Air Force Cadets did not
23 allow cadets and instructors to socialise together. At the
24 time, I did not think that there was anything inappropriate
25 about Eleanore's involvement with Harper. I simply saw him
26 as assuming the role as a mentor or older brother for
27 Eleanore.
28

29 In around August 2000, Eleanore told me that Harper
30 had given her a silver necklace. She then said to me, 'He
31 told me he loved me', and I replied, 'Don't be ridiculous.'
32

33 After Eleanore told me this, it was clear to me that
34 Harper's intentions with Eleanore were improper, and I made
35 it known to him that any relationship with my daughter was
36 inappropriate and out of the question. When he was at my
37 house one Sunday afternoon I said to him, 'You being in
38 love with Eleanore can't happen. You are her instructor,
39 you know that she's only 15, you know she is a school girl
40 and you are a nearly 30-year-old man.' Harper sat with his
41 head in his hands and cried. Eleanore was laughing at him.
42

43 Later that month Harper telephoned Eleanore at our
44 home. Eleanore told me that Harper had told her that he
45 was resigning from the Air Force Cadets. She appeared to
46 be relieved by this. Having since reviewed the Stunden
47 Report, which was AAFC's internal investigation in this

1 matter, I now know that Harper voluntarily resigned from
2 the Air Force Cadets on 15 August 2000 citing his reasons
3 for resigning as becoming 'personally involved' with an
4 unnamed cadet. I understand that Harper resigned before
5 any formal suspension or investigation into his conduct
6 could take place.
7

8 I also later became aware that there were meetings and
9 briefings between the senior members of Eleanore's unit and
10 the Australian Air Force Cadets in Tasmania suggesting
11 there may have been a sexual relationship between Eleanore
12 and Harper.
13

14 On 5 October 2000, Eleanore attended Anglesea Barracks
15 and paraded with her unit. Later that evening, when
16 I picked Eleanore up from the barracks, she was distraught
17 and we had the following conversation:
18

19 Eleanore said: 'I just had an interview about him
20 [Harper].' I said: 'What was this all about?' Eleanore
21 said: 'They reckon I have been fraternising with Matt
22 Harper.' I said: 'Is there any substance to this?'
23 Eleanore said: 'No, they're going to expel or execute a
24 dishonourable discharge on me.' I said: 'They can't do
25 that, they've got to have grounds. We will write to them
26 and get more information about what they are alleging
27 happened so we can respond.'
28

29 A week later, Eleanore told me when she attended Air
30 Force Cadet night at Anglesea Barracks she was told by a
31 flight officer to sign the record of interview and that it
32 would be sent to the wing commander for review. It was my
33 clear understanding that Eleanore was not given an
34 opportunity to discuss the record of interview with a
35 support adult or given time to reflect on its contents.
36 I was very angry.
37

38 Later that month, Eleanore received a phone call in
39 the kitchen at home from an Australian Air Force cadet
40 flight officer. I was home at the time and could hear that
41 the flight officer gave Eleanore the choice of either
42 resigning or being dishonourably discharged from the
43 Australian Air Force Cadets. Eleanore told him that she
44 understood that she would respond in writing. The flight
45 officer said she could attend cadets on 2 November 2000 but
46 she would not be permitted to parade and that she had to
47 return her kit. At this point I took the phone from

1 Eleanore and said to the flight officer, 'Do not think that
2 for one minute I am going to take this. Don't think this
3 is finished because I will be there at Anglesea Barracks
4 and I will make sure I get to see every file, every folio."
5 I also asked for a reason why Eleanore should resign or be
6 dishonourably discharged, but the flight officer did not
7 give me any details.

8
9 Eleanore was so distraught after this call that
10 initially she was unable to talk. She then said that the
11 flight officer said she had brought dishonour to her Flight
12 and that her resignation was the only honourable option,
13 since failure to resign would result in dishonourable
14 discharge. The possibility of her being forced to resign
15 or discharged from the Air Force Cadets was unthinkable for
16 Eleanore. She still wanted a career in the Defence Force
17 and being a cadet was her greatest passion at that time
18 especially because both of her maternal grand parents were
19 returned service persons.

20
21 As a parent of a minor, I ought to have been consulted
22 and advised of any Australian Air Force Cadet investigation
23 into Eleanore's conduct as a cadet and any possible
24 disciplinary action. I was never asked or invited to
25 participate in the AAFC investigation into the
26 fraternisation allegations. Had I been made aware that the
27 allegations related to possible sexual conduct, my first
28 response would have been to go to the police and I would
29 have expected the AAFC to go to the police too.

30
31 A week or so later, in November 2000, I rang Anglesea
32 Barracks and asked to speak to the person in charge of
33 cadets. I do not remember who I spoke to, but I said that
34 I would not accept the position they had put Eleanore in
35 and I would be seeking legal advice.

36
37 The following day, I drove Eleanore to Anglesea
38 Barracks to hand deliver a letter asking that the verbal
39 request for her resignation be put in writing and for a
40 suitable time to view her file. I had insisted Eleanore
41 write the letter and had read it before she delivered it.
42 Eleanore did not attend the 2 November 2000 parade and she
43 did not hand in her kit.

44
45 Eleanore never received a response to the letter,
46 leaving her future with the Australian Air Force Cadets in
47 limbo. She was anxious and stressed about the humiliation

1 and the possibility that she may be dishonourably
2 discharged.

3
4 A week later, on the morning of Monday 27 November
5 2000, I drove Eleanore from our home in Kempton to the
6 urban bus stop at Covehill in Bridgewater, about
7 27 kilometres away. We chatted about her year 12 subjects
8 before I kissed her goodbye and told her that I loved her.
9 I said I would see her at home that evening.

10
11 I worked at my cafe, called 'Ellie's', for the rest of
12 the day. At approximately 7.00pm that evening, I returned
13 home to find Eleanore hanging in the woodshed of our home.
14 My daughter had committed suicide.

15
16 AAFC response and investigations into Eleanore's
17 death.

18
19 Eleanore's funeral was held on 4 December 2000. In
20 utter defiance of the order to return her uniform, I buried
21 Eleanore in her cadet uniform.

22
23 I received a sympathy letter from Eleanore's unit and,
24 without any consultation, the Australian Air Force Cadets
25 attended the funeral and provided a cadet guard of honour.
26 No offers of assistance to the family were provided by the
27 Australian Air Force Cadets.

28
29 On 20 December 2000, as a result of an investigation
30 by the Coroner's office, I became aware that at the time of
31 her death, Eleanore was still regarded as a serving cadet.

32
33 I have since learnt from a review of the Australian
34 Air Force Cadet documents that the Australian Air Force
35 Cadets in Tasmania had disobeyed an order from Canberra
36 that said, "Eleanore is to be reinstated as there is no
37 case to answer." A wing commander decided on 12 November
38 2000, two weeks prior to her death, that Eleanore should
39 not be charged with fraternisation. Eleanore was never
40 told of the Australian Air Force Cadets' decision to
41 abandon the discharge action against her. Instead,
42 somebody sat on that order for over two weeks and, in this
43 time, Eleanore committed suicide. I couldn't believe it.

44
45 Between 2001 and 2004, I provided submissions
46 detailing the circumstances surrounding Eleanore's death to
47 anyone who would listen. I sought action, advice and

1 guidance from many government agencies, including the Human
2 Rights and Equal Opportunities Commission, the Department
3 of Veterans' Affairs (DVA), Department of Defence Military
4 Justice Audit, Commissioner for Children, State Government
5 of Tasmania and the Anti-Discrimination Commissioner.
6

7 In early 2001, I made a submission to the Military
8 Justice Audit Team for a review into the actions leading up
9 to Eleanore's death. The Military Justice Audit Team
10 referred my submissions to the Royal Australian Air Force
11 in March 2001 for an internal investigation.
12

13 On 30 March 2001, Air Force Group Captain Stunden was
14 appointed as the investigating officer in the internal Air
15 Force investigation into the events leading up to and
16 surrounding Eleanore's death. I was interviewed by Stunden
17 as part of the investigation and told him how the
18 Australian Air Force Cadets had dealt with Eleanore in
19 response to the allegation of fraternisation.
20

21 At the end of the investigation I was given a copy of
22 the Stunden Report. The Stunden Report found that the
23 Australian Air Force Cadet chain of command had failed.
24 The report also listed a number of recommendations,
25 including that the Australian Air Force Cadet policies
26 should be amended to:
27

28 (a) incorporate a definition of fraternisation;
29

30 (b) outline a counselling and warning process for
31 cadets;
32

33 (c) mandate occasions when communication is required
34 for parents with;
35

36 (d) amendments to policies to provide guidance to AAFC
37 staff on how to conduct interviews with cadets; and
38

39 (e) staff should be better trained in the management
40 of adolescent cadets.
41

42 The report found that these amendments should be made
43 as a matter of urgency.
44

45 The Specialist Administrative Review of the Stunden
46 Report accepted all but one of the report's recommendations
47 which related to the disciplining of the wing commander who

1 dealt with the investigation of the allegations against
2 Eleanore.

3
4 On 15 February 2002, the coronial inquiry accepted
5 that the Tasmanian branch of the Australian Air Force
6 Cadets had contributed more than 50 per cent to Eleanore's
7 suicide. The DVA accepted liability for Eleanore's death
8 and compensation was confined to funeral and medical
9 expenses totalling \$4,033.45.

10
11 On 11 April 2002, staff from the office of the Chief
12 of the Air Force met with me, my children and my mother at
13 Anglesea Barracks. During this meeting, I was handed
14 copies of the draft changes to the Defence procedure and
15 policies manuals and was asked my opinion on the manual.
16 I made some suggestions but I do not know if any of my
17 suggestions were implemented.

18
19 On 24 April 2002, a social worker at the direction of
20 the Director Military Support met with my family to
21 determine what the Air Force could do to assist my family.
22 We identified 11 issues we wanted to see addressed. We do
23 not know whether any of these issues were addressed. Two
24 of the issues included not interviewing an underage child
25 or minor without their parents or guardians present; and,
26 if future concerns of illegal and unlawful relationships
27 arise regarding adults and minors, then the police need to
28 be involved in the first instance.

29
30 In 2004, a Senate Inquiry considered the process
31 relating to the suspension of Eleanore within its inquiry
32 into the effectiveness of Australia's military justice
33 system. I gave evidence at the Senate Inquiry. In this
34 process, I met with Chief of the Air Force, Air Marshal
35 Houston, who apologised for the handling of the allegations
36 against Eleanore. This was the first time anyone in the
37 Defence Force had apologised to me.

38
39 The Senate Inquiry in its final report publicly
40 acknowledged that there were major issues of concern across
41 all divisions of the Defence Force. The report recommended
42 that the Defence Force take steps to draft and make
43 regulations dealing with Australian Air Force Cadets to
44 ensure that the rights and responsibilities of cadets and
45 staff are clearly defined.

46
47 Impact of Eleanore's death.

1
2 To say that Eleanore's death has had ongoing effects
3 upon me and my family is an understatement. Not a day goes
4 by that I don't think about my daughter and the abject
5 waste of her life.
6

7 She died probably thinking she was doing something
8 honourable, saving her family the shame of a dishonourable
9 discharge, while the wing commander and the flight officer
10 sat by knowing that they had the power to tell her that
11 there was 'no case to answer'. They humiliated and
12 denigrated her by isolating her and barricading her from
13 the truth that she was to be reinstated and there was no
14 case to answer.
15

16 At my request, the Air Force set up a scholarship in
17 Eleanore's name so that the memory of my daughter will live
18 on in the Australian Air Training Corps.
19

20 Eleanore was not given procedural fairness or natural
21 justice. She was denied her right to be heard. She was
22 found guilty, tried, convicted and sentenced while others
23 escaped scrutiny or were brought to task for their
24 compounding failures to execute a directive that they found
25 unpalatable and against their judgment.
26

27 Hopefully, through the findings by the Stunden Report
28 and the Senate Inquiry, Eleanore's death has changed the
29 practices of the AAFC and the Defence Force generally, to
30 ensure that everyone is respectfully dealt with and that
31 there is procedural fairness for any allegations made or
32 any areas of concern within the Air Force Cadets and the
33 Defence Force."
34

35 Q. Thank you, Mrs Campbell. There are a few additional
36 questions I would like to ask you. Air Force Group Captain
37 Stunden was appointed to investigate, within the Air Force
38 Cadets, the circumstances surrounding this case some four
39 months after Eleanore's death. What role did you play in
40 getting that investigation appointed?

41 A. Well, apart from my haranguing the local Air Force
42 Cadet Corps at Anglesea Barracks, and I started on my paper
43 warfare, I guess, with anybody who would listen within the
44 Defence Force, trying to get an investigation to happen.
45

46 Q. In the subsequent Senate Inquiry it was accepted by
47 the Chief of the Air Force that an inquiry should have been

1 commenced immediately, wasn't it?
2 A. Correct.
3
4 Q. Yes. I would like to refer you to the Stunden Report
5 just to pick up a few of its findings and recommendations.
6
7 I must tender the next bundle, your Honour, dealing
8 with this part of the case study.
9
10 THE CHAIR: What should I call it?
11
12 MR STEWART: ADF Cadets tender bundle.
13
14 THE CHAIR: That will be exhibit 40-027.
15
16 EXHIBIT #40-027 ADF CADETS TENDER BUNDLE
17
18 MR STEWART: At tab 1 of that bundle is the Stunden
19 Report.
20
21 THE CHAIR: Q. Mrs Campbell, if you'd like a break --
22 A. I may need to call for different glasses. This is
23 very, very small writing.
24
25 Q. Would you like a break as well or not?
26 A. Not particularly, just the new glasses.
27
28 MR STEWART: Q. You also have the options, Mrs Campbell,
29 whether to read it from the hard copy or to see it on the
30 screen, whichever is easier for you. Thank you,
31 Mrs Campbell. This is the Stunden Report. I take it that
32 you were furnished with a copy of that report at some
33 stage, were you?
34 A. Yes, I was. I don't know that this is what I got, but
35 I was given a copy. I presume it is a copy. It is so long
36 ago and there appears to be a lot of people's names that
37 either were redacted in mine or - I don't - I no longer
38 have access to any of this documentation in my house.
39 I had a fire and I lost a lot.
40
41 Q. Yes, I understand.
42 A. But I was given a copy of what they said was the
43 Stunden Report.
44
45 Q. I will take you through a few of the details which
46 were unearthed here.
47 A. Yes.

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Q. Perhaps at the foot of the first page you'll see in paragraph 3 it is said that on 15 August 2000, LAC Harper, an instructor with the Tasmanian Air Training Corps - the cadets used to be called "Air Training Corps", now they're called "Australian Air Force Cadets"; is that right? You have indicated you're not sure, but in any event we'll go on:

... submitted his resignation. He cited his failure in his obligations as an instructor concerning his relationship with a female cadet as the reason for resignation.

And he declined to identify the cadet to his flight commander. It is more or less this that your daughter reported to you after Harper had told her that?

A. Yes.

Q. Then it says:

However, Cadet Sergeant Tibble ...

that's a reference to Eleanore, am I right?

A. Yes.

Q.

... was later identified as the cadet and a process to administer her began.

That's the process that you spoke about where you were not invited to be involved and there was an interview with her and so on; is that right?

A. Yes, where her dishonourable discharge was --

Q. Was commenced?

A. -- commenced.

Q. Yes. Then it continues on that page and the next detailing parts of what occurred. Could I take you to page 3. There is a heading, "Policy deficiencies". Perhaps it will be enlarged for us. It is said that the investigating officer, that's "IO", identified a number of deficiencies in existing policy. Then in particular it identifies fraternisation and it is said:

1 The policy lacks any definition of what
2 constitutes fraternisation.

3

4 And so it goes on. Were you aware, as a parent of Eleanore
5 at the time that she was in the cadets, what the policy or
6 rule against fraternisation was?

7 A. Not - I didn't - I knew that there was - I knew they
8 shouldn't have an unhealthy relationship, but, again, what
9 constituted a healthy relationship? Did that mean that
10 Harper could not bring her home in the taxi? Did that mean
11 that other cadets could not meet as a group? I took that
12 to be part of cadet life, or an excursion or planning for a
13 camp or something like that. That I would not consider to
14 be fraternisation.

15

16 Q. Could we go over the page, page 4, paragraph 12, it
17 deals under the heading with "Communication with parents or
18 guardians" and you'll see some points that are made there.
19 You will see in the last two sentences they've identified:

20

21 However, policy does not provide for
22 communication with parents or guardians as
23 part of an administrative censure process.
24 The IO considers this to be a major policy
25 deficiency that must be rectified.

26

27 That was a major complaint that you raised also?

28

29

30

31

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47

1 Q. Was that your understanding?
2 A. That was my understanding. That was my understanding,
3 indeed. When he came to my house and said that he was in
4 love with Eleanore, I mean, I thought that was the
5 beginning, not that it was a statement in respect of a
6 long-term sexual relationship with my daughter.
7
8 Q. Then on the next page, in paragraph 27, it says that
9 more than five weeks after she had identified Cadet
10 Sergeant Tibble, Wing Commander James visited 1 Flight on
11 5 October 2000 and directed Flight Officer Kowalik to
12 interview Tibble and to ask her what she knew about
13 Harper's resignation and then an interview took place that
14 evening. Is that the interview that you spoke about?
15 A. Indeed, yes.
16
17 Q. That took place such a long time after Harper's
18 resignation?
19 A. Funny about that.
20
21 THE CHAIR: Q. Is that the document that's annexed?
22 "Record of conversation of 5 October." Is that the
23 document.
24
25 MR STEWART: Are you asking me?
26
27 THE CHAIR: Yes.
28
29 MR STEWART: Sorry, your Honour. Yes, it is.
30
31 THE CHAIR: Mr Stewart, there doesn't seem to be, so far,
32 any exposition of the role of the former officer or member
33 of the cadets who was said to be in the relationship. Was
34 that considered by the Air Force at any stage in this
35 process?
36
37 MR STEWART: Not that I'm aware of. He resigned but
38 perhaps Mrs Campbell would be able to answer that.
39
40 THE CHAIR: I mean, this is a 30-year-old man who, surely
41 the Air Force should have seen, carried the responsibility
42 in a relationship with a child, which is what we're talking
43 about, isn't it?
44
45 THE WITNESS: Precisely.
46
47 THE CHAIR: Is there any document which forms part of this

1 investigation which looks at that issue?
2
3 MR STEWART: Not that we're aware of, your Honour.
4
5 THE CHAIR: Ms McLeod, that's obviously a very significant
6 issue for us.
7
8 MS McLEOD: Yes, your Honour, we will track down some
9 documents for you.
10
11 THE CHAIR: Yes.
12
13 MR STEWART: Q. Mrs Campbell, the document that
14 his Honour referred to earlier about the interview
15 with Eleanore is at page 0038. It will come up on the
16 screen. It records on 5 October 2000 present were
17 Flight Officer Kowalik, Leading Aircraftwoman Broughton and
18 Cadet Sergeant Tibble. Did you ever see this document?
19 A. Yes, I've seen this.
20
21 Q. Did you see it at the time?
22 A. No.
23
24 Q. It's perhaps striking that the conversation commenced
25 at 20.05 hours and on the last page, page 0040, it's
26 recorded as having terminated at 2020 hours. It appears to
27 have been a 15-minute conversation. Did Eleanore talk to
28 you about the length of the interview at all?
29 A. When I picked her up, yes. She was - she was really
30 not able to - she wasn't really very coherent about what
31 had happened. She was crying. She was upset that
32 something was happening that I think was just out of - she
33 was spinning out of control. She had had this conversation
34 with the senior officers and I think she felt that, you
35 know, her world was crumbling around her and she just was
36 not very coherent about what took place or what was said.
37
38 Q. Just on the first page of that document again, 0038,
39 the substantive part of it, under where it says
40 "Conversation commenced", two paragraphs further down, it
41 says that Cadet Sergeant Tibble stated that
42 Leading Aircraftman Harper resigned the day she stopped
43 seeing him and that his resignation was nothing to do with
44 her and she added that she'd been involved in a short
45 period of fraternisation, a few days, with Harper. And
46 then over the page, at the top of the next page, you will
47 see then, in the second line, with regard to this, she

1 added that she would not lie and then stated that she had
2 had a relationship with LAC Harper, but that it had not
3 been sexual. Judging by what I showed you earlier, it
4 appears that although Eleanore had stated that so clearly
5 and it had been recorded there, that somehow an error was
6 made and was taken up thereafter on the basis that it had
7 been a sexual relationship?

8 A. I don't believe it was an error that was made.
9 I believe it was a condition that they made sure that the
10 statement - that the statement that Eleanore made cleared
11 Harper. That's why she says - she said that
12 fraternisation - she agreed that she had been fraternising,
13 but, as I said, what constitutes fraternisation? There
14 wasn't the clear definition. All there was in Eleanore's
15 mind and my mind was that it was an unhealthy relationship.
16

17 Q. And she appears to have ended it; is that your
18 understanding?

19 A. She threw the - she threw the necklace out of the
20 window at the top of Constitution Hill.
21

22 Q. Would you go back to the report itself, at page 0007,
23 in particular, paragraph 28. It is recorded that you had
24 told the investigating officer that the interview with your
25 daughter was conducted without your consultation and
26 without your knowledge, you have spoken of that, and then
27 in paragraph 29 it goes on to record that the record of
28 conversation indicated that Cadet Sergeant Tibble stated
29 that the relationship with Leading Aircraftman Harper was
30 not sexual.

31 A. Mmm.
32

33 Q. Let me take you over the page to page 0008. Under the
34 heading "Comment" - and this is in respect of what had
35 taken place thus far - the investigating officer said that
36 he was satisfied that Leading Aircraftwoman Broughton was
37 an appropriate female adult to attend as a witness and
38 record keeper of the meeting:
39

40 However, an appropriate person was not in
41 attendance to provide Cadet Sergeant Tibble
42 with support during the interview and her
43 mother was unaware that the interview was
44 to take place.
45

46 A. That was correct.
47

1 Q. Do you have anything to say about that?
2 A. Well, certainly, I was not present during that
3 interview. I didn't know that it was going to take place,
4 and if Broughton was there was the appropriate female
5 adult, why was she also the record keeper? I mean, I would
6 have thought that that would not be a role for somebody who
7 is sitting in as an appropriate adult, but then they're
8 taking, making up the record. It seems to be like a
9 conflict of interest to me.

10
11 Q. Could I take you to the next page 0009. You will see
12 in paragraph 40 it is recorded on 28 October - so now just
13 to recollect that the interview with Eleanore had taken
14 place on 5 October, so now more than three weeks later --
15 A. Yes.

16
17 Q. -- certain Tasmanian Air Training Corps staff were
18 travelling to a staff conference where a conversation then
19 ensued, as recorded there, in which it was said that
20 Flight Officer Smith told the investigating officer that
21 during conversations on the trip, Wing Commander James
22 directed him to call Cadet Sergeant Tibble upon return and
23 advise her that she could put her notice in or else be
24 terminated. And then in 41 it says that
25 Flight Officer Smith called Cadet Sergeant Tibble's home
26 several times in the evening of 30 October. During the
27 interview with the investigating officer, Flight Officer
28 Smith said that he explained to Cadet Sergeant Tibble that
29 she had the choice of giving her notice or that she would
30 be terminated.

31 A. The word "terminated" was never, ever uttered. It was
32 always "dishonourable discharge".

33
34 Q. And that, as I understand it, was the conversation
35 that Eleanore reported to you that she was so upset about;
36 is that right?

37 A. Correct.

38
39 Q. And then over the page, again, if we could look at
40 paragraph 46, you will see that it's said there, this is
41 now the investigating officer's comment, that there is no
42 provision in Reference C - Reference C is the Defence
43 Instruction for the Air Training Corps Manual of
44 Management, 4th Edition, which presumably applied at the
45 time - for cadets to be given the option to resign as a
46 result of their becoming unsuitable through fraternisation.
47 The only course of action sanctioned is for the commanding

1 officer to take discharge action:
2

3 Moreover, discharge action on the basis of
4 unsuitability cannot be taken unless the
5 cadet has been notified in writing of the
6 reason for intended discharge and is given
7 the opportunity to contest it.
8

9 My understanding here, correct me if I'm wrong, is not only
10 was this option of "resign or else" be given but in respect
11 of the "or else", in other words, discharge, no notice was
12 given to Eleanore of that, was there?

13 A. All your statements are correct.
14

15 Q. If we take a look at the next page, 0011, in
16 particular, paragraph 50, we will see that on 10 November -
17 this is now nearly two weeks on from the conversation and
18 11 days on from when Eleanore had been told about her
19 choice - Wing Commander James and Wing Commander Watson
20 discussed the way ahead and Wing Commander Watson was made
21 aware of the identity of the cadet and that the
22 relationship between her and Leading Aircraftman Harper was
23 not sexual. Wing Commander Watson concluded that there
24 were no grounds to discharge Cadet Sergeant Tibble. In the
25 last sentence in that paragraph, Commander Watson and
26 Wing Commander James agreed to consult with Wing Commander
27 Stevens, which they did on 12 October, two days later, and
28 then in the next paragraph, at that meeting Wing Commander
29 Stevens agreed with Wing Commander Watson's view that
30 discharge could not now be supported, notwithstanding
31 previous advice from the Reserve Directorate to discharge
32 the cadet. And a couple of sentences later:
33

34 The direction from Wing Commander Stevens
35 was to reinstate Cadet Sergeant Tibble and
36 to not continue with discharge action.
37

38 Do you see that was on 12 November and it was on
39 27 November that Eleanore took her life; is that right?

40 A. That's correct.
41

42 Q. Then over the page, at page 12, further details were
43 set out. In particular paragraph 54, Wing Commander James
44 met with Wing Commander Watson on 28 November and to
45 Wing Commander's Watson's dismay and irritation,
46 Wing Commander James reported that he had not finalised the
47 Cadet Sergeant Tibble matter. Wing Commander Watson then

1 became firm and forceful and reminded James of the
2 direction from Stevens to reinstate and the expectation
3 that action would now be complete, and James told the IO
4 that he needed to get his head around what needed to be
5 done. That seems to be an explanation for the delay. It
6 goes on, but in 55 it says that later that day
7 Wing Commander James became aware that Cadet Sergeant
8 Tibble had committed suicide the previous day and advised
9 Wing Commander Watson.

10
11 I think you've articulated your pain and perhaps
12 outrage about this delay, Mrs Campbell. I don't know if
13 there's anything more you want to say about that, when you
14 read that.

15 A. It just seems like a litany of errors and actions
16 taken on people's perception rather than on fact, without
17 testing those facts.

18
19 Q. One of the things we will be doing through the rest of
20 this part of the case study, particularly when we get to
21 looking at the current policies and procedures that apply
22 in the Australian Defence Force Cadets generally and in the
23 Air Force Cadets in particular, is to see whether those
24 policies and procedures have responded adequately to the
25 problems that occurred in this case and the recommendations
26 that were made.

27 A. Thank you.

28
29 THE CHAIR: Does anyone else have any questions?

30
31 MS McLEOD: If I may just for clarification, sir, the
32 Stunden Report itself notes that the instructor resigned on
33 15 August 2000. The resignation documents appear in the
34 Stunden Report, that your Honour was just taken to, at
35 page 31 and around there, remembering that at that time
36 there was not an allegation of a sexual relationship.
37 That's the extent of it, your Honour.

38
39 THE CHAIR: Mrs Campbell is here to tell us of a personal
40 tragedy because it would seem that the Cadets failed at the
41 very first step to understand that they had the care and
42 responsibility for children as well as young adults and
43 that's the issue that we need to explore.

44
45 MS McLEOD: Indeed, your Honour. I was just responding to
46 your Honour's specific question.

47

1 THE CHAIR: I understand. Does anyone else have any
2 questions?

3

4 <EXAMINATION BY MS DAVID:

5

6 MS DAVID: Q. Thank you, Mrs Campbell. As you know, my
7 name is David and I represent your interests at this
8 Commission. Just very briefly - as I understand it, you
9 were asked to give this evidence at the Commission, weren't
10 you? You were contacted by Commission staff?

11 A. I was contacted by the Commission, yes.

12

13 Q. Prior to that, you had thought of contacting the
14 Commission, hadn't you?

15 A. Well, I had as soon as the Royal Commission was set
16 up, but then I thought well maybe my story - I can't -
17 I can't do this because I'd already signed a deed of
18 release through mediation with the Defence Force in 2006.
19 I think it was 2006.

20

21 Q. Was that in relation to some payment that you
22 received?

23 A. Yes, indeed.

24

25 Q. Is that the payment you referred to in your statement?

26 A. No, that was - it was more than that. There was -
27 I was told - I had - initially, I did the legal
28 representation myself for a number of years, quite a number
29 of years, and then got offer of pro bono work by two Hobart
30 lawyers, including one member of parliament, our local
31 member, Duncan Kerr, and I was told the opportunity for a
32 mediation was on the table after we had had the Federal
33 decision - yes, the decision in the Federal Court was that
34 it could go through to the High Court as a breach of duty
35 of care, but I was advised to have a mediation and accept
36 some compensation rather than pursue it in the High Court,
37 and part of that mediation and compensation was for me to
38 sign a deed of release which I have sat on for the past
39 10 years and I felt that that precluded me from actually
40 approaching the Commission.

41

42 Q. Just to be clear, you understood that the deed of
43 release prevented you from perhaps participating in a
44 process such as the Commission?

45 A. Yes.

46

47 Q. And that fact hampered you prior to coming here --

1 A. Yes, I never - I haven't contacted anybody for
2 10 years.
3
4 Q. Clearly, you were motivated in coming to the
5 Commission prior to even being contacted to put forward
6 your experience?
7 A. Once approached by the Commission, I realised that the
8 issue is far, far bigger than my personal trauma for the
9 day and I just want to put this out there for - as the
10 change agent.
11
12 MS DAVID: I have nothing further. Thank you.
13
14 THE CHAIR: Mr Stewart?
15
16 MR STEWART: No, your Honour, I have nothing further.
17
18 THE CHAIR: Thank you, Mrs Campbell. Thank you for coming
19 and telling us your story.
20
21 THE WITNESS: Thank you very much indeed for giving me the
22 opportunity to do that.
23
24 THE CHAIR: Thank you, you are excused.
25
26 <THE WITNESS WITHDREW
27
28 MR STEWART: Your Honour, the next witness is [CJD] and her
29 evidence will be given via videolink.
30
31 THE CHAIR: [CJD], can you hear me?
32
33 [CJD]: Yes.
34
35 THE CHAIR: Can you see me?
36
37 [CJD]: Yes. Yes. No? I can only see Angus.
38
39 THE CHAIR: That's all right. It is Justice McClellan who
40 is talking to you.
41
42 [CJD]: Right.
43
44 THE CHAIR: You're going to give evidence. You need to be
45 sworn to tell the truth. Would you prefer to take an oath
46 on the Bible or an affirmation?
47

1 [CJD]: An oath, please.
2
3 THE CHAIR: Is there a Bible there?
4
5 [CJD]: Yes, your Honour.
6
7 <[CJD], sworn: [12.47pm]
8
9 THE CHAIR: There is a gentleman on his feet behind you,
10 Mr Stewart.
11
12 MR P HOGAN: I seek leave to appear on behalf of the
13 witness, [CJD].
14
15 THE CHAIR: Your name is?
16
17 MR HOGAN: Hogan.
18
19 THE CHAIR: And you seek leave to appear for [CJD].
20
21 MR HOGAN: Yes, your Honour.
22
23 THE CHAIR: Yes, you have that leave.
24
25 Q. You understood what happened then, [CJD]?
26 A. Yes, your Honour.
27
28 THE CHAIR: Mr Hogan is here to care for your interests.
29 It is now Mr Stewart's turn.
30
31 <EXAMINATION BY MR STEWART:
32
33 MR STEWART: Q. [CJD], we haven't met. I'm
34 Counsel Assisting the Royal Commission and I'll ask you a
35 few questions. Your details, of course, are well known to
36 us. Can I ask you, do you have a copy of your statement
37 for the Royal Commission dated 8 June 2016?
38 A. Yes. Yes, I do.
39
40 Q. Do you confirm that that statement is true and
41 correct?
42 A. Yes, I do.
43
44 MR STEWART: I tender it, your Honour.
45
46 THE CHAIR: It will become exhibit 40-028.
47

2
3 MR STEWART: Q. I ask you [CJD] to read that statement,
4 commencing at the second paragraph.

5 A. The second paragraph:

6
7 "My full name is [CJD], I was born in [REDACTED] 1985.
8 I grew up in Maitland, New South Wales, with my mum and
9 dad, my older brother and my twin sister.

10
11 In 1998, when I was 13 years old, I visit the
12 Maritime Museum in Sydney. I went on board HMAS Vampire
13 and I thought it was the coolest thing ever. After that
14 day, I wanted to join the Navy.

15
16 Not long after, my Dad took me to the
17 Australian Defence Force Recruiting Office in Newcastle.
18 I spoke with a member of the Australian Defence Force (ADF)
19 about careers in the Navy and was told that I was too young
20 to join the Navy but that it was possible to join the
21 Naval Reserve Cadets, which is now called the Australian
22 Navy Cadets (ANC).

23
24 In around November 1998, my Dad took me to the local
25 ANC unit in Newcastle. The unit was called Training Ship
26 Tobruk. (TS Tobruk). I was given a tour of the facility
27 by the commanding officer at the time [CJL] and cadet
28 instructor [CJM].

29
30 [CJL] told me that the unit met every Saturday for
31 parade and that in the summer we would learn how to sail
32 and use the powerboats whereas the winter months were for
33 catching up on lectures and parade drill. At the end of
34 the tour, [CJL] told me that I could join cadets on a
35 six week trial as a junior recruit, and that if I decided
36 to stay, I would receive a uniform.

37
38 I remember that I had to fill in an application form,
39 which covered any medical issues. I can't recall signing
40 any other documents or being informed about any ANC
41 policies at that time.

42
43 Most of the cadet instructors at TS Tobruk were
44 civilians. [CJM] had previously been in the ADF, but
45 retired and joined the ANC as an instructor. There were
46 about thirty other cadets in the unit, ranging in age from
47 14 to 19. When I joined, there were an equal amount of

1 boys and girls.

2
3 I loved cadets. Follow my six week trial, I enrolled
4 as a full member. [CJL] ran a tight ship. She was very
5 disciplined but also a great mentor. [CJK] was also a
6 cadet instructor at TS Tobruk. He was in charge of the
7 boats and spent most of his time in the boat shed.

8
9 When I first joined cadets, I looked up to and admired
10 [CJK] a lot. He was really friendly and charismatic. He
11 joked around with everyone. [CJK] was able to choose which
12 cadet got to do the sailing activities on the weekend.
13 Because of this, it felt like everyone tried to impress
14 him.

15
16 In around 2000, I recall that I attended the midyear
17 Annual Continuous Training (ACT) course. I participated in
18 classroom lectures which taught the practical aspects of
19 the ANC. Some of the lectures addressed the ANC code of
20 conduct and the "no fraternising rule" which was specific
21 to relationships between cadets.

22
23 I can't remember the content of the code of conduct,
24 other than not to participate in any behaviour that might
25 bring the Cadets' reputation into disrepute. I recall that
26 fraternising between cadets was frowned upon and cadets
27 were meant to treat each other with respect. There was no
28 mention about sexual relationships between cadets and
29 instructors, and I don't ever recall hearing about 'special
30 care provisions' or any criminal consequences.

31
32 At the start of 2001, when I was 15, I became best
33 friends with two other girls who were in my cadet unit. We
34 were always together during cadet activities.

35
36 At around the same time, [CJK] started flirting with
37 me and my two friends during cadet activities. [CJK] would
38 ask us to sit on his lap. He would walk past us and touch
39 us on the breast or bum. Sometimes, he would grab us on
40 the vagina, on the outside of our clothing. [CJK] would
41 encourage us to kiss him on the cheek. [CJK] constantly
42 told me how beautiful I was and what a good body I had.
43 Whenever he did these things, he would always make it seem
44 like a bit of a joke.

45
46 At the time, I felt conflicted because no other male
47 had ever treated me or touched me this way but everyone in

1 the cadet unit thought it was funny and never objected.
2 I accepted it because it appeared everyone else had
3 accepted. No-one ever complained about it, so his
4 behaviour must have been appropriate.
5

6 One day when [CJK] and I were on the deck he asked me
7 for a kiss. It had already been established that kissing
8 [CJK] on the cheek was acceptable so I kissed him on the
9 cheek as I had done before. [CJK] told me he was not my
10 grandfather and that was not the way I should be kissing
11 him. I was shocked and confused. I thought I had done
12 something wrong and so to appease [CJK], I kissed him on
13 the mouth.
14

15 Looking back on it now, I can see how [CJK] played me
16 and my two friends off against each other. I can see now
17 that [CJK] was grooming us and that we each felt compelled
18 to compete with each other for [CJK]'s affection and
19 attention. I didn't think about it at the time. I just
20 figured that because he was doing it to us as a group, and
21 he was an instructor, it must be ok.
22

23 In January 2000, our cadet unit attended an ACT course
24 on Spectacle Island, Sydney. [CJK] was with us as he was
25 instructing on powerboats. We travelled by bus to Sydney
26 and on the bus a girl from our cadet unit started mouthing
27 off. She was talking about how we all sat on [CJK]'s lap
28 and was making sexually explicit jokes publicly about it.
29 [CJK] pulled the other girls aside and told us that what
30 the girl had said would get him in trouble. [CJK] told us
31 not to 'speak out of school' because other people didn't
32 understand how our cadet unit ran, and that some people
33 would think it was wrong.
34

35 At the time I remember thinking, 'Yeah, he's not doing
36 anything wrong. It's okay for him to touch us on the
37 bottom or grab us on the breast or vagina when he's joking
38 around. That's just what he does.' Looking back, it makes
39 me sick thinking about how naive I was and as a young
40 impressible teenager I honestly believed it was okay for a
41 53-year-old man to grab your vagina if he was joking
42 around. That was the environment [CJK] had created at
43 cadets.
44

45 Throughout 2001, when I was still 16, [CJK] started
46 talking to me about his relationship with [CJL].
47 [CJK] described his relationship with [CJL] as being

1 'non-existent'. They slept in separate bedrooms. She had
2 cheated on him so that he had then had affairs. He told me
3 that he had affairs with other women and described his
4 sexual encounters.

5
6 I had never had sexually explicit conversations with
7 anyone before. At the time, I felt privileged that [CJK]
8 was confiding in me. I felt special that a man who was so
9 much more experienced was telling me these very personal
10 things. At the same time, I felt torn because I knew these
11 were things that only adults were meant to talk about.

12
13 Towards the end of 2002, [CJK] started isolating me
14 from my two friends at cadets. He would tell me that they
15 were bitching about me behind my back and then say I didn't
16 need them anyway because I had him. One of the other girls
17 left cadets around that time and so I stopped seeing her.
18 My friendship with the other girl also faded around this
19 time.

20
21 At the end of 2002, there was a New Year's Eve party
22 held at TS Tobruk. Instructors, cadets and their families
23 attended. Even though I was still only 17 years old. I
24 was allowed to drink alcohol and we all got a little drunk.

25
26 At one point in the evening, I was sitting on [CJK] 's
27 lap in the main area of the facility. The mother of one of
28 my friends became upset about me sitting on [CJK]'s lap and
29 made a scene. My friend asked her mother if she was
30 jealous. They then had an argument which resulted in my
31 friend's mum slapping her across the face.

32
33 I was very upset by this and went to the shower block
34 to cry. [CJK] came in after me and comforted me. I said,
35 'Can you make all this go away?' [CJK] said he could.
36 I asked [CJK] to kiss me and he did. [CJK] started
37 touching my breast on the outside of my clothes and at the
38 time I thought it was really exciting. He made me feel
39 safe. After a short time, [CJK] and I left the shower
40 block and went back to the party.

41
42 In January 2003, when I was 17, I was getting ready to
43 go on another ACT course. [CJK] picked me up from my house
44 and took me to the TS Tobruk facility. When we arrived,
45 no-one was there. [CJK] started kissing me and lay me down
46 on one of the couches in the common room. He then
47 digitally penetrated my vagina. I remember thinking that

1 it was exciting. [CJK] told me not to tell anyone about
2 what happened at the facility because they would think I
3 was crazy and that was because he was married I would be
4 seen as a home wrecker and a slut.

5
6 I now realise that by this time, I thought I was in
7 love with [CJK]. I craved his attention. I was terrified
8 that he would lose interest in me and would do whatever he
9 wanted to appease him.

10
11 In around March 2003, [CJK] arranged for us to meet at
12 a hotel. We had sex. I had just turned 18. [CJK]
13 confided in me that he had been in love with me since I was
14 15 years old. [CJK] and I continued to meet at the cheap
15 motel for sex for about six months. We would go and stay
16 at the motel on Saturdays after cadet activities. [CJK]
17 told me that he told [CJL] he was fishing overnight with
18 friends. At cadets, [CJK]'s behaviour towards me never
19 changed. He continued to touch me and speak suggestively
20 to me.

21
22 I was still living at home with my family at this
23 time, however I had become distant from them, including my
24 twin sister. [CJK] continually reinforced I couldn't tell
25 anyone about us. As a result I became withdrawn from
26 everyone, especially my family.

27
28 In March 2003, [CJK] organised and paid for a
29 one bedroom flat for me to move into. I told my parents I
30 was moving in with an ex-cadet, who they knew of. The
31 truth was that I had lost all my school friends by now.
32 None of my family knew where I lived. [CJK] would ring me
33 constantly to check on where I was and who was I was with.

34
35 [CJK] practically lived at my flat from the moment I
36 moved in. He came over every night and left about 8pm, he
37 would stay over on Saturday nights. About 12 months later,
38 [CJK] told me he couldn't keep paying for my rent and so
39 [CJK] decided I should move. [CJK] continued to come
40 around to my new house and have sex with me at night after
41 he finished work.

42
43 Around this time [CJK] found me a job in ADF
44 recruitment. I had always wanted to join the Navy, rather
45 than work in recruitment, but [CJK] had told me I would
46 turn into a slut in the Navy and that if I wasn't a slut
47 then the Navy wouldn't want me. At the time, I believed

1 him. I had no self-confidence.
2

3 Looking back, I can now see that I had lost all sense
4 of perspective. My life had become about [CJK]. During
5 this period, I had limited contact with my friends or
6 family because I was too frightened of upsetting [CJK]. He
7 told me I couldn't trust my friends or family. I felt
8 completely isolated from the world. I became depressed.
9

10 In 2004, when I turned 19 years old, I 'aged out' of
11 cadets and applied to become a cadet instructor. About six
12 months later, I attended an ANC instructor's course held at
13 HMAS Penguin, Sydney. During the course, I was instructed
14 on our 'duty of care' with respect to cadets, but I recall
15 that it was more directed at risk factors within the
16 child's family or social environment. I can't recall being
17 told that sexual relationships between cadet instructors
18 and cadets may amount to a criminal offence.
19

20 In around 2008, when I was 23, I was still in a sexual
21 relationship with [CJK]. However, I was depressed and
22 completely non-functional. I was completely isolated from
23 everyone other than [CJK]. I was lost. I would daydream
24 about [CJK] dying because I saw no other way of getting out
25 of the situation. I decided I needed to end the
26 relationship for my own self-preservation.
27

28 In 2008, the Commanding Officer of TS Tobruk, [CJN],
29 called me in for a meeting with him and [CJM]. [CJN] told
30 me that [CJK]'s daughter had made a formal complaint that I
31 had been bullying her son who was now a cadet. I denied
32 this and disclosed to [CJN] and [CJM] that [CJK]'s daughter
33 was aware that [CJK] and I had been in a sexual
34 relationship. I told [CJN] and [CJM] that the relationship
35 had developed from when I was a cadet and [CJK] was an
36 instructor.
37

38 [CJM] said he thought something had been going on
39 between me and [CJK] since he had seen [CJK] get me to sit
40 on his lap. I was shocked. I didn't think anyone knew.
41 Looking back, I feel distraught that [CJM] was aware that
42 [CJK] was grooming me and did nothing about it. I wish that
43 he had intervened to stop what [CJK] was doing. I was not
44 old enough to determine what normal behaviour was at the
45 time, so I couldn't protect myself.
46

47 After the meeting with [CJN] and [CJM] I left the

1 facility. I have never been back to TS Tobruk or any other
2 ANC activity.

3
4 It took me a long time to come to terms with what had
5 happened to me and to feel better about myself. I suffered
6 from depression and anxiety. I sought medical and
7 psychological help. At my lowest point I wanted to commit
8 suicide. I didn't see a point to my life. I absolutely
9 hated myself.

10
11 I had several relationship after breaking up with
12 [CJK] that contributed to my already low self-esteem. Due
13 to the years of being broken down by [CJK], I sexualised
14 affection and had to be in a relationship. I had sex on
15 every date I went on because I thought it meant that the
16 man loved me. I could not be alone. I would rather have
17 been with the wrong person than be by myself.

18
19 It has taken me a long time to repair my relationship
20 with my family. I have since told my mum and my sister
21 about what happened to me with [CJK]. It was a relief to
22 tell them. I felt like for the first time in seven years I
23 was emerging from a dark dingy dirty corner.

24
25 I couldn't tell my dad, my mum had to do it for me.
26 I couldn't tell my dad because I knew dad would blame
27 himself for failing to protect me. I felt like I let
28 everyone down.

29
30 Mum and dad spoke to a solicitor. The solicitor
31 didn't specialise in criminal law, and they told her
32 nothing could be done because I was over the legally
33 consenting age of 16. Mum rang cadets and complained to
34 [CJN] and told him she was worried about other girls who I
35 believed [CJK] was now grooming. [CJN] told mum there was
36 nothing he would do but he would keep an eye on it.

37
38 The ADF need to implement and monitor a mandatory
39 reporting system in relation to inappropriate behaviour
40 within cadets involving children. This includes
41 inappropriate relationship with instructors. If
42 instructors or staff believe, suspect or know that there is
43 any inappropriate behaviour by cadet instructors towards
44 cadets they must be required to report it.

45
46 The ADF Cadets needs to reinforce the fact that any
47 type of inappropriate behaviour won't be tolerated.

1 Policies need to be policed and monitored to ensure
2 instructors lead by example and do not tolerate any at-risk
3 behaviours involving children. The culture of the ADF
4 Cadets needs to change so it isn't acceptable.
5

6 The cadets bring together teenagers who are looking to
7 become leaders. These cadets look to instructors for
8 leadership and guidance. In this environment, it is easy
9 for teenagers to want to be like the adults, to try and fit
10 in, to try and be accepted. Teenagers are very vulnerable
11 in this situation and there needs to be awareness around
12 the psychology of children and teenagers so that
13 instructors are not able to take advantage of young
14 cadets."

15
16 THE CHAIR: Do you have any questions, Mr Stewart?
17

18 MR STEWART: I don't your Honour.
19

20 THE CHAIR: Does anyone have any questions of [CJD]?
21

22 MR HOGAN: Yes, your Honour.
23

24 <EXAMINATION BY MR HOGAN:
25

26 MR HOGAN: Q. Could I take you to paragraphs 39 and 40.
27 You refer to a conversation with [CJN] and [CJM]. Is there
28 any conversation in direct speech you would like to set out
29 there?

30 A. Yes. I would like to add that I said to [CJN], "I'm
31 opening a can of worms, aren't I?" And he said, "Yes, you
32 are, but we won't say anything because [CJL] is related to
33 [CJK]."
34

35 Q. Thank you. Is there anything further that you wanted
36 to add to recommendations at 47 onwards?

37 A. It shouldn't matter who knows who, who's friends with
38 who, who is related to who. Regardless of relationships,
39 children need to be protected. If you think that something
40 is going on, you have to do something.
41

42 MR HOGAN: Thank you.
43

44 THE CHAIR: Mr Stewart?
45
46
47

1 <EXAMINATION BY MR STEWART:

2

3 MR STEWART: Q. I have one question, your Honour. Can
4 I refer you to paragraph 17 of your statement, [CJD], where
5 you say "at the time", so this was early on in about 2001,
6 as I understand it, when you were about 15 still, you
7 felt --

8 A. Yes, 15 or 16, I think.

9

10 Q. You say that everyone in the cadets unit thought it
11 was funny and never objected, and you say, "I accepted it
12 because it appeared that everyone else had accepted."
13 When you refer to "everyone" there, are you referring to
14 other cadets or are you including within that officers
15 and/instructors of cadets?

16 A. Yes, I'm including officers and/or instructors,
17 everyone, the staff, the cadets, other people from other
18 units who stayed, no-one objected, no-one said anything.

19

20 Q. Thank you.

21 A. It was all funny.

22

23 MR STEWART: Thank you and thank you for your evidence.

24

25 THE CHAIR: Q. Thank you, [CJD]. That concludes your
26 evidence. Thank you for telling us your story. You are
27 now excused.

28 A. Thank you, your Honour.

29

30 <THE WITNESS WITHDREW

31

32 THE CHAIR: We will take the luncheon adjournment.

33

34 LUNCHEON ADJOURNMENT

35

36 MR STEWART: Your Honour, I call Aaron Symonds and he is
37 in the witness box.

38

39 <AARON ROY SYMONDS, affirmed: [2.06pm]

40

41 <EXAMINATION BY MR STEWART:

42

43 MR STEWART: Q. Mr Symonds, will you state your full name
44 and occupation?

45 A. Aaron Roy Symonds, sales administrator.

46

47 Q. Do you have before you a copy of your statement

1 prepared for the Royal Commission dated 6 June 2016?

2 A. Yes, I do.

3

4 Q. Do you confirm that it is true and correct?

5 A. Yes, I do.

6

7 MR STEWART: I tender the statement, your Honour.

8

9 THE CHAIR: That will become exhibit 40-029.

10

11 EXHIBIT #40-029 STATEMENT OF AARON ROY SYMONDS

12 DATED 06/06/2016

13

14 MR STEWART: Q. I will ask you, Mr Symonds, to read your
15 statement, commencing at paragraph 3?

16 A. "My full name is Aaron Roy Symonds. I was born in
17 1983 and I am currently 33 years old.

18

19 I was born and raised in Brisbane as the eldest of
20 four children with two brothers and one sister. I had
21 a really safe and happy upbringing with a supportive
22 family.

23

24 In my last year of primary school, the different cadet
25 services visited my school to tell us about their
26 organisations. Following this visit I decided that
27 I wanted to join the Air Training Corps (AIRC) because it
28 sounded the most interesting. The AIRC was later renamed
29 to be the Australian Air Force Cadets.

30

31 In early 1996, when I was aged 13, I joined 17 Flight
32 (now called 217 Squadron) as a cadet. 17 Flight was based
33 in Cleveland, near Brisbane.

34

35 The AAFC was a fun organisation to be involved in. We
36 met once a week at night, where we would be instructed in a
37 few subjects. There were also extra-curricular activities
38 held during a weekend every one or two months and
39 additional promotional courses. There were between 50 to
40 100 cadets at each AAFC activity.

41

42 In my unit, there were about six or seven volunteer
43 adult instructors who would supervise the cadets at the
44 AAFC activities. These instructors were not employed in
45 the Australian Defence Force, however, on some activities
46 we were assisted by serving members. The senior cadets
47 would also assist in supervising the more junior cadets

1 together with some of the parents who would volunteer to
2 help at the activities.

3
4 I enjoyed my involvement as an AAFC cadet. The AAFC
5 had a close culture of friendship and it was a great way to
6 meet like-minded people. There was a lot of socialising
7 amongst the cadets outside of the AAFC activities.

8
9 I was taught the AAFC's behavioural policy soon after
10 starting with cadets which set out, for example, that there
11 would be penalties for fraternisation between cadets. This
12 policy was taught by either the senior cadets or the adult
13 staff members. The policy provided information on the
14 cadet rank system and what behaviour was expected of
15 cadets. We were told that fraternisation meant anything
16 from holding hands through to more romantic, physical-type
17 things like how a couple in a relationship would act. This
18 was not permitted during cadet time and there were
19 consequences for fraternisation which ranged from not being
20 allowed to do certain courses to termination from cadets.
21 There was fraternisation between cadets during my time in
22 the AAFC but this would often happen outside of cadet
23 activities.

24
25 I first met Todd Oakley in about 1997 when I was
26 14 years old. Oakley was about 25 years old at the time.
27 Oakley was a civilian staff instructor attached to
28 a different unit that my unit would sometimes join for
29 larger activities.

30
31 Oakley had organised a tour of the Brisbane Airport
32 which was not officially a cadet activity but which
33 I decided to attend with many other cadets.

34
35 Oakley was good friends with another cadet in my
36 Flight and after the tour of Brisbane Airport, I and
37 a small group of cadets would meet up with Oakley every
38 couple of months at a coffee shop in Wellington Point in
39 Brisbane. During these meetings we would talk about the
40 AAFC, cadet activities and politics in the AAFC. Oakley
41 was the only adult during these friendly get-togethers.

42
43 Around 1999, a year or so after first meeting Oakley,
44 when I was about 16 years old, I attended the Royal
45 Australian Air Force RAAF Base Amberley for a AAFC
46 activity. I was a senior cadet at the time. Oakley was
47 also at RAAF Base Amberley at the time participating in a

1 separate cadet activity. In the early evening I caught up
2 with Oakley on the balcony and he offered me a cigarette
3 and we smoked together while we casually chatted. There
4 was no-one else around at the time. Oakley said that he
5 could help me with my shoulders which were a bit hunched
6 growing up, so he started to massage my back. The AAFC had
7 a culture of trusting each other so I did not question
8 Oakley's motive in offering to massage me. While he
9 massaged my back, he stood very close to me and fondled my
10 ear lobe and neck area. I did not think much about it,
11 other than thinking it was a little bit odd.
12

13 Oakley also told me that the next time we met up for
14 coffee, he could give me a proper massage and rent a room
15 to be more comfortable. I didn't really understand what he
16 meant and didn't think much of it at the time. I now know
17 that Oakley was grooming me.
18

19 Later that year, I met a group of cadets and Oakley
20 for coffee. It was common for cadets to socialise outside
21 of the AAFC as well as watch movies at each other's houses
22 and drink alcohol together.
23

24 Afterwards, Oakley invited a group of us to his house
25 but I was the only one who ended up going. I had been
26 drinking alcohol that night but I remember going to sleep
27 on Oakley's bed. Whilst in the bed, Oakley starting
28 putting his hands down my pants and rubbing me. I told
29 Oakley to 'bugger off'. It did not go any further. I did
30 not tell anyone about this incident and Oakley never
31 mentioned it. I was a bit drunk and my memory was blurry
32 so I told myself it must have just been a dream.
33

34 A few months later, Oakley called me to meet up for
35 coffee. Oakley told me on the phone that he could rent
36 a room and give me a proper massage. It didn't click to me
37 at the time that anything was unusual. When I met Oakley
38 for coffee, he had not invited anyone else. It was just
39 the two of us. Later that night he took me to a room he
40 had rented in the Wellington Point Hotel. Oakley brought
41 a tray from his car that contained oils and towels and he
42 told me that he was a qualified massage therapist. It
43 seemed legitimate to me at the time.
44

45 When we arrived in the room, Oakley asked me to take
46 off my clothes and lie on my stomach on the bed so he could
47 massage my back. I kept my underwear on but Oakley told me

1 to take my underwear off and to leave the towel around me
2 and lie down. I had never had a massage before and didn't
3 know exactly what to do. After about 10 to 20 minutes into
4 the massage, it started to turn sexual. Oakley touched my
5 buttocks, my inner thighs and genitals. At this point,
6 I rolled over and saw that Oakley was naked. In shock and
7 disgust I jumped off the bed and said to him, 'This is not
8 on. What are you doing? I'm not like this.' And he
9 replied 'I'm not either.' It was confronting.

10
11 Oakley then said to me, 'It's going to look bad for
12 the both of us if you say anything about this. You know
13 what people are like, what they will say. If you were
14 found to be smoking on activities you also wouldn't be
15 allowed to be a cadet any more.' By this time, Oakley knew
16 I wanted a career in the military and being discharged from
17 the AAFC for disciplinary matters like smoking could hamper
18 my chances of getting into the Defence Force. Oakley then
19 told me to have a shower to wash the oils off. While in
20 the shower, Oakley came in. He seemed disappointed and
21 upset. He forced me to play with his genitals and
22 masturbate him, which continued to oral sex and then he was
23 having trouble ejaculating. I didn't defend myself as
24 I felt there was no way of getting out of this situation.
25 I felt disgusted.

26
27 Oakley drove me back home. On the way, he kept saying
28 things like, 'You're not going to report this', 'Keep this
29 a secret', and 'It's going to reflect badly on both of us
30 if you tell.'

31
32 When I got home I just went straight to bed. I did
33 not tell my parents. I chose to block this memory and
34 believe it had not happened, but these types of memories
35 linger.

36
37 Since I wanted a career in the Defence Force,
38 I decided not to report the abuse. I did not want to risk
39 the AAFC finding out I had been smoking on AAFC activities
40 and possibly discharging me. This was a real threat for
41 me. In cadets, I believed that any disciplinary matters
42 could negatively affect you from joining the Defence Force.

43
44 After the abuse, I tried to avoid Oakley on AAFC
45 activities and stopped socialising with him outside of the
46 AAFC.

1 I left the AAFC in about 2001, when I was about 18
2 years old, and earned the rank of cadet flight sergeant.

3
4 The following year, I joined the Australian Regular
5 Army but I left in 2007 because I had contracted glandular
6 fever and suffered depression.

7
8 I was having a lot of trouble sleeping and I was
9 drinking and smoking heavily. Now that I have received
10 treatment, I can see that there were a lot of triggers
11 within my role in the Army. I had close contact with other
12 men in the Army and showering with about 30 men in open
13 facilities would bring up memories of the abuse.

14
15 Although I always considered I would have a lifetime
16 career in the Army, I could not handle the anxiety and
17 stress and decided the Army was not a good fit for me.

18
19 After leaving the Army, I continued to suffer from
20 depression and went through a variety of jobs.

21
22 By about 2013, I had recovered significantly and was
23 looking for something to do with my spare time. I thought
24 of either going back to university to do further study or
25 even going into a career with the police force or returning
26 to the AAFC. I approached my old cadet unit, which was now
27 called 217 Squadron, about teaching a couple of days
28 a week.

29
30 I thought I could pass on some of the knowledge I had
31 gained from my time in the Army and also as a former cadet.

32
33 Towards the end of 2013 I went in for a meeting with
34 the 217 Squadron to become a staff instructor. During this
35 meeting, I saw Oakley parading with the unit. I was so
36 surprised to see him because I had been told by others that
37 he was no longer involved with the AAFC. I was surprised
38 to later learn that he was in a position of authority
39 within the AAFC. Given what he had done to me, I did not
40 think he should have been in a position with such close
41 contact and control over children. After this meeting,
42 I told the 217 Squadron I did not want to become a staff
43 member, but I did not tell them why.

44
45 I saw Oakley on a couple of other occasions when I was
46 socialising with other AAFC members. It was difficult to
47 see Oakley on these occasions because I had to be friendly

1 and pretend that nothing had happened.
2

3 In early 2014, I was socialising with Michael Brett,
4 the commanding officer of the 217 Squadron. We were
5 talking about people in the AAFC and Oakley's name was
6 mentioned. I then told Brett about what Oakley had done to
7 me as a cadet.
8

9 Brett said that he was going to contact the AAFC
10 headquarters to report what I had told to him. He told me
11 he did not want to get too involved in the report because
12 he did not have the experience handling sexual abuse
13 complaints, and he wanted me to talk directly to
14 John Devereux, the regional AAFC commanding officer.
15

16 Within days of telling Brett what had happened, I met
17 Devereux at his office in Brisbane and I told him
18 everything about my interactions with Oakley as a cadet and
19 the abuse. At some stage, the AAFC offered me some
20 counselling support but I was already professionally
21 supported at this time.
22

23 After I met with Devereux I was told by Brett that
24 Devereux was going to directly hand my report to the
25 Queensland Police. I was happy for this to occur. Brett
26 also told me that Oakley was stood down from cadets, but
27 I did not know the details.
28

29 I assisted the police during their investigation into
30 Oakley.
31

32 As part of their investigation, the police asked me to
33 make a 'pretext call' to Oakley to try to get him to admit
34 to the abuse. When I called Oakley, he said that he did
35 not know me. I could not believe it since only a few weeks
36 before he had shook my hand and was very friendly with me.
37 I believe Oakley was put on notice when he was stood down
38 from the AAFC. It felt like he was prepared for my call.
39

40 The police and I tried to make another 'pretext call'
41 to Oakley but he did not answer. I later found out from
42 the police that Oakley had engaged a lawyer who had told
43 the police not to contact Oakley again unless they had
44 something solid. Oakley declined to be interviewed.
45

46 About six to nine months ago I called the police and
47 the detective told me that because there was insufficient

1 evidence they could not continue with the investigation.
2 The detective told me that they were going to hand their
3 file to the Military Police who they hoped would be able to
4 progress the case further because their evidentiary system
5 would assume that Oakley was guilty until he proved his
6 innocence.

7
8 I have not received any communication from the
9 Military Police or anyone from the AAFC about any ongoing
10 internal investigation into Oakley. I do not know the
11 outcome, if any, of the investigations by the
12 Military Police or the AAFC.

13
14 I have struggled with depression and my mental health
15 as a result of this abuse. This affected my career in the
16 Army, my ability to gain further employment after leaving
17 the Army and also my personal relationships.

18
19 When I first reported the abuse to the AAFC I came
20 very close to committing suicide.

21
22 I genuinely believe that if these incidents didn't
23 happen to me, my life would have been totally different.

24
25 The AAFC should have better policies and procedures
26 for identifying potential threats to children's safety and
27 for reporting such concerns.

28
29 Since the AAFC is a very disciplined and strict
30 organisation where you can be thrown out for breaching
31 a rule, it can be very intimidating to speak out and report
32 abuse. In my case, I was too afraid to report Oakley
33 because I risked him telling the AAFC that I had breached
34 the rule against smoking.

35
36 The AAFC should also review the procedural methods of
37 when to hand over investigations to the civilian police.
38 There is a potential for the internal AAFC investigations
39 to impact on the police investigations if they alert
40 a perpetrator to complaints and possible sanctions.

41
42 I have very fond memories of my time in the AAFC and
43 still have some very close friendships with fellow cadets.
44 I came forward to the Royal Commission because I wanted to
45 help the AAFC make sure that no other children have similar
46 experiences to me. Thanks".

1 MR STEWART: Thank you, Mr Symonds. I have no further
2 questions, your Honour.
3
4 THE CHAIR: Does anyone else have any questions?
5
6 MS GLEESON: I represent Mr Oakley. I don't have any
7 questions for this witness but I don't want that to be
8 taken as any suggestion that there is an acceptance of the
9 allegations that this witness has made. Thank you.
10
11 THE CHAIR: Do you then impose a condition on your
12 silence; is that right?
13
14 MS GLEESON: No.
15
16 THE CHAIR: As I understood it, you are inviting me to
17 accept what you say; is that right?
18
19 MS GLEESON: I am not inviting anything, other than
20 stating that the fact that I'm not challenging the evidence
21 that Mr Symonds is giving today should not be taken as any
22 acceptance in any other forum --
23
24 THE CHAIR: In any other forum?
25
26 MS GLEESON: -- as to the veracity of those allegations.
27
28 THE CHAIR: Very well, yes. Thank you, Mr Symonds. That
29 concludes your evidence. You are excused.
30
31 <THE WITNESS WITHDREW
32
33 MR STEWART: Q. The next witness, your Honour, is [CJG]
34
35 <[CJG], affirmed: [2.25pm]
36
37 <EXAMINATION BY MR STEWART:
38
39 MR STEWART: Q. Thank you, Ms [CJG]. Your details are
40 known to the Royal Commission. Do you have available to
41 you there a copy of your statement dated 20 June 2016,
42 prepared for the Royal Commission?
43 A. I do.
44
45 Q. Do you confirm that that statement is true and
46 correct?
47 A. Yes.

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MR STEWART: I tender that, your Honour.

EXHIBIT #40-030 STATEMENT OF [CJG] DATED 10/06/2016

MR STEWART: Q. I understand I said that the date of the statement was 20 June. I correct that. It is, of course, 10 June. I ask you to read the statement, commencing at the second paragraph.

A. "My full name is [CJG]. I was born in 1995 and I am 20 years old.

I grew up in Sydney with my parents and my brother. In 2008, when I was 12 years old, my family moved to Tamworth.

Shortly after arriving in Tamworth, representatives from the Australian Air Force Cadets, (AAFC) gave a presentation at my school. They said that the AAFC was taking members from the age of 13. I thought it sounded like a great way to make friends.

In March 2009, at the age of 13, I joined 310 Squadron in Tamworth. When I joined, my parents signed a form acknowledging that the AAFC would take responsibility for me while I was involved in the AAFC related activities.

The 310 Squadron met every Tuesday night from 6pm until 9.30 at the Tamworth Airport. We started the evening by parading around the base in uniform, followed by an activity such as learning about the rank structure of the Air Force or military drill, before ending with an 'end brief'.

There were six adult staff members in 310 Squadron: four male and two female. They were not permanent Australian Defence Force members. They were all civilians. There were around 40 cadets in 310 Squadron, six of whom were female. The majority of our squadron was made up of lower rank cadets aged between 13 and 15 years. The majority of senior cadets were aged between 15 and 18 years.

The adult staff were involved in running activities and camps but their involvement was pretty minimal. There was a philosophy within the AAFC that 'cadets run cadets' and, on that basis, the senior cadets were left to run the

1 classes and training sessions on Tuesdays. My only contact
2 with the adult staff on Tuesdays was at the end brief.

3
4 Initially, I struggled to enjoy cadets. I felt like
5 a lot of the older kids were mean and they took their rank
6 too seriously. I didn't know anyone there and I was
7 lonely. However, over time, I started to enjoy the
8 activities more and made some really good friends.

9
10 There were two types of training courses run by the
11 AAFC for cadets - General Service Training courses, GSTs,
12 and promotion courses. The courses were open to all cadets
13 across New South Wales and were very popular.

14
15 GST courses ran for a week and consisted of a basic
16 training course for the younger cadets. There were
17 normally four GSTs a year, one in each of the school
18 holidays in March, July, September and over Christmas. The
19 AAFC covered all the costs of attending the courses.

20
21 In March 2010 I went to my first GST at the Royal
22 Australian Air Force base Williamstown, near Newcastle, in
23 New South Wales. There were approximately 60 cadets on the
24 course and around 16 of them were female. I was very
25 excited to be away from home and on a real RAAF Base for
26 the first time.

27
28 The adult instructors at the GST were all uniformed
29 AAFC members. Two of the adult instructors were female.
30 There were no permanent ADF members at the GST. One of the
31 female instructors stayed in the cadet barracks with us,
32 while the others stayed in the officer's mess, which was
33 separate to the cadet barracks.

34
35 The cadets barracks was a two-storey building. The
36 female cadets were allocated the top floor on the
37 right-hand side of the building and the male cadets were
38 allocated the left side of the top floor and the entire
39 bottom floor. The staff bedrooms were also on the bottom
40 floor.

41
42 There were no staff members to supervise the top
43 floor. This responsibility fell to the senior cadets.

44
45 The GST was very structured. We woke early, made our
46 beds and made sure everything was tidy before attending
47 activities during the day, and then returned to the mess

1 for all meals. Bed time was at 9pm.
2

3 I really enjoyed the GST because I met and made
4 friends with other cadets, it was on this GST that I first
5 met [CJE].
6

7 In January 2011 I attended a two-week junior promotion
8 course at RAAF Base Wagga. At the end of this course I was
9 promoted to the rank of corporal. I loved the challenge of
10 attaining a higher rank and the opportunity to meet kids
11 from all over the State. During this course, I attended
12 a briefing with other cadets where we were told that
13 fraternisation was against AAFC policy and told how to
14 report fraternisation.
15

16 The Eleanore Tibble story is very well known amongst
17 cadets because of what happened to her. There was
18 a general understanding among cadets that a cadet would be
19 kicked out if they were found to have engaged in any sexual
20 or inappropriate behaviour. AAFC staff members often told
21 us in briefings that if there was any fraternisation the
22 cadet involved would be sent home.
23

24 Meeting Christopher Adams 25

26 In September 2011 I attended a senior promotion course
27 at Williamtown. I was 15 years old at the time. It was on
28 this course that I first met Christopher Adams.
29

30 Adams was a firefighter in the RAAF and a permanent
31 member of the ADF. However, he was on this course in his
32 capacity as an AAFC ranked adult staff instructor.
33

34 On this course, Adams was the AAFC detachment warrant
35 officer, which meant he was responsible for discipline and
36 adherence to AAFC policies. Any issues of bullying or
37 fraternisation were to be reported to him. The detachment
38 warrant officer was also in charge of room inspections and
39 running briefings. I had a lot of contact with Adams
40 during this course.
41

42 After this course, Adams sent me a text message
43 congratulating me on my promotion. The mobile telephone
44 numbers of adult staff and cadets were listed on a small
45 card that was handed out on courses to assist with
46 logistical issues such as bus pick-ups. I understand that
47 this is how Adams got my telephone number. I don't recall

1 giving it to him.
2

3 Adams and I engaged in conversation via text message
4 and ultimately ended up communicating via Facebook. At
5 this stage, I still felt that our friendship was platonic.
6 After a short period, Adams suggested I visit him in
7 Newcastle. He told me that I was always welcome to stay
8 with him at his house. I diverted the conversations and
9 eventually he stopped making these suggestions.

10
11 There were policies prohibiting relationships between
12 cadets and AAFC staff, though they were never enforced.
13 I know firsthand of an incident where an instructor had sex
14 with a cadet student and no-one from the AAFC did anything
15 about it. If there was any action taken, it certainly
16 wasn't made public to set any sort of example.
17

18 In late 2012 I attended a two-week senior promotion
19 course at the RAAF Base in Wagga. About two or three weeks
20 prior to the course, Adams sent me a message saying, 'I saw
21 your name on the nominal roll. Good luck, I will see you
22 there.'
23

24 Adams was the AAFC ranked detachment warrant officer
25 on the course. I had more to do with him on this course
26 because I was training to be a warrant officer and he would
27 assist with some of the activities we structured. [CJE]
28 was on this course as well.
29

30 Cadets received packages, letters and survival kits
31 from home during the course. I had never received
32 anything. Adams wrote me and [CJE] each a letter saying,
33 'You're doing really well. Don't give up. Bug hugs and
34 kisses, love Chris.' I felt really special because no-one
35 else had done anything like that for me. I noticed that
36 Adams was a lot nicer to [CJE] and me than he was to anyone
37 else. He would make comments and send me text messages
38 complimenting me on my appearance. On the final night,
39 Adams was the adult supervisor in the cadet dormitory.
40 After I went to bed, I received a text message from him
41 telling me that I had cute pyjama pants.
42

43 [CJJ], who was an AAFC ranked adult instructor in
44 310 Squadron was also at this course. She told me that she
45 had witnessed Adams alone with female cadets on the course.
46 She raised her concerns about what she thought was an
47 inappropriate relationship between [CJE] and Adams. She

1 told me she had reported her concerns to her superior,
2 Sharon O'Donnell. [CJJ] didn't ask me and I didn't tell
3 her about Adams's advances towards me.
4

5 In September 2012, I attended a GST in Williamstown.
6 [CJE] and I were both cadet member warrant officers on this
7 course. We were each in charge of a group of junior
8 cadets. There was a new AAFC policy in place by this time
9 that prohibited staff members from sleeping in the
10 dormitory with the cadets. As a result, [CJE] and I were
11 responsible for supervising all of the cadets.
12 Adams was again an AAFC ranked adult structure on this
13 course. He became even friendlier with me on this course
14 and texted me flirty and sexually suggestive messages
15 throughout the course. I am now aware that he was also
16 being very friendly with [CJE] during this course, however,
17 [CJE] and I didn't discuss our contact with Adams with each
18 other at the time.
19

20 [CJJ] was again on this course, as one of the adult
21 instructors. On one occasion, [CJJ], [CJE] Adams and
22 I were all sitting in the staircase in the cadet barracks.
23 [CJJ] suddenly sent [CJE] and me to bed. The following
24 day, she asked me to keep an eye on [CJE] as she was
25 concerned that the relationship between [CJE] and Adams was
26 inappropriate. I recall Adams making comments to me about
27 [CJJ] after this like, 'Is she always a bitch?'
28

29 During the course, Adams led a tour of the fire
30 station. At one stage of the tour I was at the back of the
31 group with Adams when he grabbed my arse and then wrapped
32 his arms around me. I have always been really shy, and,
33 because of this, I didn't really react other than to move
34 away from him and towards the front of the group. I had
35 never been touched like that before and was really taken
36 aback by this.
37

38 Adams and I were in regular contact after the
39 September 2012 course. The conversations were very
40 different to our earlier ones. He asked me about sexual
41 things and told me about his sexual fantasies. I found
42 this disturbing. He again asked me to stay with him at his
43 home. Again, I would divert the conversation to other
44 topics. I hadn't been sexual with anyone and it scared me.
45 I didn't know how to handle the situation so that he would
46 stop.
47

1 In January 2013, when I was 17 years old, I attended
2 a promotion course as a cadet warrant officer at the
3 RAAF Base in Wagga. Adams was the detachment warrant
4 officer for the course and in charge of scheduling
5 instructors.

6
7 Prior to the course commencing, Adams sent out an
8 email to all instructors telling us what we needed to
9 organise prior to the course. He sent me a text message to
10 confirm that I had received the email and we started
11 chatting again. He always found a way for us to start
12 talking again, prior to each course. The conversation
13 became sexual again. I kept diverting the conversation
14 away from sexual topics.

15
16 During the first week of the course, Adams, his
17 assistant and I conducted room inspections. He made
18 excuses to be alone with me. He grabbed my arse a few
19 times. When we were alone on one occasion he said,
20 'I could so push you up against the wall and kiss you right
21 here.' I felt really uncomfortable when he said this and
22 I didn't know how to respond or what to do. On another
23 occasion, he came into a bedroom that I was inspecting and
24 pushed me up against one of the walls and kissed me.
25 Whilst sitting at a desk on another occasion, he sat down
26 next to me and stroked my thigh. This was all very new to
27 me, and being shy and not very experienced socially,
28 I really didn't know what to do. I didn't want him
29 touching me but I didn't know how to stop it.

30
31 One night, Adams asked me to come to his room so he
32 could say good night. I tried to make excuses but he
33 insisted. When inside, he locked the door. He started
34 kissing me and then had sex with me. I felt scared and
35 trapped and just laid there hoping for it to end. I felt
36 it was easier just to comply than to make a big deal of it.
37 When he finished, he made me leave his room through the
38 window so no-one would see me. I was so upset and confused
39 about what had happened but I felt like there was no-one
40 I could talk to about it.

41
42 After that night, Adams sent me more messages asking
43 me to meet him in his room, so that we could have sex
44 again. I didn't reply, pretending I hadn't received the
45 messages. I knew I couldn't avoid him on the course or
46 even within cadets but I tried to make sure I was with
47 someone as much as I could. Unfortunately, Adams knew

1 I was alone in my room and so on one of the last nights of
2 the course he again came to my room and had sex with me.

3
4 After the January 2013 course, [CJE] and I were
5 messaging each other on Facebook and Adams came up in
6 conversation. I asked her if anything had happened between
7 her and Adams on the course. She replied that she had had
8 sex with Adams. I was horrified and disgusted that she had
9 been put in the same situation as me.

10
11 In March 2013, when I was still 17 years of age,
12 I attended a GST in Williamstown. During the GST I was
13 responsible for supervising about 30 cadets in the
14 dormitory on the top floor during this course. I slept in
15 one of the bedrooms at the end of the floor, next to the
16 fire escape.

17
18 I knew Adams worked at the RAAF Base in Williamstown
19 and it was inevitable that I would see him, however, he was
20 not instructing on the course, so I figured I could
21 minimise our contact. He started sending me text messages
22 asking me to send him nude photographs. I ignored him, but
23 he persisted.

24
25 During the course, I played soccer with other cadets
26 and Adams was watching. At one point, I lifted up my shirt
27 slightly to rub something off my arm. Later that day,
28 Adams sent me a text message that said, 'You need to show
29 me more.' I sent him a 'selfie' of me in my underwear to
30 try to get him to stop asking for photographs. He was
31 angry and replied, 'No, that's not what I want. I want
32 a nude. I want a photo of your downstairs parts.'
33 I didn't respond further. I was completely creeped out.

34
35 On the second-last day of the course at about 6am
36 Adams texted me saying he was coming over to my room.
37 I can't recall if I replied. A short time later, Adams
38 knocked on my bedroom door. He told me he had come up the
39 fire escape and that no staff members knew he was there.
40 He pushed me up against a wall and had sex with me. I was
41 scared and powerless. I had done my best to avoid him and
42 yet here he was in my bedroom. Again, I felt it was easier
43 to get it over and done with and I certainly didn't
44 participate in the sex. Afterwards, I felt ashamed and
45 confused why I couldn't stop this from happening. I didn't
46 tell anyone because I was petrified I would be blamed and
47 kicked out of cadets. I just thought if I didn't think

1 about it, it would go away.

2
3 Later that morning, when I was at mess, he sent me
4 a text message saying that he had left his shirt in the
5 bathroom downstairs in the dormitory and asked me to get it
6 for him. When I went to the bathroom to get his shirt, he
7 was there. He started kissing me again, however, the
8 cadets started arriving back from mess so he left.
9 I didn't see him again after this. I was devastated about
10 what had happened to me.

11
12 Contact from the AAFC

13
14 On 4 June 2013, at around 8pm, I received a telephone
15 call from a woman who introduced herself as
16 Sharon O'Donnell. O'Donnell said she was a squadron leader
17 from the AAFC headquarters in Canberra and was
18 investigating an allegation that I had had sexual
19 intercourse on base with Adams. O'Donnell asked, 'Have you
20 ever had sexual relations with a staff member? You need to
21 tell me the truth?' I replied 'No, no, sorry, I can't help
22 you.' Sharon said, 'Okay', and hung up.

23
24 I was petrified and started crying. It felt like it
25 was the end of the world as I felt like I was going to lose
26 cadets after dedicating five years of my life to it.
27 I told my mum bits and pieces about what happened with
28 Adams because I was really upset. Mum told me that she
29 would be there for me when I was ready to tell her the
30 whole story.

31
32 I then spoke to [CJE] and she told me that she had
33 told the AAFC about her relationship with Adams. She then
34 said, 'Don't be scared. We'll do this together.'

35
36 I then texted Adams and said, 'What the hell?' He
37 told me not to say anything. I didn't talk to him again
38 after this message.

39
40 I called O'Donnell back later that night and confessed
41 that something had happened with Adams. Sharon didn't ask
42 for details and said, 'We'll talk about it later. That's
43 all I need to know at the moment. Thank you for being
44 honest about it.'

45
46 Sharon called again a few nights later and told me
47 that I was required to have a meeting with the AAFC board.

1 I don't recall her telling me why, but I was in shock and
2 freaking out by then so I didn't ask either. She told me
3 my parents could be there if I wanted them to be and that
4 she would get back to me the following day to organise the
5 meeting.

6
7 On 17 June 2013, I received a telephone call from
8 Darren Banfield, who identified himself as an AAFC regional
9 officer for the south New South Wales region. He went
10 through the allegations again with me. He asked how I was
11 feeling and if I was okay. He then indicated that
12 Bev Hargrave, the psychologist with the AAFC in New South
13 Wales, would be in contact with me. I was pretty upset
14 during this phone call, but Banfield was understanding.

15
16 A few days after this telephone call, Banfield sent an
17 email to me, my mother and to David Koppers, who was the
18 commanding officer of 310 Squadron in Tamworth. The letter
19 advised that the matter had been referred to the police for
20 investigation and that, because of this, the AAFC could not
21 make any further inquiries relating to the investigation
22 until such time that the police investigation was
23 finalised.

24
25 I had three telephone calls with the AAFC
26 psychologist. These were the most pointless telephone
27 calls I have ever had. I found her really unprofessional
28 and I wasn't interested in talking to her. I heard from
29 [CJE] that the psychologist was passing on our discussions
30 to the AAFC staff so I didn't feel comfortable talking to
31 her.

32
33 My understanding was that Adams left the AAFC as soon
34 as this all came out. I can't remember how I initially
35 found out about this, but I remember confirming it by
36 looking at the AAFC monthly occurrence report, which lists
37 resignations and discharges.

38
39 In late 2013 or early 2014, the AAFC sent out a social
40 media policy. The policy banned staff and cadets from
41 being friends on Facebook. Facebook was the most commonly
42 used social media platform for cadets at the time, so that
43 was the main focus of the AAFC. The social media policy
44 was to encompass any communication outside the AAFC between
45 staff members and cadets and included telephone calls and
46 text messaging. At the cadets meeting the following
47 Tuesday night, they went through the policy. I felt

1 humiliated and the pit of my stomach was sickening. I felt
2 that the policy was directed at me. I was sent a piece of
3 paper with dot points outlining the policy. I signed and
4 returned the policy. I then went through my Facebook and
5 deleted all AAFC staff.
6

7 In around July 2013, Banfield contacted my parents and
8 asked if I wanted to be involved with the police
9 investigation. My parents said that there was no reason
10 for the police to be involved and that they didn't consent
11 to the police being notified about my situation. I told
12 Banfield that I didn't want to be involved in the police
13 investigation. At that point, I was so ashamed and loathed
14 myself. I just wanted to sweep it all under the carpet and
15 try to move on with my life. Banfield had been very
16 professional and supportive.
17

18 Not long later, I emailed my Squadron commander to ask
19 if I could go on indefinite leave from cadets. He called
20 me and asked if I was okay. He granted my leave and told
21 me that I would always be welcome back at the squadron. He
22 said, 'If any kids find out anything or there are any
23 rumours, I will stop them.' My squadron commander has been
24 very supportive throughout the entire process.
25

26 In August 2014, Detective Paul Wilkes from the
27 Maitland police station contacted me. He told me I wasn't
28 required to provide a statement but that I could be called
29 as a witness. He also said, 'If you come forward, you'll
30 help the two other girls with their complaints.' That was
31 when I decided to be a part of the police investigation.
32 I didn't care what happened in my story, I just wanted to
33 do whatever I could to be there and support [CJE] and the
34 other girl."
35

36 I don't know where I'm up to.
37

38 THE CHAIR: Paragraph 61.
39

40 THE WITNESS: Thank you. "On 28 August 2014,
41 Detective Wilkes travelled to Tamworth and took my
42 statement." That should be, "Koppers was my support
43 person. I didn't tell my parents that I made a statement
44 to police until I was subpoenaed to appear at court about
45 a year later. My parents didn't want to be involved.
46

47 During the course of the police investigations, and

1 with the support of my AAFC supervisors, I applied to
2 become an adult staff member with the AAFC. In April 2014,
3 I was forwarded an email from the then Head of AAFC NSW,
4 Wayne Laycock, who rejected my application on the basis
5 that I lacked attributes such as 'maturity, decision-making
6 and integrity.' I believe that my application was refused
7 because of what had happened with Adams.
8

9 In January 2015, Laycock left his position as officer
10 commanding. As soon as he left, I re-submitted my
11 application to become an adult staff member. My
12 application was immediately approved.
13

14 Court proceedings against Adams

15
16 During 2014, various charges were laid against Adams
17 in relation to [CJE], me and the other girl.
18

19 Around that time, I was on an AAFC abseiling course.
20 O'Donnell, who was also present at this course, pulled me
21 aside in the presence of another male staff member, who
22 I had never met, and, to my knowledge, had no idea I was
23 involved in the Adams matter. In front of this male staff
24 member, she said, 'I saw what is on the news; are you
25 feeling okay?' I felt really uncomfortable that she was
26 asking me about this, especially in front of this staff
27 member. I told her to go away and I walked away.
28

29 The trial was listed in September 2015, but Adams
30 pleaded guilty to five of the charges. I was the victim in
31 relation to one of the charges he pleaded guilty to, which
32 was having sexual intercourse with me when I was 17 and
33 under his care.
34

35 Adams was sentenced on 17 December 2015 in the
36 Newcastle District Court. [CJE], the other girl and I read
37 our victim impact statements and then Adams took the stand.
38 In his evidence, he apologised and said he could relate to
39 us in relation to the humiliation that we were all
40 experiencing. He further said that at the time he thought
41 the age of consent was 16 and that he didn't know his
42 actions were criminal, although he admitted that he knew
43 his actions were in breach of AAFC policy. The judge
44 sentenced him to two years in gaol.
45

46 Two legal representatives from the ADF were at the
47 sentence. Greg Williamson, the overall commander of the

1 AAFC, also came to the sentencing, but not in a
2 professional capacity. He came to support me, [CJE] and
3 the other girl.
4

5 There were a lot of media reports about Adams
6 following the hearing. The AAFC sent out an email the
7 following day advising that no-one was allowed to talk to
8 the media.
9

10 Prior to the trial, I started to freak out and got
11 really upset. I queried whether the ADF would provide me
12 with financial assistance for counselling. The ADF told me
13 that they wouldn't provide this support because I was only
14 a civilian staff member. I was confused because the ADF is
15 the 'mother' of cadets and I was abused in my capacity as
16 a cadet and on ADF premises.
17

18 In late 2015, when the ADF refused to provide
19 financial support, the officer commanding for the AAFC in
20 New South Wales, [it should be Hughes] pushed for the AAFC
21 to fund my counselling. Hughes telephoned me himself to
22 tell me that he was going to approve the funding and
23 apologised that funding couldn't be sought through the ADF.
24

25 10 December 2015, I received a letter from the ADF
26 advising me that the funding for counselling was going to
27 conclude on 31 December 2015. I was confused, because the
28 ADF had already refused me counselling and I had just had
29 my first counselling session, which had been funded by the
30 AAFC. I sent this letter to Koppers and asked him to find
31 out what had happened. Koppers told me I'd get a follow-up
32 call to explain the letter. I never did receive a phone
33 call.
34

35 The impact of abuse 36

37 The abuse has destroyed my relationship with my
38 family. My parents weren't supportive of me throughout the
39 criminal justice process. I believe that this is because
40 of the way I was treated by the AAFC, leading my parents to
41 believe that the situation wasn't serious and that it was
42 my fault. My parents are ashamed of me and have lied to my
43 extended family about what happened. I am isolated in my
44 own family. It has been soul destroying. I feel so alone
45 when I think about what my parents think of me.
46

47 I struggle to form meaningful relationships because

1 I no longer have the ability to trust people for fear that
2 this trust will be used against me.

3
4 I failed my HSC because of what happened. Sometimes I
5 wish I could go to sleep and never wake up. I loathe
6 myself. I bottle and I hide my emotions. I had been,
7 until my recent change of circumstances, receiving therapy
8 to deal with these emotions.

9
10 I loved cadets at the start, but it has left me
11 broken, vulnerable and alone.

12
13 When I heard that the Royal Commission was to inquire
14 into the ADF and cadets particularly, I felt that this was
15 a chance for the ADF and the AAFC to get involved and prove
16 that they wanted to help. I thought they should have
17 broadcast the inquiry throughout cadets but they didn't.

18
19 All I want is an apology and for things to change to
20 ensure that this can't happen again. AAFC have held that
21 things have changed since the Ellie Tibble case, but the
22 response of the AAFC and the ADF was still really poor.
23 I would like the AAFC to recognise where they have gone
24 wrong and that through their actions they have hurt and
25 traumatised people."

26
27 MR STEWART: Q. Thank you, [CJJ], for your evidence.
28 I do have a couple of questions. Do you recall at all as
29 a cadet, in the various instruction and training and so on
30 that you were given, whether you were given instruction on
31 questions of age of consent?

32 A. No.

33
34 Q. And, in particular, do you recall whether you were
35 given instruction on what we refer to as the special care
36 provisions by which I am referring to the provisions under
37 which Adams was ultimately convicted, being that because
38 he, as an instructor, was in a particular position of
39 responsibility vis-à-vis the cadets, it was a criminal
40 offence for him to engage in sex with them and you, even
41 though you were over the age of consent?

42 A. No, we weren't. I don't even think that the AAFC know
43 that.

44
45 Q. This may be a hard question to answer, but if you can
46 do your best, do you think it might have given you extra
47 strength to resist Adams had you known that what he was

1 seeking to do with you was a criminal offence for him?
2 A. I think it would have. As they say, knowledge is
3 power.
4
5 MR STEWART: I have no further questions, your Honour.
6
7 THE CHAIR: Does anyone else have any questions?
8
9 MR O'BRIEN: I do.
10
11 <EXAMINATION BY MR O'BRIEN:
12
13 MR O'BRIEN: Q. My name is O'Brien. I represent you in
14 these proceedings. I wanted to clarify, if I could,
15 paragraph 62 of your statement. As I understand it, you
16 have said there that during the course of the police
17 investigations you applied to become an adult staff member
18 of the AAFC.
19 A. Yes.
20
21 Q. That is a civilian staff member of the AAFC; is that
22 right?
23 A. Yes, to then become a uniformed instructor.
24
25 Q. As opposed to a uniformed --
26 A. You've got to become a civilian before you become
27 a uniformed instructor, so it's a process.
28
29 Q. That was something that you were interested in doing,
30 obviously?
31 A. Yes.
32
33 Q. You then got this email and I want to show you this.
34 It is at tab 243A, if that can be displayed. Whilst it is
35 being put on the screen there, you have set out in your
36 statement that it was Wayne Laycock who said that you
37 lacked attributes such as maturity, decision-making and
38 integrity, in knocking you back for that appointment; is
39 that the case?
40 A. Correct.
41
42 Q. Here is the email that you have referred to. If we
43 can scroll it down, if we can go to the very last email in
44 that chain, which is the first in time, that email there
45 from Michael White, who is the squadron leader and
46 executive officer of the 3rd Wing of the AAFC, sets out an
47 exemption, I think, in essence, to the idea that you had to

1 have 12 months leave of the AAFC before applying; is that
2 right?

3 A. Correct.

4

5 Q. In other words, you had applied for an exemption to
6 the instruction that had been issued apparently that you
7 had to have 12 months off before applying to be a staff
8 member?

9 A. Correct.

10

11 Q. That exemption application had been made to Laycock;
12 is that the case?

13 A. Yes.

14

15 Q. If we go to his response, which is the next email in
16 the chain, if we get the date, this is dated 19 May 2014.
17 It is a response by Laycock to the exemption application.
18 In that he says, in the second paragraph:

19

20 ... she lacks many of the attributes
21 required of an Instructor of Cadets,
22 namely, maturity, decision making and
23 integrity. On this basis I will not
24 recommend any appointment.

25

26 A. Yes, it does.

27

28 Q. How did you get hold of this email?

29 A. I asked my commanding officer of my squadron at the
30 time to chase up why I hadn't heard anything back after
31 putting through my application; it had been a few months.
32 So he chased this up, going to Michael White, who was his
33 superior, and then Michael White went to Wayne Laycock, who
34 was Michael's superior, and then this was forwarded on.

35

36 Q. This, as you may be aware, was at precisely the time
37 that Laycock was considering whether to go to the police
38 with the allegations in relation to yourself and the other
39 two girls, isn't it?

40 A. Yes.

41

42 Q. Had you ever met Laycock in person?

43 A. No.

44

45 Q. Had you of spoken to him on the phone at all, ever?

46 A. No, still to this day, no.

47

1 Q. As far as you are aware, how could he have made this
2 assessment as to your maturity, decision making and
3 integrity?

4 A. It beats me.

5

6 Q. Is that why you have drawn the conclusion that you
7 believe your application was refused because of what had
8 happened with Adams?

9 A. Yes. What other option do I have to look at? He did
10 not know me personally, he still has not, and I have never
11 met him.

12

13 Q. Thank you. Can I then move on because you did --

14

15 MS McLEOD: Just before my learned friend moves on, he put
16 to the witness that it was at about the same time. It is
17 approximately a year later.

18

19 MR O'BRIEN: Yes, I am corrected, I apologise.

20

21 Q. It was during the police investigation but before you
22 had been brought to trial; is that right?

23 A. Yes. It was a very long process.

24

25 Q. I am sorry, I didn't mean to mislead you, that's my
26 mistake. You did, however, become an adult staff member of
27 the AAFC?

28 A. A civilian one, yes.

29

30 Q. And you were interested in becoming a uniformed
31 member; is that the case?

32 A. Yes.

33

34 Q. How has that progression gone?

35 A. It has been two and a half years since I applied to
36 become a uniformed member. To this day, I am still
37 a civilian member. I have not been approved to become
38 a uniformed member and as far - to my knowledge, I have
39 jumped through more hoops than anybody else has to become
40 a staff member.

41

42 Q. If you were to have a guess as to the reason why that
43 might be, what would you say?

44 A. Due to this whole incident with Adams; that's it.

45

46 Q. In your last paragraph, you have said that all you
47 want is an apology. Do I take it from that that you have

1 never received an apology at all from the AAFC?
2 A. Not from the AAFC and not from the Australian Defence
3 Force, no.
4

5 Q. And that being despite the fact that Mr Williamson,
6 the overall commander of the AAFC, was there when you gave
7 your victim impact statement?

8 A. True, correct.
9

10 MR O'BRIEN: Thank you. I have nothing further.
11 Thank you for your time.
12

13 MR STEWART: I have nothing further for this witness,
14 your Honour.
15

16 THE CHAIR: Thank you, Ms [CJG]. That concludes your
17 evidence. Thank you for it. You are excused.
18

19 MR STEWART: Your Honour, I call [CJE].
20

21 <[CJE], affirmed: [3.06pm]
22

23 <EXAMINATION BY MR STEWART:
24

25 MR STEWART: Q. Thank you, Ms [CJE]. Your details are
26 known to the Royal Commission. Do you have available to
27 you your statement dated 10 June 2016, which was prepared
28 for the Royal Commission?

29 A. Yes.
30

31 Q. Do you confirm that that statement is true and
32 correct?

33 A. This is true and correct.
34

35 EXHIBIT #40-031 STATEMENT OF [CJE] DATED 10/06/2016
36

37 MR STEWART: Q. I ask you if you would read your
38 statement commencing at the third paragraph?

39 A. Okay. "My full name is [CJE]. I was born in 1995 and
40 I am currently 20 years of age.
41

42 I was raised in Sydney. In 2000, when I was five, my
43 mum and dad split up and I lived with my mum. My mum met
44 her new husband not long after.
45

46 In my early teens, my mum thought I needed more
47 discipline and structure and encouraged me to become

1 a cadet.

2
3 In early 2009, when I was 13, I attended an Australian
4 Air Force Cadets recruitment night in Rockdale, New South
5 Wales, and decided to join the AAFC. I joined the
6 302 Squadron of the AAFC and attended parades at the
7 Rockdale barracks every Wednesday night from 6pm to 9pm.

8
9 On my first parade I was given some documents
10 including the AAFC code of conduct but I don't remember
11 reading any of the documents. I was too young to
12 understand whether they were important. I remember being
13 briefly told by various AAFC staff that there was zero
14 tolerance of bullying and I quickly got the impression that
15 the AAFC seemed to be really disciplined.

16
17 The following week, the then commanding officer of
18 302 Squadron, Adrian Green, conducted his annual briefing
19 on harassment and bullying and unacceptable behaviour.
20 Green defined the behaviours regarded as harassment and
21 bullying but I don't now remember if this dealt with sexual
22 behaviours. He told us that we should report any complaint
23 to the rank above us and that the complaint would be
24 escalated through the rank structure to a staff member to
25 investigate.

26
27 As a new cadet, I was at the bottom of the rank
28 structure. If I wanted to speak to anyone about complaints
29 or issues, I could only speak to the rank above me, being
30 the cadet corporals. I knew not to speak to a cadet
31 sergeant because they were higher than a cadet corporal.
32 I could only approach them if a serious situation arose.
33 If there were actual RAAF staff members at the barracks or
34 on activities or promotion courses, I was scared of them
35 because they were so high in authority.

36
37 In 2011, I attended the General Services Training
38 (GST) at the RAAF Base in Williamstown, New South Wales.
39 The purpose of the GST was to bring junior cadets from
40 New South Wales and the ACT together and learn about
41 different areas within the RAAF.

42
43 At the commencement of the course, the staff
44 instructors conducted a briefing. They introduced
45 themselves and went over the policies and procedures
46 relating to bullying and harassment and how to report it.

1 During the briefing, staff also emphasised that the
2 relationship between cadets and RAAF members should be
3 professional at all times. I don't recall the exact
4 discussion, but I remember I was told 'fraternisation' was
5 prohibited. While I was not told exactly what the term
6 meant, I learnt that the AAFC had rules that prohibited
7 socialising between cadets and RAAF members or AAFC staff
8 members, and that cadets were not allowed to have sexual
9 relationships with other cadets, RAAF members or AAFC staff
10 members. I was told a breach of this rule may result in
11 the cadet being sent home and their parents informed.
12 I wasn't told that there would be any criminal
13 ramifications. These rules were emphasised at the
14 beginning of every AAFC course I attended.
15

16 I first met Christopher Adams during the GST in 2011.
17 He was a staff instructor on the GST. He was an
18 aircraftsman in the RAAF and was assisting the other AAFC
19 staff as a detachment warrant officer. He was about five
20 years older than me, so he was about 20 years old when
21 I first met him.
22

23 During the GST, Adams was friendly towards me and
24 other female cadets. He was generally regarded by the
25 girls as being flirty and a joker, but he also had a good
26 reputation as an instructor. At the conclusion of the
27 course, I added Adams as a friend on Facebook. I don't
28 recall whether Adams or I initiated this connection, but I
29 remember thinking it would be okay since he was in the RAAF
30 and would be a good network connection.
31

32 Over the course of the next few months, I continued to
33 see Adams at AAFC events where he made it a point to speak
34 to me each time he saw me.
35

36 In July 2012, when I was 16, I attended a senior
37 promotions course at the RAAF Base in Wagga Wagga New South
38 Wales. The course ran for two weeks and the purpose of the
39 course was to train cadets to graduate to the next rank.
40 Adams was one of the instructors and performed the duties
41 of an adult detachment warrant officer, which involved
42 assisting the warrant officers in organising activities.
43 He was a duty officer and was responsible for supervising
44 cadets.
45

46 At this time, I had a fair bit going on at home and
47 I was worried it was affecting my performance at AAFC.

1 I was upset and spoke to [CJG] about this. [CJG] sent
2 Adams a text and he came to comfort me. Adams calmed me
3 down and gave me a hug. I felt Adams hugged me as a friend
4 and I didn't think this was a breach of policy.
5

6 At the end of this course, I was promoted to cadet
7 member warrant officer. By this time, I had become good
8 friends with Adams and he was someone I confided in.
9

10 Adams and I started communicating a lot more via
11 Facebook and text messages. At first, the conversations
12 and messages were about general topics, but, over the next
13 few months, his messages became flirtier and sexually
14 suggestive. He stated that he'd like to be sexually
15 intimate with me and persistently asked me to send sexual
16 messages back. I was shocked when I received the messages.
17 I knew this breached policies but I wasn't quite sure how
18 to handle it.
19

20 My relationship with Adams was different to the other
21 staff members. The others were very formal and I never
22 spoke to them outside of training. Adams created and
23 encouraged an environment where I trusted him and
24 considered him as a friend. I knew that Adams had also
25 established a friendship with [CJG] and I felt that [CJG]
26 and I were competing a bit for Adams' attention.
27

28 On 28 September 2012, I when I was 16, I attended the
29 annual GST at the RAAF Base at Williamstown as a cadet
30 member warrant officer. I was supervising junior cadets as
31 well as giving training instruction. [CJG] was also on
32 this course as a cadet member warrant officer and Adams was
33 performing a similar role as a detachment warrant officer,
34 but he was within the AAFC adult rank structure.
35

36 After a couple of days, I started receiving text
37 messages from Adams asking me to meet him in the communal
38 bathroom. I initially refused because I knew if someone
39 caught us we would be investigated and get into trouble,
40 but on the third night I agreed to meet Adams in the
41 bathroom during lunch when everyone was in the mess room.
42 I didn't feel like he was forcing me to meet him but just
43 that he would be disappointed in me if I kept rejecting
44 him.
45

46 When I met Adams, we kissed and he touched me on my
47 breast and groin all over my clothing. I was confused. I

1 knew what we were doing was wrong but I felt that he would
2 be disappointed if I resisted him. At his request, on two
3 further occasions during the course I met with him and the
4 same thing happened.

5
6 I didn't report these incidents to anyone at the time
7 because I feared there would be an investigation and Adams
8 and I would be disciplined. I also thought Adams would be
9 disappointed in me if I reported and would disown me in the
10 cadet environment.

11
12 After this GST, Adams and I communicated daily via
13 Facebook or text messages. The messages were sexual and he
14 said he was going to leave his girlfriend for me. A few
15 months later, mum found these messages and sent Adams
16 a Facebook message warning him to stay away from me.
17 Despite this, we continued to text each other.

18
19 In January 2013, soon after my 17th birthday,
20 I attended a two-week promotion course at the RAAF Base
21 Wagga Wagga as a cadet member warrant officer along with
22 [CJG]. Adams also attended as a leading aircraftsman and
23 AAFC ranked adult detachment warrant officer. At the time,
24 [CJG] was the same age as me and Adams was about 22 years
25 old.

26
27 During the course, Adams sent me a text message
28 requesting that I meet him in the laundry. When I arrived
29 at the laundry, Adams kissed me and he put his hands into
30 my underwear and on my vagina. I heard people outside and
31 was worried about being caught so I left and went to bed.
32 I was worried that if I was caught, there would be an
33 investigation and we would both get into trouble,
34 especially Adams.

35
36 The next night, Adams sent me a text message inviting
37 me to his bedroom. Initially, I refused because I knew he
38 wanted something sexual to happen again and I didn't feel
39 comfortable being in a sexual relationship with Adams,
40 especially because I knew it was against AAFC rules and
41 I was scared we would get into trouble. However, after
42 receiving further texts from Adams, I agreed and went to
43 his room.

44
45 I didn't see anyone patrolling when I went to Adams'
46 bedroom. We kissed and Adams performed oral sex on me.
47 After a while, I told him to stop because I wasn't

1 comfortable. I got up and left and went back to my
2 bedroom.

3
4 Over the next couple of nights, I received further
5 text messages from Adams requesting I go to his room.
6 I tried to make excuses but after Adams continued to text
7 me, I agreed to meet him again. I walked with Adams to his
8 bedroom and we kissed while Adams again touched me on the
9 vagina and put my hand on his erect penis. This continued
10 for a short time before we had to go to a briefing.

11
12 On 25 January 2013, which was towards the end of the
13 promotions course, I sent Adams a text message
14 congratulating him for a commendation he had received at
15 the parade and asked if he wanted celebration sex. By that
16 stage, Adams had a big influence over me and I craved his
17 attention and approval. Adams replied and I met him in a
18 room where we had sex. When we had finished, he opened the
19 door to check that no-one was outside to see me exit the
20 room and gave me the go-ahead to leave.

21
22 About a week later, in early February 2013, I told my
23 ex-boyfriend, [CJQ] that I had sex with Adams. [CJQ] was
24 also involved with the AAFC.

25
26 At the same time I was messaging [CJG] on Facebook and
27 Adams came up in our discussion. I told [CJG] that I had
28 sex with Adams during the promotions course and she told me
29 that she had also had sex with Adams during the same
30 promotions course.

31
32 One evening in early June 2013, I was with my dad
33 when he received a call. He handed me his phone and
34 I spoke with a female who introduced herself to me as
35 Sharon O'Donnell, squadron leader of AAFC at cadet
36 headquarters. O'Donnell told me she was investigating an
37 allegation that I had had sexual intercourse on base with
38 Adams. She said I didn't have to answer now and that
39 I could ring her back later if I needed to. I just hung
40 up. I felt like my world had crumbled.

41
42 A short time later, I rang O'Donnell back and told her
43 that the allegation was true. She responded, 'Oh, shit, is
44 this true?' She said that she needed to interview me to
45 discuss the allegation and to get the finer details of what
46 had happened. O'Donnell told me that the AAFC counsellor
47 would contact me to make sure I was okay. AAFC later paid

1 for independent psychological support and counselling for
2 me.

3
4 I was so ashamed and embarrassed. I was worried that
5 my reputation in the AAFC had been ruined. I later found
6 out that [CJQ] had reported the incident to the AAFC.

7
8 After my dad received the call from O'Donnell, he made
9 some inquiries with friends who were police officers about
10 my involvement with Adams.

11
12 On 25 June 2013, at my parents' request, I went to the
13 Hurstville police station and made a statement to the
14 police about my sexual relationship with Adams. I provided
15 a further statement to the Wagga Wagga police station
16 in July 2013 clarifying matters in my first statement.

17
18 At no time during my involvement with Adams did
19 I think having a sexual relationship with him was a crime.
20 I felt like Adams persuaded me to have sex with him and, at
21 times, pressured me to meet with him, but I don't feel like
22 he ever forced me to do something I didn't want to do. I
23 knew that my sexual relationship with Adams was a breach of
24 the AAFC rules and policies, but I was never told by the
25 AAFC that instructors and other adult AAFC staff members
26 were in a special position which made it a crime for them
27 to have sexual relationships with a cadet who was under
28 18 years old. I only learnt about this crime when I made
29 a report to the police in June 2013.

30
31 I did not fully understand how the AAFC investigated
32 my disclosure of a sexual relationship with Adams. At
33 times during the AAFC investigation I felt frustrated by
34 the slow responses I received from the AAFC and the
35 miscommunication I experienced. This caused a lot of
36 strain on me and my family. I had heard about the suicide
37 of another cadet, Ellie Tibble, a couple of years after
38 I joined the AAFC and I knew it occurred after an
39 allegation was made about her having a relationship with an
40 instructor. I thought that the AAFC would have learnt how
41 to deal with such a situation better and I expected the
42 investigation to be conducted competently, because the AAFC
43 was such a disciplined and serious organisation.

44
45 After my initial meeting with O'Donnell, I had
46 a number of emails and dealings with the following AAFC
47 personnel about the investigation: Sharon O'Donnell,

1 Squadron Leader, 3 Wing, AAFC; Matthew McCarthy, Commanding
2 Officer, Squadron 302; [CJF], Executive Officer, Squadron
3 302; Jacqueline Hatch, RAAF Squadron Leader, Cadet Branch,
4 RAAF; Darren Banfield, Civilian part-time Squadron Leader
5 AAFC, who at the time was actually the XO for South Region
6 New South Wales; Daryll Topp, Civilian AAFC Wing Commander;
7 and Sean Watson, RAAF Squadron Leader, Cadet Branch RAAF.
8

9 I am aware that my mum and [CJF] had separate
10 correspondence with other AAFC and Defence personnel but
11 I was not part of this correspondence. Looking back, it
12 seems crazy that I had to deal with so many people and
13 continuously tell my story over and over again.
14

15 On 8 July 2013 I met with Hatch and she told me that
16 she would be my central point of contact. At this time,
17 I found it useful to have her as my main contact as she
18 made inquiries on my behalf and I only had to deal with one
19 person. During the investigation, she kept me informed of
20 what was happening, including: (a) letting me know that
21 Green had separately contacted the NSW Police requesting
22 urgent attention to the investigation and that he was going
23 to provide documentation to the police to assist;
24 (b) providing me with professional support service contact
25 details; (c) offering me additional support and
26 encouragement and updating my parents on the investigation;
27 (d) organising counselling services for me; and (e)
28 advising me of Adams' resignation from the AAFC in August
29 2013.
30

31 In about July 2013, I attended a promotions course at
32 the RAAF barracks at Wagga Wagga and I overheard one of the
33 instructors gossiping about the incident between me and
34 Adams. I was devastated to hear AAFC staff gossiping about
35 me, especially because I had been assured that only those
36 persons who specifically required to know about the
37 incident would be told.
38

39 In July 2013, I made a complaint about this incident,
40 which was directed to Darren Banfield. I emailed Banfield
41 with further details about the complaint on 1 August 2014.
42 After not receiving a response for about three months,
43 I again emailed Banfield in November 2013, who told me that
44 he had no clear or supporting evidence to make a decision,
45 particularly as there were no witnesses.
46

47 By this time, I had had enough. I started to think

1 that I was doing the wrong thing and if I had said nothing,
2 my life and reputation within the AAFC would not have
3 suffered.
4

5 In July 2014, Hatch told me she was being replaced as
6 my contact person by another squadron leader. I understood
7 this was because of mandatory rotations within the RAAF,
8 but it made me feel like the RAAF and the AAFC were not
9 taking what happened to me seriously. I was also sick of
10 repeating my story and felt like I wasn't being listened
11 to.
12

13 Around August 2014, I received a phone call from
14 Daryll Topp, the AAFC wing commander. I told Topp that
15 I was unhappy about how poorly the investigation had been
16 handled by the AAFC. I felt that there was a lot of
17 miscommunication from the AAFC and I felt out of the loop.
18 I requested that all communication should be made directly
19 to me in the first instance, and then to my mother and
20 [CJF] if it was serious.
21

22 In about September 2015, I was informed by the
23 NSW Police that Adams was charged with twelve sexual
24 offences. Four of the charges related to me and the other
25 charges related to [CJG] and one other victim.
26

27 In late September 2015 I attended the trial and the
28 prosecutors consulted with me to negotiate charges against
29 Adams. Adams pleaded guilty to the five charges and he was
30 sentenced on 17 December 2015.
31

32 I read my victim impact statement at the sentencing
33 hearing. Standing in front of everyone, including Adams,
34 and telling them how much the incidents had affected me was
35 the hardest thing I have ever done. The AAFC commander
36 also attended the sentencing hearing after I made a request
37 for a representative to be there.
38

39 Adams was sentenced to two years imprisonment with
40 a non-parole period of 14 months for the offences he
41 committed against me and the two other victims.
42

43 I have had no further contact with the AAFC after the
44 sentencing of Adams, other than to cancel the funding for
45 my psychologist.
46

47 I have absolutely no idea what happened to the AAFC

1 investigation. I was never informed of the stages of the
2 investigation nor did anyone explain to me what to expect,
3 what the investigation involved or what the possible
4 outcomes were. I expected the AAFC or RAAF would have
5 investigated their procedures to see how this could have
6 happened and how they could prevent this from happening
7 again, but I have not been told that this occurred.

8
9 Aside from the information provided to me from Hatch,
10 I didn't feel the investigation was being taken seriously
11 because of the lack of updates, the delays when I requested
12 information, the miscommunication and the transfer of my
13 matter between staff.

14
15 Before all this happened, I was bubbly, engaging and
16 friendly. I now feel I am reserved. Friends have
17 commented on this change and this has been hard to cope
18 with. Happy interactions have become rare moments, rather
19 than a regular occurrence, and I have been diagnosed with
20 depression.

21
22 As a result of what has happened, I feel I have been
23 labelled as a victim and my self-confidence has declined.
24 Every time I go out in public, I am paranoid that people
25 are judging me, even though they are strangers.

26
27 The AAFC investigation occurred at the beginning of my
28 HSC. The stress of the incident and the lengthy
29 investigation had a severely negative impact on my
30 concentration levels and motivation to achieve the high
31 goals I had set. I lost hope of getting a job and into the
32 university I wanted, because everything was going so wrong.

33
34 The way the AAFC handled the report and how they dealt
35 with me was poor. It has completely broken my trust in the
36 AAFC. The AAFC was my life and I felt they kicked me to
37 the side and didn't care about me or my welfare.

38
39 Monitored and enforced training should be provided to
40 all staff to ensure that legislation and policies are
41 understood, and all staff should teach the cadets the
42 legislation and the policies in a manner that is easily
43 understood.

44
45 In particular, the AAFC needs to educate cadets and
46 adult AAFC staff members about the special criminal
47 provisions relating to sexual relationships between cadets

1 under 18 years old and an AAFC staff member. Everyone
2 should be told that this is a serious crime for an AAFC
3 staff member to have a sexual relationship with a cadet
4 even if they are over 16 but still under 18 and that the
5 staff member could go to gaol.

6
7 AAFC staff need to have the right attitudes and
8 attributes. They need to be passionate about wanting to
9 mentor and engage with children and young adult cadets.
10 Although AAFC staff are voluntary or part-time positions,
11 applicants need to be better vetted and monitored to ensure
12 a safe and engaging environment for cadets.

13
14 The AAFC needs to have better reporting processing.
15 It is not acceptable that an unknown person from
16 headquarters calls to talk to parents and cadets about
17 sensitive allegations. I cannot emphasise the damage this
18 caused me. A report of this type should be a face-to-face
19 conversation. There should be effective communication
20 about the steps from that point and continual communication
21 throughout."

22
23 Q. Thank you, Ms [CJE]. You have said in your statement
24 that as a cadet you were not given any training about age
25 of consent provisions and also about the special care
26 provisions under which Adams was ultimately convicted, and
27 one of the things you say in your recommendations is that
28 that needs to change. You would have heard me ask the
29 question of [CJG], and I will ask it also of you, and
30 I appreciate it is a bit speculative and may be difficult
31 for you to answer, but if you would do your best: do you
32 think that had you known that for Adams to have sex with
33 you it would have been the commission of a crime by him, it
34 would have given you greater strength to be able to resist
35 him?

36 A. It would have, but, like I said, I knew what he was
37 doing was wrong, but it is the pressures of him and making
38 me feel like I needed to do what he requested. Even if
39 I had known the legality side of it, or - it still wouldn't
40 have changed me not to. It just - it was his personality
41 and authority over me, just made me need to do it. Even if
42 my choice was not to, I still had that pressure and - just
43 that pressure over me to do it, and that was by his own
44 attributes.

45
46 Q. When you refer to his authority over you, what are you
47 referring to specifically?

1 A. I knew he had the duty of care over me. I knew that
2 the position that he had on those courses - his rank - I
3 knew from get-go that, like, he has authority. I don't
4 know how else to explain it. I hope I answered the
5 question.

6
7 MR STEWART: I have no further questions, your Honour.

8
9 THE CHAIR: Does anyone else have any questions?

10
11 MS THOMPSON: Yes.

12
13 <EXAMINATION BY MS THOMPSON:

14
15 MS THOMPSON: Q. Ms Thompson, as you know, I appear in
16 your interests in this Commission. I just have two
17 questions. At paragraph 53 of your statement you say that
18 you had no contact with the AAFC other than to cancel the
19 funding for your psychologist.

20 A. Yes, that's correct. And can I also note, my
21 psychologist still hasn't been paid for the 23 sessions
22 that the ADF agreed to pay for.

23
24 Q. Was any reason given to you why that funding was
25 ceasing?

26 A. My psychologist has thrown emails to and from -
27 numerous emails to the Defence Force asking to pay for
28 these sessions and she keeps not getting replies, keeps
29 forwarding previous emails sent, and gets no response into
30 the payments.

31
32 Q. Does this worry you, the non-payment?

33 A. Right now, it doesn't surprise me, because they
34 haven't really helped me as I anticipated, but they said
35 they were going to support funding and it's like you're all
36 talk more than anything. So it - yes, it's - the trust
37 I had in Defence Force has completely diminished.

38
39 Q. You referred to the victim impact statement that you
40 gave during the sentencing of Adams.

41 A. Mmm-hmm.

42
43 Q. And this question was asked of [CJG]: did you ever
44 receive an apology from the ADF or the AAFC?

45 A. No, no.

46
47 Q. Have you ever received an apology?

1 A. No.
2
3 MS THOMPSON: Thank you. I have no further questions.
4
5 THE CHAIR: Anyone else?
6
7 MR STEWART: I have nothing further. My learned friend
8 Ms McLeod, who appears for Defence, has said to me that she
9 will look into those questions that you have raised of the
10 non-payment and so on.
11
12 THE CHAIR: We would like to know the answer to that.
13
14 Yes, thank you [CJE], thank you for coming and telling
15 us your story. You are excused.
16
17 THE WITNESS: Thank you.
18
19 <THE WITNESS WITHDREW
20
21 MR STEWART: Your Honour, I call [CJJ].
22
23 <[CJJ], affirmed: [3.35pm]
24
25 <EXAMINATION BY MR STEWART:
26
27 MR STEWART: Q. Ms [CJJ], your full names and details
28 are known to the Royal Commission. Do you have available
29 before you your statement prepared for the Royal Commission
30 dated 3 June 2016?
31 A. Sorry?
32
33 Q. Do you have your statement, dated 3 June 2016?
34 A. Yes, I do.
35
36 Q. Do you confirm that that is true and correct?
37 A. That is true and correct.
38
39 MR STEWART: I tender that, your Honour.
40
41 EXHIBIT #40-032 STATEMENT OF [CJJ] DATED 03/06/2016
42
43 MR STEWART: Q. I understand, Ms [CJJ], that you joined
44 the Australian Air Force Cadets, the AAFC, as a cadet in
45 2000; is that right?
46 A. That is correct.
47

1 Q. And you were part of the 310 Squadron in Tamworth?
2 A. Yes, 310 in Tamworth.
3
4 Q. You remained a cadet until the end of grade 12 in
5 2008; is that right?
6 A. That is correct.
7
8 Q. I understand also that in June 2011, when you were
9 21 years old, you rejoined the AAFC as a staff member; is
10 that right?
11 A. That is correct.
12
13 Q. Are you currently an instructor in the AAFC?
14 A. Yes, I'm the Executive Officer of the 310 Squadron in
15 Tamworth.
16
17 Q. Does that mean that you are the second in command of
18 that squadron?
19 A. That is correct.
20
21 Q. In that position your responsibilities, as
22 I understand it, include overseeing cadets and staff, as
23 well as dealing with any safety or behaviour or concerns
24 relating to the squadron?
25 A. Yes, that's correct.
26
27 Q. You have never been a member of the Royal Air Force,
28 or RAAF, have you?
29 A. No.
30
31 Q. In particular, I want to deal with events that took
32 place in January 2012 at a Staff Induction Course at the
33 RAAF Base Wagga Wagga. I understand that you attended that
34 course as an instructor; is that right?
35 A. That is correct.
36
37 Q. And during the course, you completed a training course
38 on the AAFC behaviour policy; is that right?
39 A. That is correct.
40
41 Q. Is it during that course that you first met
42 Christopher Adams?
43 A. Yes, that is when I first met Adams.
44
45 Q. And he was already an instructor and taught some of
46 the subjects on the course; is that right?
47 A. Yes, I believe he was only just an instructor.

1
2 Q. During the course, you observed him interacting with
3 some of the female cadets in a manner that bothered you?
4 A. Mmm-hmm.
5
6 Q. Can you explain what you observed?
7 A. So I observed just too close to the female cadets,
8 paying too much attention to them, not wanting to hang
9 around the staff members - the other staff members that
10 were there on the course. He would always go out of his
11 way to spend more time with the cadet staff and not our
12 actual staff members, so the warrant officers and the
13 higher cadet staff.
14
15 Q. Why was that a matter of concern, those
16 characteristics that you identified or observed?
17 A. It was a concern in the way that there was no reason
18 for him to be that close. You know, there were rules,
19 guidelines, you all knew about the way people would look at
20 things, and I, from a distance - I knew that it just wasn't
21 right. He came up with the excuse saying that he'd just
22 left and these were all of his friends, because he'd just
23 left as a cadet and just joined as a staff member, and
24 these were all of his good friends, and I said, "Well, you
25 need to step back. You need to come spend time with us as
26 staff and it's not looking good."
27
28 Q. You say in paragraph 9 of your statement that you
29 didn't report anything that you had observed at that time.
30 Can you explain why you didn't report?
31 A. Well, he told me that excuse - that he had just - they
32 were his friends and that he had only just left a couple of
33 months ago as a cadet. So, to me, that made sense, that,
34 yes, he - they are still good friends and everything, and
35 I just assumed, over time, that he would be able to pull
36 himself away and act as a staff member, very shortly.
37
38 Q. So you were satisfied with his explanation at that
39 stage; is that right?
40 A. I was.
41
42 Q. So that was January 2012. Then in September 2012 you
43 attended the Williamtown RAAF Base for a General Service
44 Training course; is that right?
45 A. That is correct.
46
47 Q. And, once again, Adams was one of the other

1 instructors on that course; is that right?
2 A. That's correct.
3
4 Q. You travelled to that course by train?
5 A. Mmm-hmm.
6
7 Q. And on the train, there were some of the cadets who
8 were travelling to the course; is that right?
9 A. That is correct, from other squadrons.
10
11 Q. And what did you overhear that was a cause for concern
12 for you on that train journey?
13 A. So I overheard some of the conversation. I was
14 sitting in the row behind them, in the train, and I had
15 overheard that the girls were talking about how they'd tied
16 Adams down to a bed on the last GST that they attended -
17 camp.
18
19 Q. And how did you respond to what you had heard?
20 A. I didn't say anything at the time, which I maybe
21 should have, but I wasn't in part of the conversation;
22 I just overheard the conversation.
23
24 Q. Now, actually on that course, you observed, as
25 I understand from paragraph 14 of your statement, Adams
26 texting with a female cadet. Can you explain what it is
27 that you observed?
28 A. Yes. So I - we were sitting at the bottom of a
29 staircase well. There was a bunch of the cadet warrant
30 officers and myself and Adams. We were sitting there -
31 I was sitting on a table that was above him and he was
32 leaning up against the table leg below me. I could see
33 over his shoulder that he was texting one of the warrant
34 officers that were directly opposite of me. I could see
35 the text message, her name at the top, and I could also put
36 together her name badge, where she was sitting opposite of
37 me, and put the two and two together of who he was talking
38 to.
39
40 Q. And was that, in fact, one of the former cadets who
41 gave evidence this afternoon?
42 A. That's correct.
43
44 Q. Was it [CJE], the witness immediately before you?
45 A. That's correct.
46
47 Q. What was the nature of the text messages that you

1 observed?
2 A. The nature was sexual. I can't remember what they
3 actually were, but I remember that it was of sexual context
4 and it made me very cranky.
5
6 Q. So, just to clarify, as I understand at that time,
7 Adams was an instructor, an adult instructor staff member
8 on the course, and [CJE] was one of the cadets who was
9 subject to his instruction; is that right?
10 A. That is correct.
11
12 Q. So what did you do about what you observed?
13 A. I had quite an intensive fight with him for about half
14 an hour. I actually sent all the cadets to bed and then
15 I had a fight with him about it, and he refused to -
16 absolutely just refused against it to say that it ever
17 happened, so I went ahead and spoke to Sharon O'Donnell,
18 who was my superior for the course, and told her what had
19 happened.
20
21 Q. Now, just to be clear, what was Sharon O'Donnell's
22 position relative to yours on that course?
23 A. She was just an officer that I felt comfortable with
24 talking with.
25
26 Q. What was her responsibility on the course?
27 A. I wouldn't be able to tell you.
28
29 Q. Or in the cadets more broadly what is her
30 responsibility, do you know?
31 A. I believe there was only six instructors, or
32 something, for the course, and she was one of them. But
33 I did the Gold Duke of Ed with Sharon many years ago, so I
34 knew her from when I was a cadet, so I felt very
35 comfortable with telling her what I had seen.
36
37 Q. That's the Duke of Edinburgh's Award?
38 A. Yes.
39
40 Q. So what did you tell Sharon O'Donnell?
41 A. I had told her what I had seen on the text message,
42 that he had been too close to the cadets and that he -
43 someone needs to talk to him because he wasn't listening to
44 anything that I had said.
45
46 Q. I want you to be as specific as you can be. When you
47 say you had told her what you had seen on the text message,

1 can you, thinking back now to your conversation with
2 Sharon O'Donnell, identify just what it is that you told
3 her you had seen?

4 A. I just remember it is of sexual content. I don't
5 actually remember word by word of what was on the text
6 messages. It's five-plus years ago.

7
8 Q. Yes, of course, but are you able to recall what --

9 A. I told her at the time what I had read in the text
10 messages and I told her some of them that were in it, but
11 I can't tell you now what I had said to her then.

12
13 Q. And did you tell her who it was that Adams was texting
14 with?

15 A. Yes.

16
17 Q. Which is to say did you tell O'Donnell that Adams was
18 texting with a cadet member on the course?

19 A. That is correct.

20
21 Q. Did you, thereafter, hear anything back from O'Donnell
22 or, indeed, from anyone else, as to what had come of your
23 report?

24 A. I - that night O'Donnell told me she was going to
25 inform her next supervisor of what I have told her. I left
26 the following day - the course had finished - and I went
27 back to Tamworth.

28
29 Q. So that was the September 2012 course, just to be
30 sure; is that right?

31 A. Yes, that is correct.

32
33 MR STEWART: Yes. No further questions, your Honour.

34
35 THE CHAIR: Does anyone else have any questions?

36
37 MS THOMPSON: Yes.

38
39 <EXAMINATION BY MS THOMPSON:

40
41 MS THOMPSON: Q. It is just one area. In paragraph 9 of
42 your statement you refer to having observed Adams with some
43 female cadets; you saw him take a group of two or three
44 female cadets to the shops in his car; and then you say:

45
46 On another occasion, I saw Adams and
47 a female cadet, [CJE], walking to his car.

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Are you sure you are correct in your recollection that it was [CJE]?

A. I can't confirm that it was her or the other warrant officer that does look similar.

Q. So it could have been another person, other than [CJE]?

A. There is a chance, yes. But it was not a staff member; it was a cadet.

MS THOMPSON: I have nothing further. Thank you.

<EXAMINATION BY MR STEWART:

MR STEWART: Q. You appreciate, of course, that your observation of Adams and your report to O'Donnell was in 2012, but it wasn't until January 2013 that he engaged sexually with [CJE] and [CJG]?

A. I didn't know there was any --

Q. You understand the chronology?

A. What was that, sorry?

Q. Do you understand that chronology?

A. I noticed things were happening before anything happened, and that's when I noticed, was back in September 2012, that he was too close, and I reported him. But from that point on, I don't believe I have ever had contact with him since.

Q. The implication being that if something had been done, or sufficient had been done, on your report, the events of January 2013 and thereafter may not have occurred?

A. There is a chance, but I believe he was very good at his game.

MR STEWART: I have no further questions.

THE CHAIR: Thank you, [CJJ], that concludes your evidence. Thank you for it. You are excused.

<THE WITNESS WITHDREW

MR STEWART: Your Honour, the next witness will take certainly a lot longer than 10 minutes and I wonder whether this would be a convenient time. I think we are running,

1 at this stage, safely on time.
2
3 THE CHAIR: We are on track, are we?
4
5 MR STEWART: Yes.
6
7 THE CHAIR: Very well. We will adjourn now until
8 10 o'clock in the morning.
9
10 AT 3.50PM THE COMMISSION WAS ADJOURNED TO
11 TUESDAY, 28 JUNE 2016 AT 10AM
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