



Christian Congregation of Jehovah's Witnesses (Australasia)

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Committee Secretariat
Joint Select Committee on Implementation
of the National Redress Scheme
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Joint Select Committee Members

Thank you for the opportunity to make a submission to your Joint Select Committee on the Implementation of the National Redress Scheme.

We make this submission to: (1) explain why Jehovah's Witnesses have not opted into the Redress Scheme, and (2) to respond to some of the false and misleading submissions made by former Jehovah's Witnesses. We would be pleased to elaborate on this position by way of oral submissions to your Joint Select Committee, if you permit.

Having carefully reviewed the legislation and explanatory materials, it is apparent that the Redress Scheme has been designed to provide appropriate redress to individuals who have experienced *institutional* child sexual abuse.¹

The religion of Jehovah's Witnesses has responded and continues to respond directly to individual claims for redress in a caring, fair and principled manner, taking into consideration the unique circumstances of each claim. The religion of Jehovah's Witnesses also provides spiritual comfort and assistance to child abuse victims and their families.

However, the religion of Jehovah's Witnesses does not have the institutional settings that the Redress Scheme is designed to cover.

Background: Jehovah's Witnesses in Australia

There are almost 69,000 Jehovah's Witnesses (in approximately 760 congregations) throughout Australia. Congregations of Jehovah's Witnesses generally comprise individual congregants living in a particular neighbourhood or area. A body of elders ministers to the spiritual needs of each congregation. However, Jehovah's Witnesses do not sponsor any activities that would bring a child into contact with an elder without the direct supervision of his or her parent or guardian.

Moreover, the religion of Jehovah's Witnesses does not and has not sponsored any activities that have resulted in children being under its care, custody, supervision, control or authority. Jehovah's Witnesses do not operate boarding schools or Sunday schools; they do not have youth groups, choirs or sponsor any programs for children; neither do they run orphanages, day-care centres, hospitals nor youth centres.

¹ *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth), s.13(1)(d).

Significantly, the Royal Commission into Institutional Responses to Child Sexual Abuse (“Royal Commission”)² acknowledged that the religion of Jehovah’s Witnesses does not take custody of children and does not sponsor any programs or activities that separate children from their parents at any time.

From a legal standpoint, all congregations of Jehovah’s Witnesses are separately registered charities with their own independent committee of management. No separate legal entity in Australia exerts authority over the congregations.

Relevant materials before the Royal Commission

The Royal Commission found that:³

Since at least 1950, the Jehovah’s Witnesses organisation has systematically recorded allegations of child sexual abuse made against its members, regardless of whether those allegations concerned familial or non-familial abuse. This differs from other religious organisations, which we found largely limit their engagement with, and response to, allegations of child sexual abuse to those against people who hold or held positions of authority in the organisation.

While the Royal Commission received evidence that 1,006 cases of alleged child abuse were reported, it is significant that the evidence also showed that 956 of those cases related to allegations that were familial or against those who held no appointed position within the religion of Jehovah’s Witnesses at the time of the alleged abuse.⁴

In the 10 years prior to the Royal Commission, 8,507 elders and 7,438 ministerial servants had served in the faith in Australia. In that time, allegations of non-familial child sexual abuse, which were alleged to have occurred during that period, were made against 2 elders and 3 ministerial servants. Each allegation was handled by the secular authorities.⁵ Over a period spanning 65 years, non-familial allegations were made against 18 individuals who were serving as elders at the time of the alleged abuse.⁶ However, given that the religion of Jehovah’s Witnesses does not have the institutional settings that the Redress Scheme is designed to cover, it does not necessarily follow that these non-familial allegations involved settings which were institutional.

Of the 70 survivors who attended the Royal Commission during the private sessions (based on unsworn testimony) about child sexual abuse in connection with Jehovah’s Witnesses, only 6 claimed to have been abused by what the Commission referred to as a ‘lay preacher’.⁷ The remaining allegations all related to familial abuse, which does not fall within the scope of the Scheme.

Moreover, the Final Report of the Royal Commission made only three specific recommendations in relation to Jehovah’s Witnesses, all of which exclusively relate to the Royal Commission’s incorrect understanding of Jehovah’s Witnesses’ Bible-based beliefs and practices:

- **Recommendation 16.27:** *The Jehovah’s Witness organisation should abandon its application of the two-witness rule in cases involving complaints of child sexual abuse.*

² Royal Commission into Institutional Responses to Child Sexual Abuse, Case Study 29 Report, page 76; please also refer to the Joint Statement of TJ O’Brien and R Spinks, 10 September 2015.

³ Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report, Volume 16, Book 3, page 79.

⁴ 956 out of 1,006 case files – please refer to Royal Commission into Institutional Responses to Child Sexual Abuse: Further Submissions on Behalf of Watchtower Bible Tract Society of Australia, 7 July 2017, SUBM1029.003.0001 at [6.4]-[6.8]

⁵ Case Study 29, Exhibit 29-0021, WAT.0018.001.0005_R at [Table 3]

⁶ Royal Commission into Institutional Responses to Child Sexual Abuse, Case Study 29, Exhibit WAT.0018.001.0005_R - WAT.0018.001.0006_R

⁷ Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report, Volume 16, Book 3, page 78.

- **Recommendation 16.28:** *The Jehovah's Witness organisation should revise its policies so that women are involved in processes related to investigating and determining allegations of child sexual abuse.*
- **Recommendation 16.29:** *The Jehovah's Witness organisation should no longer require its members to shun those who disassociate from the organisation in cases where the reason for disassociation is related to a person being a victim of child sexual abuse.*

All three recommendations have been heavily criticised, including by David Bennett AC QC, former Solicitor-General of Australia, as being factually wrong and unlawful, a copy of Mr Bennett's opinion is attached. (**Annexures 1 & 2**)

Essentially, in relation to Jehovah's Witnesses, the Royal Commission failed to limit the scope of the study to child sexual abuse committed in an institutional context. No other Case Study was based on such an approach, where the only requirement was that the alleged victim or the alleged perpetrator be adherents of or associated with a specific faith.

Response of Jehovah's Witnesses to allegations of child sexual abuse

Jehovah's Witnesses firmly adhere to the Bible, which condemns child sexual abuse as a crime. Jehovah's Witnesses also view it as a detestable sin against the victim, a sin against the congregation, a sin against the secular authorities and above all, a sin against God. (Leviticus 18:6, 29; Galatians 5:19-21; Ephesians 4:19; *The Watchtower*, May 2019, Study Article 19, p. 9, paras. 5-8, **Annexure 3**)

Consequently, for more than 35 years, Jehovah's Witnesses have provided material in *The Watchtower* and *Awake!* magazines and in its religious books and videos that gives parents clear, timely and practical advice on protecting their children from the evil of child sexual abuse. That material has been published in hundreds of languages and in hundreds of millions of copies. It is freely accessible at no charge to congregants and the general public, both in hard copy and on the official website of Jehovah's Witnesses at www.jw.org. (**Annexure 4** contains a summary of that material)

In 2017/2018, the annual regional convention of Jehovah's Witnesses held in 5,380 locations worldwide included a frank discourse on the sin and crime of child sexual abuse, with religious guidance on how parents can protect their children from this crime. Those conventions were attended by more than 13.5 million persons and held in 389 languages.

In 2018, Jehovah's Witnesses published a worldwide child safeguarding policy document, entitled *Jehovah's Witnesses' Scripturally Based Position on Child Protection*, which incorporated the guidance and direction on protecting children from sexual abuse published in earlier religious publications of Jehovah's Witnesses. That worldwide policy is published on the official website of Jehovah's Witnesses, www.jw.org, and is available in dozens of languages. (**Annexure 5**)

In January 2019, a new edition of a handbook for congregation elders was published, which includes an entire chapter providing congregation elders with specific direction on responding to allegations of child sexual abuse. The chapter brings together and replaces all previous letters and guidance given to elders.

In July 2019, the more than 119,000 congregations of Jehovah's Witnesses worldwide considered in three consecutive, one-hour religious services the three study articles of the May 2019 issue of *The Watchtower*, which frankly discussed the evil of child sexual abuse. The articles considered how children can be kept safe from sexual abuse, how elders handle any matter involving sexual abuse,

including reporting such allegations to the authorities, and how parents can protect their children. The articles also considered how to comfort those who have endured sexual abuse in childhood. (**Annexure 3**, Study Articles 18-20, pp. 2-20) In each of the three weekend services in July 2019, more than 8.5 million people worldwide participated in these discussions. We are unaware of any religious institution that has undertaken such a worldwide effort as Jehovah's Witnesses to, point-by-point, study this subject with all its congregants.

Jehovah's Witnesses also have taken steps to ensure that congregants do not hold back from reporting an allegation of child sexual abuse to the secular authorities out of misplaced loyalty to the accused or fear of damaging the reputation of the congregation.

Some who have made submissions to the Joint Select Committee have asserted that Jehovah's Witnesses believe it is unscriptural to report an allegation of child sexual abuse to the secular authorities, misinterpreting 1 Corinthians 6:1-8, which counsels Christians 'not to take their brother to court'. The published materials of Jehovah's Witnesses clearly show that this claim is patently false. The book *How to Remain in God's Love*, published in **2017** by Jehovah's Witnesses, clearly states: "If a serious crime is involved, such as rape, child abuse, assault, major theft, or murder, then a Christian who reports such a crime to the secular authorities does not violate Paul's counsel [in 1 Corinthians 6:1-8]". A similar statement is made at page 223 of the book *Keep Yourselves in God's Love*, published by Jehovah's Witnesses in **2008**. (See also **Annexure 4** pp. 2, 4, 5, 8, 12, for similar references in the religious literature of Jehovah's Witnesses on reporting allegations of child sexual abuse.) This is consistent with other references contained in the religious literature of Jehovah's Witnesses over the years, for example:

- "Elders assure victims and their parents and others with knowledge of the matter that they are free to report an allegation of abuse to the secular authorities. But what if the report is about someone who is part of the congregation and the matter then becomes known in the community? Should the Christian who reported it feel that he has brought reproach on God's name? No. The abuser is the one who brings reproach on God's name."—*The Watchtower*, May **2019**, Study Article 19, pp. 10-11, para. 14 (**Annexure 3**)
- "In all cases, victims and their parents have the right to report an accusation of child abuse to the authorities. Therefore, victims, their parents, or anyone else who reports such an accusation to the elders are clearly informed by the elders that they have the right to report the matter to the authorities. Elders do not criticize anyone who chooses to make such a report.—Galatians 6:5"—*Scripturally Based Position*, **2018**, p. 1 para. 4 (**Annexure 5**)
- "[C]hildren should also be warned about—and urged to report to the authorities—any person making improper advances toward them, including people they know."—*Awake!*, 8 April **1997** (**Annexure 4**, p. 5)
- "[Although emotional and other ties] can be overwhelmingly strong ... [i]nnocent children ... stand to lose much more if they are not believed and protected. Their whole future is at stake.—*Awake!*, 8 October **1993** (**Annexure 4**, p. 4)
- "Call the police as soon as you are able to. Counselors recommend reporting for your safety and for the safety of other women ... If the rape happened recently, friends can help the victim get medical help and can offer a safe place to stay. Encourage her to report the rape, but let her make the decisions. She has just come from a situation where she was stripped of all control. Allow her to take some of that control back by letting her choose what to do next."—*Awake!*, 8 March **1993** (**Annexure 4**, p. 3)
- "[I]f molestation ... is discovered to have occurred ... the child—and other children too—must be protected from any further abuse. This must be done, whatever the cost. ... The

crime and anything that happens as a result of it—even if a close relative goes to prison—is not [the victim’s] fault.”—*Awake!*, 22 January 1985 (**Annexure 4**, p. 2)

The worldwide child safeguarding policy also requires that when elders learn that someone in the congregation is accused of child sexual abuse, the elders must immediately take steps to ensure the matter is reported to the secular authorities as may be required by law or if it appears that any child may be in danger. The elders also offer pastoral support to the complainant and the complainant’s family.

After (or concurrently with) taking the above steps, the elders will then consider the evidence from a Scriptural perspective solely to determine whether the accused should be allowed to remain as one of Jehovah’s Witnesses or be “disfellowshipped” as one of Jehovah’s Witnesses. This is exclusively an ecclesiastical process and does not substitute for any actions or punishment deemed necessary by the secular authorities. If the accused denies the accusation, the elders will consider the testimony of witnesses. When there is no confession of wrongdoing, the Bible requires two witnesses to establish the accusation before the elders can take ecclesiastical action (Deuteronomy 19:15; Matthew 18:16; 1 Timothy 5:19). If at least two people—the one making the accusation and someone else who can verify this act or other acts of child abuse by the accused—establish the charge, an ecclesiastical ‘judicial committee’ is formed. (*The Watchtower*, May 2019, Study Article 19, p. 11, paras. 15-16, **Annexure 3**)

This ecclesiastical process should not be confused with whether an allegation of child sexual abuse is reported to the secular authorities; as explained above, a report may be made to the secular authorities even if there is only one complainant and no other corroborating evidence.

Moreover, a victim of child sexual abuse is never required by the elders to make his or her allegations in the presence of the accused. If the complainant is a minor, the elders will obtain the details of the allegation from one of the minor’s parents. If the complainant is an adult, the elders will receive the complainant’s evidence in a format that is most comfortable to the complainant, whether by a private in-person meeting, by telephone, by videoconference or in writing. (*Scripturally Based Position*, p. 2, para. 9, **Annexure 5**; *The Watchtower*, May 2019, Study Article 19, p. 11, footnote, **Annexure 3**)

Elders endeavour to take a loving and active interest in the spiritual, emotional and physical needs of congregants. One of the ways they do so is by providing pastoral support, also known as shepherding calls, which are always provided at no charge. Pastoral visits are an integral and regular part of the religious activity of congregation elders. Elders make the provision of pastoral support a priority, especially in cases of child sexual abuse. However, they respect the victim’s choice of whether to accept the offer of pastoral support. They will arrange for the pastoral visit at a time and place most convenient to the victim.

Elders recognise that female victims of child sexual abuse may feel more comfortable in a pastoral setting with an adult female confidant present. For example, *The Watchtower* of May 2019 states: “Mature Christian sisters can be especially encouraging to sisters in need of comfort. Fittingly, Jehovah God likened himself to a mother who comforts her son. (Isa[iah] 66:13) The Bible includes examples of women who provided comfort to those in distress. (Job 42:11) ... In some cases, an elder or two may discreetly ask a mature sister if she is in a position to help a suffering sister in that way.” (*The Watchtower*, May 2019, Study Article 20, pp 16-17, para 11, **Annexure 3**)

As they provide pastoral help, elders endeavour to demonstrate empathy and compassion to the victim and the victim’s family. They strive to be good listeners and to “speak consolingly” from God’s Word (1 Thessalonians 5:14). A number of pastoral visits may be required to assist the victim effectively.

Elders also recognise their limits – they are not health care professionals. They will let the victim or the victim’s family know that whether to seek professional counselling is a personal decision.

Jehovah’s Witnesses do not take ecclesiastical action against anyone for making unsubstantiated allegations of child sexual abuse. Therefore, they do not expel anyone for reporting an allegation of child sexual abuse to the statutory authorities.

A person who disassociates himself as one of Jehovah’s Witnesses does not have to provide the congregation elders with any reason for their decision and often they do not. The choice to disassociate is a unilateral step the former congregant makes to the effect that he or she “no longer wants to be recognised as, or known as, one of Jehovah’s Witnesses”. Once that choice is communicated by the former congregant to the elders, the congregation is simply informed that the person is “no longer one of Jehovah’s Witnesses”. No reasons are given.

Therefore, a person who chooses to disassociate is not shunned because he disagrees with the child safeguarding policy of Jehovah’s Witnesses (or any other policy or religious doctrine). Congregants (and in many cases, the elders) do not know the reasons why a person has chosen to disassociate. However, once a person has made the decision to disassociate himself, individual congregants will, in turn, exercise their personal religious conscience and apply the Bible’s admonition to limit their association with (shun) such a person. A disassociated person is still free to attend congregation religious services, share in singing religious songs during those services, and can request to be reinstated and again recognised as one of Jehovah’s Witnesses.

National Redress Scheme

As stated above, it is apparent that the Redress Scheme has been designed to provide appropriate redress to individuals who have experienced *institutional* child sexual abuse.⁸

For the purposes of the legislation, an “institution” does not include a family or an individual,⁹ and abuse perpetrated by an individual outside of an institutional setting or within a family is not within the scope of the Scheme.¹⁰ (Underlining added)

As explained above, the religion of Jehovah’s Witnesses does not have the institutional settings that the Redress Scheme is designed to cover. Allegations involving someone associated with the religion of Jehovah’s Witnesses usually relate to abuse: (1) perpetrated by an individual outside of an institutional setting; (2) within a family, or (3) against those who held no appointed position within the religion of Jehovah’s Witnesses at the time of the alleged abuse. Therefore, there is a greater likelihood the Redress Scheme would be applied to the religion of Jehovah’s Witnesses in a much broader context than the legislature intended.¹¹

Next, the standard of proof in the Redress Scheme is lower than the civil standard – reasonable likelihood “means the chance of the person being eligible is real and not fanciful or remote”. This is a very low threshold, particularly in circumstances where an institution has no right of appeal and the institution disagrees that the abuse occurred in an institutional setting.

Moreover, the Operator of the Redress Scheme has the power to require an institution to give “any information that *may* be relevant” to an application for redress involving the institution. This broad

⁸ *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth), s.13(1)(d).

⁹ *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth), s.6, definition of “institution”.

¹⁰ Explanatory Memorandum to the Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017.

¹¹ Submission 24 to the Joint Select Committee (undated) from Shelly Braieaux illustrates this. Ms. Braieaux recommends that the wording of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth), be expanded to include familial child sexual abuse.

power is not confined to *relevant* documents, that is, where it is likely that the information contained in the documents will *materially assist* on an identified issue. In addition, an institution may be required to disclose private and sensitive information about third parties that is not relevant to the claim or other private and sensitive information that it would otherwise be legally entitled to refuse to divulge. Moreover, institutions that participate in the Scheme are excluded from applying for internal review. There is likewise no right to seek external review by a court or tribunal.

Response to some submissions concerning Jehovah's Witnesses

We note that some submissions to the Joint Select Committee contain blatantly false statements about the religious beliefs and practices of Jehovah's Witnesses, which can be easily refuted by the information publicly available in more than 1,020 languages on the official website of Jehovah's Witnesses (jw.org). Rather than address each and every falsehood line by line, we have provided a summary of the relevant religious beliefs and practices of Jehovah's Witnesses above. Nonetheless, we draw the Joint Select Committee's attention to the following points.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹² Submission 52 to the Joint Select Committee dated 18 March 2019, p.5.

¹³ For example, Submission 24 from Shelly Braieoux and Submission 52 from Lara Kaput and Steven Unthank. Ms Braieoux, Ms Kaput and Mr Unthank are all former Jehovah's Witnesses.

[REDACTED]

The European Court of Human Rights (ECHR), UN Human Rights Committee (CCPR) and appellate courts worldwide have repeatedly rejected such criticisms and upheld and affirmed the religious beliefs and practices of Jehovah's Witnesses. For example, the ECHR has issued more than 50 decisions in favour of Jehovah's Witnesses, recognising *inter alia* their right: (1) to preach from door-to-door;¹⁴ (2) to use religious literature;¹⁵ (3) to meet for worship;¹⁶ (4) to build places of worship;¹⁷ (5) to choose medical treatment consistent with their religious conscience;¹⁸ (6) to refuse compulsory military service¹⁹ and, instead, to choose alternative civilian service;²⁰ (7) to be protected from violent and discriminatory attacks by individuals or the State;²¹ (8) to obtain State registration;²² and (9) to benefit from the same tax treatment provided to other religions.²³

[REDACTED]

We understand that there have been less than 10 applicants to the Redress Scheme who have referred to Jehovah's Witnesses. Therefore, as stated earlier, Jehovah's Witnesses continue to respond directly to individual claims for redress in a caring, fair and principled manner, taking into consideration the unique circumstances of each claim. The religion of Jehovah's Witnesses will also continue to provide spiritual comfort and assistance to child abuse victims and their families.

We respectfully submit this letter, together with the Annexures, as a submission to your Joint Select Committee. In the meantime, if you require any further information, please do not hesitate to contact us.

Yours faithfully

*Christian Congregation of
Jehovah's Witnesses (Australasia)*

¹⁴ ECHR, *Nasirov and Others v. Azerbaijan*, no. 58717/10, §§ 60 and 63, 20 February 2020; *Kokkinakis v. Greece*, 25 May 1993, § 31, Series A no. 260-A

¹⁵ ECHR, *Religious Community of Jehovah's Witnesses v. Azerbaijan*, no. 52884/09, §§ 25, 34-41, 20 February 2020; *Kuznetsov and Others v. Russia*, no. 184/02, § 57, 11 January 2007

¹⁶ ECHR, *Krupko and Others v. Russia*, no. 26587/07, § 48 and 56, 26 June 2014

¹⁷ ECHR, *Religious Community of Jehovah's Witnesses of Kryvyi Rih's Ternivsky District v. Ukraine*, no. 21477/10, §§ 49, 55-59, 3 September 2019; *Association for Solidarity with Jehovah's Witnesses and Others v. Turkey*, nos. 36915/10 and 8606/13, §§ 90 and 91, 24 May 2016

¹⁸ ECHR, *Jehovah's Witnesses of Moscow and Others v. Russia*, no. 302/02, §§ 132-136, 10 June 2010

¹⁹ ECHR, *Bayatyan v. Armenia* [GC], no. 23459/03, §§ 111, 124-126, ECHR 2011

²⁰ ECHR, *Adyan and Others v. Armenia*, no. 75604/11, § 60, 12 October 2017

²¹ ECHR, *Begheluri and Others v. Georgia*, no. 28490/02, §§ 145-146, 165, 179, 7 October 2014

²² ECHR, *Religionsgemeinschaft der Zeugen Jehovas and Others v. Austria*, no. 40825/98, §§ 79-80, 98-99, 31 July 2008

²³ ECHR, *Association Les Témoins de Jéhovah v. France*, no. 8916/05, § 51 and 72, 30 June 2011